

Access Reform Programme

Access Reform Advisory Group
Final Advice Report

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Executive Summary

Welsh Government established the 'Access Reform Advisory Group' (ARAG) in January 2020 to provide advice about potential approaches to the delivery of its policy intent for the reform of access legislation in Wales.

The ARAG consisted of 3 expert groups made up of representatives drawn from each of the following 3 sectors: land management, recreational users and public sector organisations. The groups were tasked with considering and developing advice and recommendations to Welsh Government about the delivery of their policy intent for the following reforms of recreational access legislation in Wales:

Expert Group 1:

- Reform 1A: extending the rights to use existing Countryside and Rights of Way Act (CRoW) access land
- Reform 1B: changes to legislation extending CRoW access land to the coast

Expert Group 2:

- Reform 2A: extending the right to ride a cycle or horse to public footpaths
- Reform 2B: temporary restrictions of public paths

Expert Group 3:

- Reform 3A: providing an integrated map of public access in Wales
- Reform 3B: integrated planning of public access in Wales

Advice has also been provided for the following cross-cutting themes as they apply within and across each of the reforms: responsible recreation; equity, inclusivity and accessibility; local access forums' responsibilities within reform options; commercial activity and events.

Welsh Government asked the ARAG to develop its advice for each reform using the following stages:

- Policy intent
- Problem definition
- Option identification
- Option analysis
- Option selection
- Final advice

Outputs were developed for each stage of the process. The final report presents the Group's final advice to Government setting out: a summary of each reform's policy intent; the options developed with each expert group; a commentary and assessment of the options with recommendations to Welsh Government about the way forward for each reform. The recommendations are collated in [Appendix B](#).

The final report and recommendations have been drawn up by NRW in response to and having reflected on discussions in the ARAG meetings and other contributors. While expert groups' members' views have been reflected throughout the report, it should be noted that the inclusion of a recommendation should not be considered as representing the views of, or having been agreed by, an individual ARAG representative or their organisation.

Introduction

In 2017, Welsh Government issued the Sustainable Management of Natural Resources (SMNR) Consultation. This included proposed reforms relating to access to the countryside. The Government approach to the SMNR Access proposals, stated that:

- Our Natural Resources Policy illustrates that nature-based solutions can support physical and mental health. That is why we are committed, as a Government, to increasing both access to and enjoyment of our countryside for people – to take advantage of the many health and wellbeing benefits that getting outside can bring.
- An accessible countryside supports our efforts to boost Wales as a tourism destination.

On 4 April 2019, the Deputy Minister for Housing & Local Government published a [Written Statement](#) setting out the Government's response to the access proposals within Chapter 4. In this statement, seven proposals were identified that required more detailed consideration of the way in which they should be taken forward.

The Deputy Minister committed to establish an 'Access Reform Advisory Group' (ARAG) consisting of a Steering Group and three Expert Groups. Each Expert Group had 12 members, consisting of 4 representatives drawn from organisations from each of the following 3 sectors: land management, recreational users and public sector organisations. A list of Expert Group members can be found in Appendix D.

ARAG was tasked with considering the proposals and developing advice and recommendations to Welsh Government about the delivery of their policy intent for the reform of recreational access legislation in Wales. The legislative reform areas ARAG has considered are:

Expert Group 1:

- Reform 1A: extending the rights to use existing Countryside and Rights of Way Act (CRoW) access land
- Reform 1B: changes to legislation extending CRoW access land to the coast

Expert Group 2:

- Reform 2A: extending the right to ride a cycle or horse to public footpaths
- Reform 2B: temporary restrictions of public paths

Expert Group 3:

- Reform 3A: providing an integrated map of public access in Wales
- Reform 3B: integrated planning of public access in Wales

Across the reform areas, 1A, 1B, 2A (etc) the following cross-cutting themes were identified for consideration within each reform and also for how they apply across the ARAG reforms:

- Responsible recreation
- Equity, inclusivity and accessibility
- Local access forums' responsibilities within reform options
- Commercial activity and events

The process and timings followed for the development of the advice is summarised below:

| Policy Intent | Problem Definition | Option Identification | Option Analysis | Option Selection |
|---------------|---|-----------------------|-----------------|------------------|
| | <ul style="list-style-type: none"> • July 2019: Welsh Government and NRW agree remit and resourcing for the ARAG process • August 2019: Ministerial agreement and establishment of ARAG Steering Group. • September 2019: First meeting of the ARAG Steering Group. Terms of Reference for the Steering Group agreed. • October 2019: ARAG process and timeframes are discussed at the second Steering Group meeting. The Problem Initiation Document and Communications Plan are produced. • December 2019: ARAG Steering Group meets to agree the composition of the Expert Groups and their terms of reference. • December 2019: The Expert Group work is initiated and Welsh Government drafts Policy Intent documents for each of the reform areas: <ol style="list-style-type: none"> 1. Changes to open access/Countryside Rights of Way Act (CRoW) land 2. Flexibility on public paths 3. Communicating access rights • January 2020: Problem Definition: first round of Expert Group workshops. These workshops presented the policy intent and asked the Expert Groups to consider the issues associated with them. The issues were then arranged into a series of themes that any reforms would need to address. The output of these events was three Problem Definition Papers. • March 2020: Option Identification: the Expert Groups were asked to propose a series of reform options that answered the policy intent and addressed the themes highlighted in the Problem Definition stage. The output of this process was a set of three Option Identification Reports. • May 2020: Options Analysis: a call for evidence to help scrutinise the reform options proposed by the Expert Groups. Contributions were invited from the following sources: <ul style="list-style-type: none"> ○ Local Access Forums [22 contacted] | | | |

- National Access Forum members [37 organisations]
 - ARAG Expert Group members [28 representatives]
 - Cadw
 - NRW specialist Advisors
-
- September 2020: six draft Reform Options Analysis Reports were presented to the Expert Groups in a series of workshops. These were used to revise the reform options, and the key elements that form them.
 - November 2020: steering group meets to discuss the output of this Options Analysis process, including the six Reform Option Analysis Reports and the Cross-cutting Themes Report.
 - December 2020: the steering group meets to agree the draft Option Selection Reports containing the revised reform options.
 - January 2021: Option Selection: The expert groups were reconvened to consider the updated, revised versions of the reform options, providing an indication of preference and accompanying commentary.
 - February 2021: Cross-cutting Themes: expert group members came together for a final time to discuss the draft recommendations being proposed for the cross-cutting themes.
 - March 2021: first draft of the ARAG Final Advice Report produced for circulation to all members of the Expert Groups.
 - May 2021: final draft version of the ARAG Final Advice Report is submitted to Welsh Government
 - July 2021: ARAG Final Advice Report published on Welsh Government website

For further information about the ARAG process, such as the outputs from each of the stages and all steering group meeting minutes, go to: <https://gov.wales/access-reform-advisory-group>

Members of ARAG were tasked with advising Welsh Government about its policy intent for access reform as set out at the start of the process and the resulting options for delivery proposed during it. The final report and recommendations have been drawn up by NRW in response to and having reflected on discussions in the ARAG meetings, the analysis of evidence and from other stakeholder contributions during the ARAG programme.

While expert groups' members' views have been reflected throughout the report, it should be noted that the inclusion of a recommendation should not be considered as representing the views of, or having been agreed by, an individual ARAG representative or their organisation.

Reform 1A – New Activities on Countryside and Rights of Way Act 2000 (CRoW) Access Land

Summary of Policy Intent for Reform 1A

To enable cycling, horse riding, hang-gliding, paragliding, bathing, using a water vessel or sailboard [so-called higher rights] to occur by right on land that has a right of access under the Countryside and Rights of Way Act 2000 (CRoW).

Reform 1A Options for Option Selection

| 1A: Option Proposal Title | Outline Description of Option Proposal |
|---|--|
| i. Amended CRoW Schedule 2 General Restrictions applied to CRoW access land. | Remove higher rights restrictions outlined in the policy intent from CRoW Schedule 2 (excluding 1B coastal land). Use existing CRoW powers to manage, exclude or restrict the resulting CRoW access rights Strengthen responsible behaviours e.g. through a statutory code. |
| ii. Higher Rights applied to CRoW access land subject to assessment of demand/suitability | Access Authorities (AAs) – national park authorities and local authorities outside national park boundaries – apply higher rights selectively to defined areas of CRoW land based on an assessment of ‘suitability’. Apply existing CRoW legislation to manage the rights as extended. |
| iii. Higher rights on defined CRoW trails (corridor approach) | Access authority defined linear route/corridor through CRoW land in which Schedule 2 restrictions are lifted, as a minimum, for horse riders and cyclists. |

Note that reference to higher rights in the context of Reform 1A is as per the policy intent unless otherwise stated. The possible extension of higher rights on coastal access land is considered as part of Reform 1B.

Option 1A(i): Amended CRoW Schedule 2 General Restrictions applied to CRoW access land

Option 1A(i) Summary Description

Amend CRoW Schedule 2, in line with the policy intent, for existing CRoW access land (but not coastal land). Use existing CRoW powers to manage the resulting CRoW rights with exclusions and restrictions as now/or as amended. Include a responsibility clause with the lifting of Schedule 2 restrictions. CRoW Part I powers to be amended to strengthen responsible behaviours, e.g. through a new enforceable statutory code.

Option 1A(i) Revised Key Elements

The following section outlines the ‘key elements’ (002, 003 etc) proposed for inclusion in this revised 1A(i) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Amend CRoW Schedule 2 legislation for non-coastal access land to allow for additional recreational activities on current access land as per Policy Intent:
 - cycling, horse riding, hang gliding and paragliding; and on CRoW waters (excluding reservoirs):
 - non-mechanically propelled vessels; bathing / swimming
002. Existing CRoW mapping would apply [i.e. no requirement to re-map CRoW access land. Access land mapping is applied to defined types of land – mountain, moor etc rather than the suitability of land for access on foot or attractiveness].
003. CRoW legislation would apply, including:
 - Rights of access [including mapping - see above]
 - An exclusions and restrictions (E&Rs) regime which would allow for the rights of access to be restricted or excluded for specific reasons as set out in the CRoW Act
 - Means of access (CRoW Part I, Chapter III) which allows access to access land by agreement or enforcement
004. Apply an [responsible recreation] access code to define rights and responsibilities (primarily covered in the Cross-cutting Themes sections below).
005. N/A [this element was omitted with revisions made at the Option Selection Stage]
006. Legislation to allow accessibility improvements of access furniture, such as gates and stiles. All replacement furniture to meet accessibility standards
007. New Open Access symbol for on the ground signage (e.g. waymarking). The new design needs to incorporate all applicable users
008. Agri-environment funding to be made available for access enhancements and supporting infrastructure
009. Changes are communicated in Wales - and England, especially in relation to cross-border impact
010. N/A [this element was omitted with revisions made at the Option Selection Stage]
011. Reduced occupiers’ liability to recreational users would apply to higher right users by virtue of existing CRoW access legislation

Option 1A(ii): Higher Rights applied to CRoW access land subject to assessment of demand/suitability

Option 1A(ii) Summary Description

Apply higher rights selectively to defined areas of CRoW land subject to an assessment of suitability.

Option 1A(ii): Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 1A(ii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Access authorities to have powers to:
 - Carry out an assessment of the suitability for higher rights of defined CROW access land within their areas
 - Relax CROW Schedule 2 restrictions of higher rights (as outlined in the policy intent) for areas of defined CROW access land assessed as suitable
002. Powers to define in regulations:
 - Suitability assessment criteria for higher rights access to apply to access land
 - Assessment processes and how it is applied (including defining an 'area of access land' for assessment purposes)
 - Process requirements for determining the relaxation of Schedule 2 for higher rights
003. N/A [this element was omitted with revisions made at the Option Selection Stage]
004. N/A [this element was omitted with revisions made at the Option Selection Stage]
005. N/A [this element was omitted with revisions made at the Option Selection Stage]
006. CROW exclusion and restriction (E&R) regime would continue to apply
007. Landowner/management resources would be required for items such as owner/occupier compensation (subject to Welsh Government legal advice) and access authorities implementation costs
008. CROW mapping duty and associated processes continue to apply. Mapping depiction should differentiate between rights associated with different CROW areas
009. CROW section 19 powers could be used to provide associated signage. There would be a new higher rights open access symbol/logo for waymarks and signage. Unaffected areas to continue with existing signage and waymarks
010. Change CROW Schedule 2 for higher rights as per policy intent for any assessed access land areas
013. Revise CROW powers to allow enhancement of means access to and within access land for higher rights so as to be applicable to CROW access land generally. Would be applied at discretion of access authorities
014. 'Enhanced' access by suitability. Considerations in the suitability assessment criteria could potentially include:
 - Impacts of recreational pressure
 - Accessibility of land
 - Demand for access
015. Reduce further the CROW section 13 level of occupiers' liability for legitimate users of CROW access land

Option 1A(iii): Higher rights on defined CRoW trails (corridor approach)

Option 1A(iii) Summary Description

Extend the CRoW Act to include powers for access authorities to define linear routes/corridors through CRoW access land in which Schedule 2 higher rights restrictions for cyclists and horse riders are lifted. CRoW legislation would generally apply to such routes.

Option 1A(iii) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 1A(iii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Amend CRoW to provide powers for access authorities to define linear routes/corridors of CRoW access land to which higher rights for equestrian and cyclists apply

002. Powers for AAs to define CRoW higher rights routes would be applicable to all existing access land designated or dedicated under CRoW.

Higher rights to be applied to identified corridors would be part of defining process and subject to the AA to determine.

Include a presumption for Least Restrictive Access (LRA) – i.e. making any restrictions on access the lowest possible whilst still fulfilling any applicable requirement to restrict access

Powers for regulations to set process of defining new higher rights corridors including AA discretionary consideration, application, assessment of proposed route, determination of proposed route.

Proposal/assessment process to define areas to which new higher rights could be applied including:

- Proposal by application [e.g. by an individual, LAF]; or
- Proposal by and at discretion of AA
- Assessment of proposal against set criteria
- Consultation requirements
- Recommendation
- Determination by CRoW AA
- Implementation of route [including means of access to and within land]

Criteria to be defined in regulations could include demand/need, route characteristics [including dimensions of corridor] existing access rights, physical characteristics, nature/heritage conservation.

003. Exclusions and restrictions (E&Rs) on CRoW routes to include presumption of onward travel and to allow variation of route or provision of alternative route for such onward journeys

004. Review and amend CRoW Part I Chapter III if necessary, to provide powers for AA to facilitate the means of access to and within access land for higher rights users [and for people with mobility problems] where necessary

Powers for Natural Resources Wales (NRW) to provide guidance and advice about the type of provision for facilitating higher rights and for considering Least Restrictive Access

005. Apply access code to define rights and responsibilities.

Provision of resources to develop and support code, including information, education and promotion for people in Wales and visitors.

Welsh Government, Natural Resources Wales, and all Access Authorities to have a duty to promote the code.

Commentary about common issues on access under 1A CRoW reform and recommendations

The following sections should be considered in conjunction with the descriptions and key elements for each option (see above - and Appendix A for the full key element tables). These are:

Potential to deliver 1A reform options within existing provisions in the CRoW Act

A reform approach to the implementation of option 1A(i) would be to use regulatory powers under Schedule 2, paragraph 3 to relax selected general restrictions in Schedule 2, paragraph 1 (subject to section 44(3)).

Currently, Schedule 2, paragraph 7(1) of the CRoW Act provides powers so that Natural Resources Wales or a national park authority (i.e. the 'relevant authority') can, with "...the consent of the owner of any land...", relax the restrictions in Schedule 2 for higher rights users to access CRoW access land.

Removing the requirement in paragraph 7 for 'the consent of the owner of any land' (and potentially adding additional information) was proposed in the Expert Group as a possible way in which the 1A reform could be implemented by Welsh Government e.g. for options 1A(ii) and 1A(iii), thereby allowing general restrictions to be relaxed in specific areas. However, removing from the need for landowner consent within paragraph 7(1) is expected to require primary legislation.

Recommendation: Welsh Government should consider the potential to use existing powers within CRoW as the means of delivering their policy intent for reform 1A.

As a minimum the rights of access on CRoW land would be increased for horse riders and cyclists.

All options increase some higher rights. Key element 001 of 1A(i) and element 001 in 1A(ii) would both cover all higher right users. With option 1A(iii) corridors were only considered for horse riders and cyclists. If 1A(iii) were to be taken forward for all higher rights, the following would need to be considered:

- Aquatic corridors for non-mechanically propelled water vessels and swimming. However, there is a relatively low number of rivers or natural bodies of water mapped as access land that are deep and long enough for this to be feasible.

- Routes to hang-gliding and paragliding launch sites and ‘runway strips’ to allow take offs. However, depending on wind speed and direction the launch sites could vary so that in effect areas would need to be used (reform 1A(i) or reform 1A(ii)).
- Consideration of a standard width of a corridor.

(N.B. NRW is currently (April 2021) leading on another piece of Welsh Government work about reforms to access to water).

Recommendation: Welsh Government to decide if it requires all the higher rights outlined in the policy intent to be relaxed as part of the 1A reform. Currently option 1A(iii) only realistically applies to cyclists and horse riders.

The current reasons for applying for, or notifying NRW of, an exclusion or restriction would not change

Currently the right of access on CRoW access land can be restricted for the following reasons:

- Land management
- Danger to the public
- Exceptional fire risk
- Nature conservation
- Heritage preservation
- Defence or national security
- The land being a grouse moor
- The land being a small area used for lambing
- Additionally, access to land may be restricted for up to 28-day each calendar year.

Most restrictions can cover any or all legal users of CRoW land – and the reason for a restriction would therefore extend to higher rights users if the 1A reform was introduced. The least restrictive option would continue to be applied, meaning that potentially only some users of access land would be affected by a restriction.

Throughout the consultation and engagement process no suggestions were received regarding additional reasons for restrictions. Many processes that may require an application to restrict the right of access can fall under the first two reasons in the list above. There is a principle in applying exclusions and restrictions that the least restrictive option is taken.

However, the CRoW section 33 (s33) guidance on the restrictions system (which NRW has the power to issue – subject to Welsh Government approval) will need to be looked at. The guidance is written to cover pedestrian use of CRoW access land, so at a minimum it would need to be reviewed to see whether it covers whichever option is taken forward.

Recommendation: the reasons for exclusions and restriction are not amended as part of reform 1A. CRoW section 33 guidance should be reviewed in the light of reform 1A being introduced to account for higher rights access to CRoW access land.

The Welsh Government would need to seek legal advice over whether CRow Part I Chapter III gives powers in relation to improving access within access land

Part 1, Chapter 3 of CRow covers accessing access land. Ultimately it gives Access Authorities the power to create access to access land.

Legal advice is that this allows access **to** access land. However, during the consultation process other advice received was that it included facilitating access **within** access land – i.e. between parcels of access land. Whilst this internal access power would be beneficial for users if option 1A(i) or 1A(ii) is implemented by Welsh Government, it would be essential for option 1A(iii).

Recommendation: adequate powers should be provided in CRow for facilitating ‘access within’ access land (as well as ‘access to’ access land) including for higher rights access introduced as part of reform 1A. Government should take legal advice on whether Part 1, Chapter 3 of CRow already provides the necessary powers for access authorities.

Welsh Government to seek legal advice on various matters, as detailed in the considerations.

Across the 3 options there are various matters where legal advice would need to be sought by Welsh Government. The list is not exhaustive, but rather highlights pertinent issues that have been raised by Expert Group 1 or other stakeholders.

Recommendation: legal advice on particular elements as listed in the option tables is sought if that element is to be considered to be taken forward.

Specific Differences in the 1A(i), 1A(ii) and 1A(iii) option approaches

There will be differences in the extent of higher rights that would be introduced on CRow access land according to which option is taken forward.

Option 1A(i) would allow higher right access to all land accessible under CRow (including that dedicated under s16 of the CRow Act). This totals 379,699 hectares. All dedicated s16 land in Wales (except Freshwater East) is Welsh Government Woodland Estate and there is already permissive access for cyclists and a permissive/permit system for horse riders primarily of linear routes through the dedicated land.

Options 1A(ii) and 1A(iii) propose selective approaches to the application of higher rights – to defined areas or corridors of access land respectively – based on assessments and determinations carried out by access authorities. Such processes will require significant time and resources for access authorities to administer but can take account of local circumstances.

Due to the relatively limited area provided by access land corridors, option 1A(iii) is likely to result in the smallest increase in the area of land higher rights would be applied to. (Also, it may only be practicable to use Option 1A(iii) to define corridors for the use of horse riders and cyclists). Compared to option 1A(ii), option 1A(ii) is likely to result in a relatively greater increase in the area of higher rights introduced as it proposes the Schedule 2 general restrictions be relaxed on parcels or blocks of access land determined by access authorities as suitable for higher rights. Option

1A(i) will result in the greatest increase in higher rights access on CRoW land as it will apply higher rights to all CRoW access land (minus areas to which exclusions and restrictions apply).

For option 1A(ii) and 1A(iii) it is difficult to determine the exact amounts of higher rights that will result. That will depend on the detailed assessment criteria and processes developed, the extent the discretionary powers are used by access authorities and the resources that the access authorities (and others) would have to implement the reform. In addition, legal advice received by NRW indicates that compensation may have to be paid under options 1A(ii) and 1A(iii).

Recommendation: Welsh Government should decide if it prefers a blanket or selective approach to the application of higher rights to CRoW open access land.

Option 1A(i) and 1A(ii) would (or could) allow higher rights on access land to all the users outlined in the policy intent. However, Option 1A(iii) only looked at 'corridor' access for cyclists and horse riders, so would not include all the higher rights as outlined in the policy intent.

Recommendation: Welsh Government would need to decide if it wishes for all higher rights users in the policy intent to be covered in any potential reform. If so, option 1A(iii) would need to formally be discounted.

The Forestry Commission Byelaws 1982 (Statutory Instrument 648) state the following:

- Byelaw 5(xiii) does not allow a person to 'ride or lead a horse'.
- Byelaw 5(xxiii) does not allow a person to 'operate any aircraft, glider, ...'boat, raft or craft of any kind'.
- Byelaw 6(1) does not allow 'any vehicle other than a perambulator or wheelchair'.

On the CRoW dedicated Welsh Government Woodland Estate, the 1982 byelaws could apparently conflict with 1A provisions for higher rights of access.

Recommendation: Welsh Government should review and, where necessary, amend how the Forestry Commission Byelaws apply to the Welsh Government Woodland Estate, to avoid contradictions with the 1A reforms introduced.

Cost of the Options

Accurately assessing the costs of the reform 1A options will require the options to be developed in more detail. For this reason, a detailed assessment of costs was not undertaken during the ARAG process. However, a broad assessment of the relative costs of options was undertaken.

All 1A options would require some increase in resources to implement. For option 1A(i), higher rights would be applied to all access land through a change to legislation, so would have the lowest cost for applying rights. There are likely to be additional costs for NRW and Wales' 3 National Park Authorities as a result of an increase in applications/processing notifications for exclusions and restrictions. There will also be extra costs to meet increased demands for the management of access land resulting from higher rights being used (e.g. for access authorities to provide cycle and horse accessible access furniture). However, the scale of the demand for additional land and access management has not been objectively assessed.

Options 1A(ii) and 1A(iii) would require new resources for access authorities to define, carry out assessments and associated processes, and to determine the areas of access land that higher rights are to apply to. These administrative costs and those for managing the resulting higher rights will be proportionate to the extent the powers are used and applied. A power is discretionary and so is likely to have limited implementation without additional resources. (Requiring access authorities to assess all access land for higher rights was considered but was not included in the proposals for either option).

Preliminary legal advice to NRW indicates that additionally there may be a need to provide compensation payments to landowners for every area or corridor where increased rights are implemented under either option 1A(ii) or 1A(iii). As the rights of access would be applied on a case-by-case basis by the access authority, it is not envisaged that there would be a significant increase in long-term exclusions or restrictions with these options as it is assumed these areas are likely to be screened-out in the assessment process.

There would be costs for reviewing and amending information and guidance from introducing reform 1A. The costs of amending national level guidance and information are likely to be similar for any of the options. Changes to local access land information and guidance will be dependent on the extent and complexity of the changes to rights introduced by the options.

Recommendation: Welsh Government should decide on their preferred option/elements before a more accurate estimate of costs is undertaken. This includes concluding, if either option 1A(ii) or 1A(iii) is chosen, whether compensation costs would need to be included in these estimates.

Option 1A(iii) Exclusion and Restrictions Regime

Applications to exclude CRoW rights of access for up to 6 months must be determined by the relevant authority with 6 weeks; for applications to exclude access for over 6 months the time limit is 16 weeks.

For option 1A(iii), to maintain through routes an exclusion or restriction on a higher rights corridor would need to allow for onward travel. Unless the alternative onward travel route is on existing route(s) which allow higher rights access (e.g. bridleways or roads) then a new assessment may need to be done on the alternative corridor proposed within access land – including provisions for consultations, compensation etc. E&Rs for option 1A(iii) corridors will therefore require new processes, are likely to be less flexible and require additional time and resources to administer and implement.

(NB: no changes to the E&R application process to exclude or restrict access was proposed for either option 1A(i) or option 1A(ii) - see the related section about exclusions and restrictions above.)

Recommendation: if option 1A(iii) is progressed, Welsh Government will need to change the regulations for exclusions and restrictions applying on higher rights corridors. This will include amending the statutory time limits to decide applications and providing for onward travel for higher right users.

Reduced liability

Any public access under CRoW attracts a lower level of occupiers' liability (section 13). Further reducing liability to a lower level, in line with section 306 of the Marine and Coastal Access Act, the liability owed by the keeper of animals, or another lower level of liability was discussed by the Expert Group. However, this was only raised as an element with 1A(i) and 1A(ii).

Recommendation: a consistent approach to reduced occupiers' liability should be considered for all CRoW access land (including newly defined coastal access land). If option 1A(i) or 1A(ii) is progressed, then discussion about user responsibility versus landowner duty of care needs to be undertaken. As 1A(iii) is, in effect, a pre-assessed corridor the level of reduced liability afforded under section 13 is likely to be adequate.

Equity of access

Whilst 1A(i) and 1A(ii) are area access, so allowing space for different users to avoid each other. Concerns were raised by land management interests that 1A(iii) could cause conflict with cyclists, horse riders (and potentially pedestrians if they are walking on a narrow, good track) all wanting to access the same access corridor at the same time.

Recommendation: if 1A(iii) is taken forward a hierarchy of users' principle needs to be taken forward. (This is covered in more depth in the 'Cross-cutting Themes' section below.)

Ecosystem resilience

Whilst evidenced concerns were raised that any 1A option could have some detrimental impacts on ecosystems, it was raised in the expert group that 1A(iii) could significantly increase erosion by concentrating cyclists and horse riders along the proposed corridors (although, the LUC report literature review states "...walking and cycling cause damage via different mechanisms but the overall impact on a surface is generally not considered significantly different.")

The exclusions and restrictions provisions within CRoW (see section above) will also apply to higher rights and provide a means to mitigate and avoid damaging impacts to access land from recreational use. The assessment criteria for options 1A(ii) and 1A(iii) could also consider sensitivity of land, habitats and species to higher rights. However, whilst the right of access can be excluded or restricted e.g. for heritage or nature conservation, it can be hard to predict which areas might be damaged and relevant authorities are obliged to use the 'least restrictive option'.

Recommendation: that the impact on ecosystems in relaxing higher rights is part of any consideration in taking forward reform 1A. This is particularly relevant to option 1A(iii) where higher rights on a corridor is likely to concentrate negative impacts.

Other Reform 1A Considerations

CRoW section 15 land

Section 15 land has different public access rights, sometimes including higher right of access (such as for horse-riding) provided by a variety of other legislation e.g.

commons with rights of access provided by section 193 of the Law of Property Act 1925. (Click the link [here](#) for legislation text about the land s15 applies to).

CRoW legislation, such as reduced liability, the ability to restrict access under CRoW, the Schedule 1 excepted land classifications or the Schedule 2 general restrictions do not apply to s15 land.

Not including s15 land in the 1A legislative reform will result in s15 land continuing to have different rights of access to CRoW access land - even though in places they may be contiguous. While related legislative changes could extend to s15 land to improve consistency, to include s15 land access rights in the scope of the 1A reform would require amendment to a wide range of legislation and the potential to cause confusion over which CRoW rights apply where.

Recommendation: There is no widening of the policy intent for reform 1A to include section 15 land that is not accessible under CRoW.

CRoW section 16 land

CRoW section 16 (s16) land is land that has been dedicated by the landowner or long-term lease holder as CRoW access land in perpetuity (or until the lease ends). With the exception of land dedicated at Freshwater East, all s16 land in Wales was, at the point of dedication, Welsh Government Woodland Estate. Section 16 land is treated the same as any other CRoW access land (it can be excepted under Schedule 1, have exclusions/restrictions etc).

Section 16 dedication is a land charge, so when land is sold it would come up as a land charge, so a purchaser would be aware that it is CRoW access land. As of February 2021, the amount of s16 dedicated woodlands sold by Forestry Commission Wales/NRW was 15 woodland blocks, totalling 496 hectares.

Recommendation: To ensure that no preference is given to one category of CRoW access land over another, s16 land should be treated the same as any other access land in regard to the application of higher rights.

Code of Conduct

There was discussion within the Expert Group 1 about the importance of a code of conduct for recreational users as part of introducing higher rights on CRoW access land.

CRoW section 20 gives NRW a duty to produce a code of conduct for people exercising CRoW rights. The code is advisory: there are no sanctions provided for those not complying with it, although people can be excluded from access land for 72 hours for non-compliance with CRoW under section 2(4). A non-statutory code and an enforceable statutory code (with sanctions such as fixed penalty notices) were discussed as options for inclusion within the reform proposals. No consensus was reached about the best approach. However, it was agreed that any code needs to be accompanied by a programme of education and information to promote it.

Responsible recreation is a cross-cutting theme within the ARAG work. Further narrative and recommendation(s) are in the [Cross-cutting Themes section](#) below.

Equality, Inclusivity and Accessibility

Both the ‘call for evidence’ process and the Expert Group raised issues about inclusive access to, and within access land (see comments above about CRoW Part I, Chapter III). The main point of discussion was around installing more accessible access furniture (e.g. gates instead of stiles).

Equitable access was identified as a cross-cutting theme. Further narrative and recommendation(s) are in the [Cross-cutting Themes section](#) below.

Recommendation: Welsh Government to consider if all new or replacement access furniture on CRoW access land should be required to meet a stated accessibility standard such as BS5709.

Reservoirs

Whilst there are relatively few reservoirs on CRoW access land, the policy intent does specifically exclude reservoirs in relation to higher rights (notably for swimming, bathing and use of a non-powered craft). However, the issue of whether access should be allowed on ‘naturalised reservoirs’ has been raised (NB: there is no legislative definition of a ‘naturalised reservoir’).

Recommendation: Welsh Government will need to define what constitutes a ‘reservoir’ (as there is no definition in legislation) and, if they wish to allow access to them, what constitutes a ‘naturalised reservoir’.

Preferences of the ARAG Expert Group 1 for 1A Revised Options

There are 3 sectors on Expert Group 1, each with 4 representatives. 10 of the 12 members of the Group attended the preference workshop to consider each of the revised options. At the end of the workshop members were asked to indicate their preferred option[s] by allocating up to 2 preferences. The 2 representatives that couldn’t attend the session indicated their option preferences through an email to NRW. There were therefore up to 24 preferences available.

Preferences were only identified according to the sector a member represented. The preference results were only shared with members at the end of the exercise.

Preferences could only be given in relation to the options presented to deliver Welsh Government’s policy intent for the reform. While options were developed with the input of Expert Groups, the expressed preferences may or may not indicate support for the policy intent.

The overall preferences of the group members (by sector and in total) are shown in the table below.

Table 1: Expert Group Option Preferences, Reform 1A

| Option | Public Sector | Land Managers | Recreation Users | Total (n=24) |
|---------|---------------|---------------|------------------|--------------|
| 1A(i) | 4 | 0 | 7 | 11 |
| 1A(ii) | 1 | 5 | 1 | 7 |
| 1A(iii) | 3 | 3 | 0 | 6 |

Option 1A(i) received the most preferences (11), with options 1A(ii) and 1A(iii) receiving 7 and 6 preferences respectively. It was raised that whilst option 1A(i) was the preferred option of the 3, the result between a general relaxation of restrictions to higher rights on access land, and access land going through a detailed assessment process before applying rights by the access authority was close.

Option 1A(i) was clearly the preferred option for recreation users with option 1A(ii) the preferred option for land managers and option 1A(iii) having some preferences from public sector and land manager representatives.

Concerns were raised by some members of the Expert Group that if options 1A(ii) or 1A(iii) were taken forward, there was a real risk there would be little done to implement new higher rights if legislation only provided discretionary powers rather than duties to access authorities. This point was linked to the current limited resources of local authorities (in particular) and that there will be a need for significant additional resources for public sector bodies to implement any 1A reform.

Reform 1B – Coastal Access

Summary of Policy Intent for Reform 1B

To extend Countryside and Rights of Way Act 2000 (CRoW) access land to the coast, coastal cliffs and foreshore and to facilitate continuous onward recreational journeys along the whole of the Welsh coast. Consideration is to be given to the merits of including the Wales Coast Path as part of the definition of new CRoW coastal access land.

Reform 1B Options for Option Selection

| 1B: Option Proposal Title | Outline Description of Option Proposal |
|---|--|
| i. Marine & Coastal Access Act 2009 (MACA) approach | MACA Approach – define a coastal margin and coastal route for open air recreation on foot. |
| ii. Extend CRoW to include coastal land using section 3 | Extend CRoW using section 3 powers (for rights on foot only) create parallel powers to create higher rights either through a linear route/corridor or by area. |
| iii. [Revised option] Apply higher rights to preferred 1B(i) or 1B(ii) option | Application of higher rights to coastal access once the approach to 1A and 1B have been developed. |

Note that for Reform 1B the term ‘higher rights’ is used as per the policy intent for reform 1A. This includes CRoW rights for horse-riding, cycling, para/hang gliding, and on CRoW mapped water to use a sailboard or vessel and to bathe in non-tidal waters.

Option 1B(i): Marine & Coastal Access Act (MACA) approach

Option 1B(i) Summary Description

Use a Marine and Coastal Access Act 2009 (MACA) type approach (as used for coastal access in England) to define and designate a coastal margin and coastal route for open air recreation on foot. Modify sections of the Countryside and Rights of Way Act 2000 (CRoW) for the definition and management of the coastal access rights.

Option 1B(i) Revised Key Elements

The following section outlines the ‘key elements’ (002, 003 etc) proposed for inclusion in this revised 1B(i) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Amend CRoW to introduce a duty for the Senedd and NRW to secure a coastal margin for spreading room associated with a coastal route
002. Duty for NRW to produce a coastal access scheme for implementing provisions, including the defining of coastal margin and ‘coastal route’. In preparing or revising a scheme NRW must consult relevant interests

003. A coastal route defined as a long-distance walking route (LDR) using amended the National Parks and Access to the Countryside Act, 1949 (NPACA)) legislation. Allow for the Wales Coast Path (WCP) to be incorporated as ‘coastal route’
004. Apply MACA section 306 to reduce occupiers’ liability for users of coastal access rights
005. Provision for roll back of coastal route specified*
006. Provision for management of coastal margin and coastal route
007. Duty for ‘access authorities’ to ensure least restrictive access (LRA) wherever possible. Associated powers for improvement and management of accessible infrastructure to, and within, coastal margin and for coastal route
009. Procedures set out for defining and mapping the coastal margin (spreading room and coastal route) including methods, processes and consultation requirements
010. CRoW exclusions and restrictions (E&Rs) regime – modified to ensure continuity of access to the coastal margin, including the coastal route
011. Review and amend definitions of ‘excepted land’ in CRoW Schedule 1 as they apply to coastal access land
012. Recreational code –modification of Countryside Code and other responsible recreation guidance to include coastal access
013. Rights apply only to those on foot

*New key element added from Option Selection stage.

Option 1B(ii) Extend CRoW access land to include coastal land using section 3

Option 1B(ii): Summary Description

Using section 3 of the Countryside and Rights of Way Act 2000 (CROW) to extend rights of access on foot to coastal land types. The definition of CRoW open access land would be extended to include [to be] defined coastal land types e.g. dunes, beaches, foreshore, coastal flats, cliffs and heath. These coastal land types would be mapped using the same processes as for the original CRoW Part I mapping. Use existing CRoW Part I legislation for managing coastal access land, subject to a review of the adequacy of existing provisions, notably exclusions and restrictions. Provide a responsible recreation code that would include responsibilities in relation to coastal access land [along with other public access].

Option 1B(ii): Revised Key Elements

The following section outlines the ‘key elements’ (002, 003 etc) proposed for inclusion in this revised 1B(ii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Use section 3 of the Countryside and Rights of Way Act 2000 (CRoW) to allow defined coastal land to be mapped as access land for open air recreation on foot
002. Develop definitions of coastal land to which CRoW rights (on foot) would apply. Include foreshore, coastal cliff, dunes, flats, beaches, coastal heath

003. CRoW mapping regulations amended to reflect change – including defining land parcels and inland boundary of coastal access land
004. N/A [this element was omitted with revisions made at the Option Selection Stage]
005. Reduce liability owed by landholders to users of coastal access rights in line with that provided in England’s Marine and Coastal Access Act 2009 (MACA)
006. CRoW exclusions and restrictions regime amended to account for coastal access specific requirements
007. Review and redefine CROW Schedule 1 ‘excepted land’ to ensure applicability to coastal context
008. Extend powers in CRoW to allow for management of access within coastal access land including boundary crossings - for recreational and land management purposes & applying a least restrictive access (LRA) approach
009. Introduce a statutory access code covering rights and responsibilities, to include specific provisions for coastal access; appropriate public bodies to have duty to promote the code
010. Rights to coastal access land apply only to those on foot [CRoW as now]
011. CRoW coastal access land shown on NRW’s website as part of NRW’s CRoW mapping and on Ordnance Survey (OS) mapping
012. N/A [this element was omitted with revisions made at the Option Selection Stage]
013. CRoW definitions of ‘commercial activity’ and ‘events’. Redefine what falls in or outside CRoW rights following review. Starting with consideration of definitions used in Scottish Land Reform Act. Use regulatory powers to allow easier futureproofing.

Option 1B(iii): Apply higher rights through option 1B or 1A based on decision for progressing each reform

Option 1B(iii): Summary Description

Apply higher rights to coastal access land through either the decided approach to reform 1A or reform 1B have been developed. See option 1B(i) and, option 1B(ii) for how CRoW access land and associated rights could be extended to include coastal land. See reform 1A for options developed for how higher rights could be applied to CRoW access land.

Option 1B(iii) would require a relaxation of schedule 2 of the CRoW Act to apply to coastal access land based on the approach to either reform 1A or reform 1B as decided. Relaxing Schedule 2 would have the effect of extending rights of access to higher rights as well as those on foot. Higher rights would apply to all or specified coastal access land according to the preferred option.

A table of key elements for 1B(iii) has not been included (as for the other reform options) as those details would best be developed in the light of the approach to be taken.

Commentary on common issues with coastal access reform proposals and associated recommendations

The following sections should be considered in conjunction with the descriptions and key elements for each option [see above and/or in Appendix A]. There are a number

of key elements that are common to both the 1B(i) and 1B(ii) options that are considered jointly in the following sections.

Options 1B(i) and 1B(ii) both provide for:

- Extending CRoW access land to the coast i.e. providing CRoW area rights of access to coastal access land; and
- Associated provisions for the implementation and management of coastal access

In addition,

- Option 1B(i) MACA provides for the statutory definition of a linear ‘coastal route’ for onward journeys to which CRoW rights would apply;
- Option 1B(ii) section 3 does not provide for a new legislative means to define a linear coastal route – relying instead on the existing Wales Coast Path (WCP) plus public rights of way and routes across coastal access land

Option 1B(i) would require primary legislation amending CRoW and the National Parks and Access to the Countryside Act to provide for the definition of a coastal margin (to which CRoW rights would apply).

Option 1B(ii) would use current section 3 of CRoW which allows the Senedd (the Welsh Parliament) to make an order (rather than introducing primary legislation) extending the definition of open country to include coastal access land.

Associated amendments to CRoW have been identified as a necessary part of introducing the reform (see details below) e.g. in relation to exclusions and restrictions of access rights, and would be similarly introduced either through primary legislation in the case of option 1B(i) or by section 3 order. Legal advice would be required about whether the scope a section 3 order is sufficient to amend all the associated CRoW provisions proposed in the option. Any proposed 1B(ii) option elements that required primary legislative change would reduce the benefit of the 1B(ii) approach, at the legislative stage in particular - alternatively they would have to be revised or omitted.

NRW would be required to define coastal access land

Clear, transparent processes, including consultation with key interests, will be essential to implementing new coastal access. For option 1B(i) the duty to secure, define and manage coastal access land for recreational access should be set out in primary legislation. For all options, secondary legislation will provide flexibility to set out the details as to how that should be done, and to update and refine such detailed matters; the Expert Group noted the need to involve key interests in the development of secondary legislation.

Option 1B(i) would require NRW to produce a coastal access scheme as the means to define coastal margin, including determining and mapping the line of the coastal route (from which the coastal spreading room would be defined) and the coastal access land (e.g. coastal heath or dunes) to be included inland of the coastal route and inland limit of the coastal margin.

Currently CRoW (sections 4-11) and associated regulations place a duty on NRW to prepare maps of ‘open country’ (and registered common land). Extending the definition of ‘open country’ to include coastal access land using CRoW section 3 (as proposed by Option 1B(ii)) would require NRW to produce access maps that include coastal access land.

Recommendations:

- For the 1B option approach taken forward, review and revise as appropriate for Wales the definitions of ‘coastal land’ as currently defined in legislation (CRoW section 3A for option 1B(i) or section 3 for Option 1B(ii))
- The Development of methodologies and processes should include consultations with key interests
- NRW should be responsible for identifying the land to have coastal access rights

Review the CRoW excepted land categories to ensure they are suitable in a coastal context

CRoW access rights do not apply to ‘excepted land’ types listed in CRoW Schedule 1, including, for example, land used for military purposes, for buildings, gardens or aerodromes.

The option 1B(i) MACA approach would review and amend CRoW Schedule 1 excepted land descriptions, for example, allowing for access rights to apply to the line of the coastal route where it runs on some otherwise excepted land. This amendment is intended to better secure continuity of access for the MACA defined coastal access margin, including onward journeys on the coastal route. Similarly, Schedule 1 excepted land considerations apply to the 1B(ii) option approach, with the potential to use the power within CRoW section 3(2)(b) to amend by order descriptions as they apply to coastal access land.

Recommendation: In the light of the approach in the MACA Act, ‘CRoW Schedule 1 excepted land’ should be reviewed to ensure any Reform 1B coastal access provisions for excepted land are fit for purpose in a Welsh coastal context.

Introduce an enforceable statutory access code covering rights and responsibilities, to include specific provisions for coastal access

Recreation rights and responsibilities of different interests (land managers, recreational users and access managers) will need to be clearly and explicitly set out and communicated as part of introducing and sustaining coastal access. While a preference was expressed by the Expert Group for the introduction of an enforceable statutory code to support achievement of responsible use and balancing the extension of rights. It was also recognised that the type of code applied to coastal access should be consistent with reforms to responsible recreational codes more generally. Responsible recreation was identified as a cross-cutting matter in the ARAG reforms as a whole and is discussed in more detail in the ‘Cross-cutting Themes section below.

Recommendation: Inclusion of coastal access within responsible recreation codes is essential and should be consistent with the approach taken in Wales. A programme of information and communications should support the development and implementation of coastal access.

Review CRoW exclusions & restrictions (E&Rs) provisions to ensure they are fit for purpose in a coastal context

Powers to exclude or restrict access will be essential for the management of coastal access land for any option proposed as part of reform 1B, e.g. for land management

purposes, for public safety reasons (including on land use for military purposes), avoidance of severe fires, to prevent or mitigate impacts to natural or historical heritage.

However, in some circumstances the application to coastal land of existing exclusion and restriction provisions in CRow could prevent onward access along the coast. For this reason, the option 1B(i) MACA Act proposals include amendments to exclusion and restriction provisions to better ensure continuity of coastal access rights. In particular current CRow section 22 and section 23 provisions for landholder to give 'notifications' to exclude access for land management purposes couldn't be used for coastal access land. Landholders would still have rights, as now with CRow, to apply to the 'CRow relevant authority' for exclusions and restrictions. The same considerations apply to the 1B(ii) option approach, with the potential to use the power within CRow section 3(2)(b) to amend by order CRow exclusions and restrictions provisions in relation to coastal access land.

Therefore, whatever reform 1B option is developed, current exclusions and restrictions provisions in CRow should be reviewed with the aim of ensuring they are fit for purpose for Welsh coastal access and meet the aim in the policy intent for continuity of access rights along the coast.

Recommendation: Whatever coastal access option is taken forward CRow exclusions and restrictions provisions should be reviewed in detail to ensure they are fit for purpose in the Wales coastal access context; they will need to support the aim of providing continuity of access and onward journeys.

Means of access legislative provisions

Legislation needs to provide for the implementation and ongoing management of coastal access land. For Option 1B(i) the MACA (Schedule 20) type provisions would introduce a number of additional powers to manage access to and within coastal access land including the coastal route. Options 1B(ii) would use existing CRow provisions (Part I, Chapter III – 'Means of Access', although their applicability to facilitating access within access land was called into question by legal advice to NRW).

In implementing and managing coastal access, Equalities Act duties require public bodies to consider and make reasonable adjustments for those with protected characteristics e.g. using least restrictive access (LRA) approaches (for more information on this issue see the Cross-cutting Themes section below).

Recommendation: The Part I, Chapter III 'Means of Access' (sections 34-39) in CRow legislation should be reviewed to ensure it will enable and facilitate the use and management of coastal access land, including providing for access for onward journeys across internal boundaries and obstacles (including higher rights if applied). The need for the powers for managing coastal access provided by MACA Schedule 20 should also be decided.

Rights and liabilities of owners and occupiers to be reviewed

CRow legislation already reduces occupiers' liability to those exercising their CRow rights on access land. The MACA Act in England reduced this further, specifically in relation to structures. The Expert Group supported minimising the liabilities of

owners and occupiers of land to people exercising rights of access to coastal access land.

Recommendation: a consistent approach to reduced occupiers' liability approach should be applied to CRoW access land including newly defined coastal access land. It is preferable that a further reduction in occupiers' liability is applied following the model of the MACA Act.

Commercial activities and larger scale events

Commercial activities and events can have impact on areas with CRoW rights and public rights of way (PROW), impacting on land, land interests and the rights of other users. The matter is a cross-cutting theme across ARAG reforms and is therefore considered in detail within the Cross-cutting Themes section below. For reform 1B, CRoW Schedule 2 restrictions to activities with commercial purposes should apply to coastal access land, consistent with the approach taken to other CRoW access land – harmonised with other public access where feasible.

Recommendation: any new definitions of 'commercial activities' and 'larger organised events' should be drafted and applied to coastal access land – these could be included, for example, either in a revised CRoW Schedule 2, or in a new statutory access code, if brought forward.

Specific differences in the MACA 1B(i) and CRoW section 3 1B(ii) option approaches

For option 1B(i), in England the coastal margin includes the mapped 'coastal route' (i.e. the England Coast Path (ECP)) and all land between the ECP and the sea. Coastal margin may also extend inland from the ECP if it is identified as coastal land under section 3A of CRoW, or if there are existing access rights under the other enactments listed in section 15 of CRoW, or Natural England and the landowner agree to follow a clear physical feature. In Wales, if taking a MACA-type approach, it would need to be considered if this definition of the coastal margin is appropriate, with or without amendment. It is also a consideration in defining coastal land types a section 3 approach would use.

Recommendation: for the 1B option approach taken forward, review and revise if and as appropriate for Wales the definitions of 'coastal land' as currently defined in legislation (CRoW section 3A for option 1B(i) or section 3 for Option 1B(ii)).

Define a coastal route

The Wales Coast Path programme of NRW estimates that up to 110kms of the 1,400kms of the WCP could be preferably realigned closer to the coastal edge than the current route.

The 1B(i) MACA approach would provide for the defining of a 'coastal route' by NRW putting proposals to Welsh Government for approval under the National Parks and Access to the Countryside Act 1949 (NPACA).

Recommendation: Consideration would also need to be given as to whether the coastal route/WCP would also be branded and promoted as a National Trail.

Costs of the options

A detailed assessment of the relative costs of the options has not been carried out to date. Consideration of the costs of implementing MACA in England and CRoW open access would provide a guide subject to being able to identify and compare costs within the programmes.

Equivalent costs (Natural England figures) for the implementation of the England coastal access programme (i.e. using MACA legislation) are projected to be £43.7m up to the end of 2021/22. Of which approximately £16m funded local authorities' costs for staff and the works for the establishment and infrastructure of coastal access (predominantly the England Coast Path). The proportionate costs, if applied by length to Wales' coast, would be £14.6m. It could be expected that a proportion of those costs would not be required given the existing Wales Coast Path and partnership arrangements would reduce those costs significantly.

Records of the mapping costs of open access mapping for Wales have not been identified. In England the open access programme cost £52.6m up to 2006 (equivalent to £71.7m in 2021) to map an area approximately 4 times that for England's coastal access. The overall total has not been broken down e.g. how much of the amount, if any, funded the local authorities' staff and practical establishment works costs has not been determined?

Recommendation: Further detailed assessment of the costs of the options should be undertaken to inform decision making. (It should be noted that accurate costings will depend on developing the details of option provisions and also how they are to be implemented).

Provide for roll back of coastal route

There is clear evidence of a current and future need to realign a coastal route, however defined. A proportion of the WCP at the coastal edge is subject to erosion and on occasion the path has to be realigned, generally using agreements with landowners (or orders) under PROW legislation. This would remain the approach with option 1B(ii). Option 1B(i) MACA would provide new legislation for authorities to more readily roll back the defined coastal route.

Recommendation: if a 1B(i) option approach is taken forward, the provisions in the Marine and Coastal Access Act for the roll back of the coastal route should be adapted and applied to Wales.

Preferences of the ARAG Expert Group 1 for 1B Revised Options 1B(i) and 1B(ii)

There are 3 sectors on Expert Group 1, each with 4 representatives. 11 of the 12 members of the Group attended the workshop to consider each of the revised options. At the end of the workshop members were asked to indicate their preferred option[s] by allocating 1 preference. The 1 person that couldn't attend the session indicated their option preferences through an email to NRW. There were therefore up to 12 preferences available allocation to either option 1B(i) or option 1B(ii).

Preferences were only identified according to the sector a member represented. The preference results were only shared with members at the end of the exercise.

Preferences could only be given in relation to the options presented to deliver Welsh Government’s policy intent for the reform. While options were developed with the input of Expert Groups, the expressed preferences may or may not indicate support for the policy intent.

Option 1B(iii) proposes consideration of higher rights once the main approaches to reform 1B and reform 1A have been decided. Therefore, no preferences were allocated to 1B(iii).

The overall preferences of the group members (by sector and in total) are shown in the table below. Comments from some recreational user representatives did so noting their desire to see higher rights included within any reform taken forward.

Representatives of land managers wished to see the full involvement of land managers in the development of any future option and for land managers to be fully consulted in the implementation of access e.g. in determining the route of the coastal route, the inland boundary of coastal access and any infrastructure works.

Table 2: Expert Group Option Preferences, Reform 1B

| Option | Public Sector | Land Managers | Recreational Users | Total (n = 12) |
|---------|---------------|---------------|--------------------|----------------|
| 1B(i) | 3 | 3 | 3 | 9 |
| 1B(ii) | 1 | 1 | 1 | 3 |
| 1B(iii) | N/A | N/A | N/A | N/A |

There was a weight of preference across the sectors for the MACA approach of 1B(i) to deliver Welsh Government’s policy intent for coastal access. Consistency with provisions in England was noted as important e.g. aiding clarity and understanding.

Public sector representatives noted option 1B(i) would also fit with coastal access work in Wales to date and better support ongoing management of access.

Comments from some recreational user representatives did so noting their desire to see higher rights included within any reform taken forward.

Representatives of land managers wished to see the full involvement of land managers in the development of any future option and for land managers to be fully consulted in the implementation of access e.g. in determining the route of the coastal route, the inland boundary of coastal access and any infrastructure works.

Option 1B(iii): Defining of CRoW higher rights within coastal access land/margin

Reform 1B options (i) and (ii) set out proposals for developing CRoW coastal access. Currently, Schedule 2 of CRoW effectively limits CRoW access rights to activities on foot. Revisions to CRoW Schedule 2 would allow higher rights to extend to CRoW coastal access. As such, higher rights could be applied to all or specified types of coastal access land/margin - and potentially to a ‘coastal route’ identified under a MACA-type 1B(i) reform.

Applying higher rights would require detailed review of provisions in CRoW legislation, such as in relation to excepted land, exclusions and restrictions and managing access to ensure they provide for the application and management of all applicable access rights

(see the sub-sections above for further discussion about such provisions; see the section about Reform 1A for information about extending higher rights on existing CRoW access land, including area based or selective routes or corridors of higher rights on access land).

There were differences in the views expressed within the Expert Group about taking forward higher rights as part of coastal access reforms but generally a recognition that it made sense that the approach with coastal access should be considered in the light of that taken for reform 1A.

Recommendation: Government should consider the extension of higher rights to all or any specified 'CRoW access land', which could include or exclude coastal access land/margin. If a 1B(i) MACA-type option is taken forward, the higher rights could be selectively applied to the coastal margin: to coastal spreading room, the coastal route or both.

Reform 2A - Application of Higher Rights to Public Footpaths

Summary of Policy Intent for Reform 2A

To enable cycling and horse riding to occur by right on public footpaths, providing cyclists and horse riders with more opportunities to access the outdoors.

Reform 2A Options for Option Selection

| 2A: Option Proposal Title | Outline Description of Option Proposal |
|--|--|
| i. Statutory application of cycling and horse-riding rights to public footpaths | Apply by statute cycling and horse-riding rights to the public footpath network across Wales using a 1968 Countryside Act section 30-type approach, with an associated caveat or clause for responsible use. |
| ii. Cycling and horse-riding rights applied by statute to footpaths with powers to exclude those rights based on unsuitability | As for option 2A(i), cycling and horse-riding rights statutorily applied across the public footpath network in Wales using a section 30-type approach. Powers would be provided for local highway authorities to assess paths for unsuitability of cycling and horse-riding rights. Paths could be excluded where use by such rights were assessed to be unsuitable. 'Unsuitability' would be determined on the basis of a formal assessment process and criteria (an unsuitability assessment). |
| iii. Selective application of cycling and higher rights to footpaths applied on a case-by-case basis | Cycling and horse-riding rights would be applied to public footpaths on a case-by-case basis. Local highway authorities would have a power to appraise the public footpaths across their public rights of way (PROW) network for horse-riding and cycling rights by applying standard criteria. The process would be linked to local authorities' Rights of Way Improvement Plan (ROWIPs). |

(Note: Section 30 (s30) of the Countryside Act 1968 applied rights to pedal cycles on bridleways subject to cyclists giving way to walkers and horse riders. There is no requirement for local highway authorities to maintain bridleways for cyclists.)

Option 2A(i) Statutory Application of Rights to Cycle and Horse-ride on Public Footpaths

Option 2A(i) Summary Description

To extend, across all public footpaths in Wales, the range of activities that the public can undertake by right. A Countryside Act 1968, section 30-type provision would give statutory rights for cycling and horse-riding (often termed higher rights) on public footpaths. There

would be no duty for local highway authorities (LHAs) to maintain or improve footpaths for cycling and horse-riding rights use. LHAs' powers to improve and manage paths would be enhanced. A clause or caveat in the legislation would also be put in place to outline responsible use on the paths and provide a mechanism for excluding and restricting access for individuals using paths irresponsibly.

Option 2A(i) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 2A(i) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Legislation amended to apply by statute rights for cycling and horse-riding on public footpaths across Wales [using a Countryside Act 1968 section 30-type provision]
002. Legislation [along lines of Countryside Act section 30(3)] to specify local highway authority and other's maintenance obligations on public footpaths is not changed by the reform
003. Mapping regulations for Definitive Map & Statement of PROW amended to reflect change of rights
004. N/A [this element was omitted with revisions made at the Option Selection Stage]
005. Reduced occupiers' liability to be applied to public rights of way and better harmonised with the level of occupiers' liability applied for CRoW access land
006. A duty and associated powers given to local highway authorities (LHAs) to consider modifying legal limitations (infrastructure) to allow use by all applicable rights (including cycling and horse riding) when making new authorisations for or replacing existing infrastructure on public footpaths and other PROW. Local highway authorities would have to have regard to the need to limit illegal access when facilitating accessibility improvements
007. Legislation should provide powers for LHAs to restrict or exclude access to manage or prevent impacts of use on public footpaths for specified reasons (including for land management, nature and heritage conservation, health and safety (H&S)). A least restrictive approach to the application of restrictions should be required. The restrictions should be open to application, consultation and have an appeals process
008. Provide LHAs with powers to upgrade signage and waymarking of footpaths with cycling and horse-riding rights, including the power to place signage for reasons other than direction finding
009. Embed clause or caveat for regulations to specifically outline responsible horse riding and cycling rights use, in guidance or other mechanism. This would include a "hierarchy of users" on paths and defined "formal agreements" on sections of path that were deemed to be problematic. Failure to comply could trigger exclusion of user
010. Place duty on Natural Resources Wales/Welsh Government (NRW/WG) to issue a code of conduct for shared used PROW, and a duty on WG/NRW and all Access Authorities to promote understanding of it
011. Communication of access rights (including in mapping, a communications campaign and within [revised] countryside code, responsible recreation information and guidance work)
012. Rules around commercial activity on PROW and CRoW reviewed and better aligned in relation to cycling and horse-riding rights. Clearer definitions of commercial activity in relation to access rights developed and communicated

Option 2A(ii) Cycling and horse-riding rights applied to public footpaths with powers to exclude those rights based on unsuitability

Option 2A(ii) Summary Description

Cycling and horse-riding rights would be applied by statute across the public footpath network following the Countryside Act 1968 section 30 type approach outlined in Reform 2A(i). There would be no duty for local highway authorities (LHAs) to maintain such public footpaths for cycling and horse riding. Powers would be provided for LHAs to assess paths for the unsuitability of higher rights. Paths that were assessed by an LHA to be unsuitable could have the application of cycling and horse-riding rights removed. 'Unsuitability' would be determined on the basis of a formal assessment process and criteria (an unsuitability assessment) with provision for consultation and appeals.

Option 2A(ii) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 2A(ii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Legislation to apply rights to cycle and horse-ride on public footpaths across Wales using a Countryside Act 1968 section 30-type approach [see Reform option 2A(i) for those required key elements]
002. Local highway authorities (LHAs) to have powers to assess public footpaths for unsuitability for higher rights use [with flexibility to exclude different types of user rights] – no new or additional powers to restrict or exclude footpath rights
003. Powers for Welsh Government (WG) to make regulations setting out unsuitability assessment process including to provide guidance from WG to LHAs as to process and criteria for assessment and associated requirements (e.g. for consultations)
004. Powers to set framework for unsuitability assessment criteria
005. Local highway authorities to have duty to consult specified organisations when carrying out unsuitability assessments
006. Discretionary powers for LHAs in making decisions: LHAs should be able to rule out certain routes for cycling and/or horse-riding rights
007. Inclusion of appeals as part of appraisal process – this should initially be decided by the LHA. Provision made for appeals for complex or unresolved issues would move to the Planning Inspectorate for decision
008. Discretionary powers for LHAs to review the unsuitability of public footpaths for cycling and horse-riding rights – for those routes excluded permanently or allow for review of suitable paths in specified circumstances
009. Powers for the local highway authorities to consider and amend structures on public footpaths – would be needed to appraise routes designated as unsuitable (i.e. unsuitable path furniture (e.g. gates or stiles) cannot be sole reason for determination of unsuitability)
010. Defined commencement time – e.g. how and when new rights come into force
011. LHAs to receive more powers to sign along routes where complexity of access provision is increased, e.g. advisory signs where access rights have changed and/ or

are restricted (through designation as unsuitable); type and placement of sign would be LHA decision

012. Education around revised Countryside Code*

013. Revision of Countryside Code and related activity codes with:

- Public awareness campaign[s]
- Landowner awareness
- Enforcement possibility and setting out what is expected of people

**Note that although this option proposes revising the Countryside Code, the approach taken will be subject to Welsh Government's wider considerations about taking forward reform to responsible recreation legislation. See the [Cross-cutting Themes](#) section below for more details.*

Option 2A(iii) Selective application of cycling and higher rights to footpaths applied on a case-by-case basis

Option 2A(iii) Summary Description

Cycling and horse-riding rights would be applied to public footpaths on a case-by-case basis. Local highway authorities would have a power to appraise the public footpaths across their public rights of way (PROW) network for horse-riding and cycling rights by applying standard criteria. The process would be linked to an authority's Rights of Way Improvement Plan (ROWIP).

Option 2A(iii) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 2A(iii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Legislation to provide powers for local highway authorities (LHAs) to designate individual public footpaths for horse-riding and cycling rights to be applied.
002. Powers for regulations to set out process of designation, including:
 - criteria to assess suitability of footpaths [for higher rights]
 - provision for assessment of impacts (e.g. to land management, nature conservation/ wildlife, health and safety considerations etc)
003. Legislation should provide for simple and time limited processes
004. Make legislative provision for consultation and appeals process
005. Definitive map & statement regulations amended to reflect change
006. N/A [this element was omitted with revisions made at the Option Selection Stage]
007. Additional powers for local highway authorities to modify limitations on paths (infrastructure) to facilitate access for higher rights and for accessibility reasons
008. N/A [this element was omitted with revisions made at the Option Selection Stage]
009. Powers for local highway authorities to restrict or exclude different rights through a legislative mechanism for mitigating or preventing damaging impacts on public footpaths or other rights of way

010. Landholders to be able to apply to local highway authority for a restriction or exclusion for impacts on specified land management (e.g. agriculture and forestry, nature conservation, wildlife, health and safety considerations etc)
011. Consider introduction of new term /definition for the footpaths designated with higher rights; also, provision of revised statutory signage
012. Recreational codes: modify Countryside Code, therefore advisory guidance only, communicating changes resulting from the reform

Commentary on reform options with the application of cycling and horse-riding rights to public footpaths and associated recommendations

The following sections should be considered in conjunction with the descriptions and key elements for each option [see above - and Appendix A for the full key element tables].

There are a number of elements and considerations for the 2A(i), 2A(ii) and 2A(iii) options that have been presented together in the following sections.

Options 2A(i) and 2A(ii) both provide for:

- The statutory application of cycling and horse-riding rights to the public footpath network (i.e. to all public footpaths) – a key difference being that for option 2A(ii) the rights would not apply to footpaths assessed as unsuitable

Option 2A(iii) provides for:

- the individual consideration of public footpaths for cycling and horse-riding rights with the application of rights to those footpaths determined as suitable

All three options also include a number of broadly similar provisions for the implementation, management of and communication about the resulting rights.

Extent of resulting rights from 2A options

All options are considered to be legislatively feasible ways to statutorily apply cycling and horse-riding rights (higher rights) to public footpaths. The option approaches are likely to vary substantially in the extent of additional higher rights they would provide, the proportion that would be practically usable and also the integration with any higher rights provided through other ARAG reforms. Similarly, the consequential benefits and impacts of introducing the reform.

A 2A(i) option would deliver higher rights to over 26,000 kms of public footpaths. A 480% increase in currently available public rights of way with cycling and horse-riding rights. 2A(ii) option would similarly provide higher rights to over 26,000 kms of public footpaths, minus an amount assessed by local highway authorities as being 'unsuitable' - the 'minus amount' depending on how unsuitability assessments are applied.

A significant proportion of the public footpath network would be 'immediately' usable for cycling and horse-riding following a 2A statutory change. Evidence from a Wales research study for the Countryside Council for Wales looking at obstacles (stiles, kissing gates etc) on a representative sample of footpaths indicated that in the order of 41% of footpaths would be available for higher rights use (although this available amount is likely to vary significantly from place to place). A large proportion of the footpath network will therefore be subject to obstacles or other issues significantly affecting or preventing higher rights

use of footpaths e.g. due to factors such as landscape characteristics, legal or illegal obstructions.

It is clear that the 2A(i) option provides limited means to address such matters (relying on reformed exclusions and restrictions). For option 2A(ii) local highway authorities would have discretionary powers to assess paths for their unsuitability and disapply rights where they determined this was necessary. Option 2A(iii) would give a discretionary power for local highway authorities (LHAs) to assess footpaths for suitability and apply higher rights on a case by case basis. The amount of higher rights applied will therefore be dependent on the use made of the powers by local authorities.

The difference in the initial extent of higher rights that will be applied by options 2A(ii) and 2A(iii) can be expected to vary substantially. The amount will also depend on how some of the processes are applied. A duty to assess all public footpaths for higher rights suitability/unsuitability would apply to over 26,000 kms of footpaths; however, powers to assess footpaths applied at the discretion of the local authority might not be applied at all, unless there are incentives and resources for authorities to do so. These variable factors will significantly affect the costs, benefits and impacts that will result (see sections below). So, while existing legal processes have provided a comparative guide to the likely unit costs of proposed 2A legal processes (e.g. the average costs for public path orders) the detail of the provisions developed and the extent they will be applied in practice will need to be determined.

All options would be able to use existing or modified traffic regulation order (TROs) powers to restrict or exclude rights in places. The extent this would be necessary and applied has not been estimated.

Recommendation: Option 2A(i) is not a suitable way to implement Reform 2A.

Recommendation: the broad approach to Reform 2A, notably between a selective or network application of rights will need to be decided by Welsh Government. Similarly, Government will need to decide if certain provisions (e.g. assessments of suitability/unsuitability) should be duties applying to the whole network or discretionary powers. The approaches taken will determine the extent of rights that can be expected and resulting implications, including in terms of administrative requirements, benefits, impacts and costs.

Defining legislative provisions as powers or duties?

A number of stakeholders were concerned about the inclusion of legislative provisions as discretionary powers in options rather than as duties e.g. to assess footpaths for suitability (option 2A(iii)) or for unsuitability (2A(ii)). As a duty, LHAs would be required to assess over 26,000 kms of public footpaths, with associated time and resource implications. Local authorities in particular felt this to be unrealistic against a background of current stretched authority resources, unmet PROW duties and backlogs of current PROW work, including low average number of legal processes (such as creation orders or agreements, or definitive map modification orders) taken forward per local authority. Assessing all footpaths, or even a high proportion of them (together with any associated requirements), would require significant, targeted additional resources for local authorities.

To be effective, the reform would also need to be quicker and more efficient than the creation powers in section 25 and section 26 of the Highways Act 1980. The creation powers would still need to be used to provide higher rights where there are gaps in the PROW network. It should be noted that research for Welsh Government in 2017 shows that sections 25 and 26 powers have only been used by local highway authorities to a very

limited extent (on average less than 2.5 agreements and orders per authority per year) and therefore those or similar type processes introduced by reform 2A shouldn't be expected to deliver network level change to rights.

Recommendation: There should be flexibility within the 2A reform for higher rights to be restricted and also not to be applied to all public footpaths. Sufficient resources will have to be dedicated for the introduced reform powers or duties to be implemented if there is to be extensive assessment of footpaths and making of determinations to apply or disapply rights.

Recommendation: A realistic estimate of the costs of 2A option provisions and required processes should be made once the broad approach has been decided and further details developed (such as whether and in what form compensation and appeals will be part of the provisions).

Recommendation: greater speed and efficiency of proposed reform processes will be needed - compared with existing PROW legal processes – while providing a balance between different interests. Legal advice will be needed to develop such detailed provisions.

Administrative process requirements for 2A options

As well as being streamlined and efficient, administrative processes will also need to take proper account of and balance different interests.

As noted previously, the statutory application of higher rights through either 2A(i) or 2A(ii) should be administratively relatively straight forward and cost efficient.

Legal advice will be required as to the detailed processes that will be needed in relation to the assessment of either unsuitability (2A(ii)) or suitability (2A(iii)). The requirement for consultation with interests at different stages will also need to be determined. It was noted by the Expert Group that more clarity would be needed about the appeal process, such as who could appeal and on what grounds.

For selective approaches to the application of rights, as in option 2A(iii), NRW's legal advice indicated that provision in the reform legislation may need to be made for compensation to be paid.

Recommendation: Welsh Government will need to take legal advice about the adequacy of the core processes proposed as part of the reform option to be taken forward, including those for the assessment process, consultations, appeals and the need for compensation.

Assessment of public footpaths for higher rights

For options 2A(ii) and 2A(iii) the process and methodology for the assessments of public footpaths for higher rights - suitability assessment (2A(iii)) and unsuitability assessments (2A(ii)) - will be key to determining whether rights apply. The criteria and processes for applying the reform will need to be developed as it is taken forward and should involve a balance of stakeholder representatives (including land managers, statutory undertakers, recreational users and the public sector).

There will be legitimate issues that will affect the usability of paths for higher rights (e.g. stiles, footbridges, utilities, health and safety etc). Evidence about the condition of the PROW network also indicates that there remain extensive problems on the PROW network (such as obstructions or unaddressed maintenance issues). These matters will need to be part of the assessments of the unsuitability/suitability of paths. Such issues should be resolved wherever practicable and

shouldn't necessarily be considered reasons for higher rights not to be applied. Assessments may also need to take account of unresolved legal issues such as the alignment of defined paths or existing unrecorded rights.

2A(iii) will allow path by path consideration of the circumstances with each path as part of determining if the rights should be applied. The majority of the Expert Group felt it was important to help to ensure higher rights are applied to paths that are suitable or can be made suitable for such use. For 2A(ii) the unsuitability mechanism provides for footpaths that are identified as potentially unsuitable to be assessed and rights disapplied if considered necessary. In either option it will take significant resources to assess any significant proportion of the footpath network, with provision to resolve issues wherever possible. Without provision of the level of resources needed, the views of many stakeholders were that neither option approach will result in the extensive implementation of the discretionary powers provided (whether that is to assess and determine footpaths for their 'unsuitability for higher rights' in the case of option 2A(ii), or their 'suitability for higher rights' in the case of option 2A(iii)).

Recommendation: a range of stakeholders should be consulted in developing assessment criteria and processes.

Managing and mitigating impacts

There will be impacts in some places resulting from recreational use of footpaths by higher rights on footpaths e.g. to land management, to natural and historical heritage and for access and safety management. The reform will therefore need to provide mechanisms to manage and mitigate impacts, including the application of legal restrictions to use of the footpath. No single approach to restricting access was agreed as fit for purpose. Suggestions from Expert Group 2 and stakeholders included one or more of the following:

- Providing a streamlined exclusion or restriction mechanism - applicable to reform 2A but also PROW generally. The existing traffic regulation order (TRO) mechanism under the Road Traffic Regulation Act 1984 was not felt to be adequate for reform 2A's purposes – although it was felt possible to significantly reform it.
- Introducing a new exclusion and restrictions mechanism (Reform 2B could support this, at least for short term restrictions).
- Providing a caveat in PROW legislation to suspend a person's public rights of way for defined irresponsible use (similar to that provided in CRoW section 2).
- Introducing an enforceable statutory code e.g. allowing for the suspension of rights (aligned with proposals for responsible recreation within the ARAG work)

The impacts of higher rights use of footpaths will be proportional to the extent of the rights applied. The weight of preferences of the Expert Group 2 was for the 2A(iii) option, a selective approach to applying rights. Some of the key reasons given were that it would allow local highway authorities to consider the suitability of footpaths for higher rights path by path, put in place improvements to facilitate use and identify measures to mitigate impacts where they occur. The network wide application of rights in 2A(i) would only provide reactive mechanisms (e.g. traffic regulation orders - if fit for purpose). While only gaining a minority of support, the 2A(ii) option provision for unsuitability assessments (together with transitional provisions) was considered more favourably than option 2A(i) as it would provide a proactive assessment process that could lead to rights being disapplied - subject to the unsuitability assessment process being extensively implemented (see also costs section below).

Recommendation: the 2A reform should include provision to:

- Influence and secure responsible use
- Prevent or enforce against irresponsible use; and
- Effectively and efficiently regulate use to mitigate or prevent damaging impacts (e.g. by amendment of traffic regulation order (TRO) powers on PROW)
- Be consistent with measures introduced across ARAG reforms

Costs arising from the 2A options

The administrative costs and resources of applying rights from 2A(i) and 2A(ii) through primary legislation would be relatively low compared to option 2A(iii). For 2A(iii), because it proposes each path is considered individually, the administrative costs per footpath will be significantly higher, requiring the assessment of each path, consultation and determination processes, legal costs, appeals (for a proportion of cases), the administration and payment of compensation.

Time and financial costs will arise for access managers, land managers and others (such as those involved in natural and heritage conservation) from the resulting implementation of rights. The extent and scale of the costs from the options have not been systematically assessed. However, we'd expect the cost implications to be proportionate to the extent of the rights created (see previous section) due to:

- Increased maintenance demands on local highway authorities from higher rights use of footpaths (even without a duty to maintain for higher rights)
- Demand for additional access management on footpaths e.g. improvements to structures and surfaces; managing health and safety issues and the interaction of different interests, including applying exclusions or restrictions to a proportion of paths
- Bringing forward of complaints and enforcement issues on footpaths related to land use and land management
- Implementing the administrative requirements for the preferred reform option (e.g. assessments undertaken as part of option 2A(ii) or 2A(iii)) – proportionate to the extent any option is implemented
- The demand for and implementation of exclusions and restrictions (E&Rs) as a result of the reform being implemented (see section below for more about E&Rs)

Indicative unit costs for legal-type processes have been estimated. However, the extent they'll be required is difficult to predict e.g. due to uncertainty about the consultation requirements and the number of appeals that will arise with 2A(ii) and 2A(iii).

As with Highways Act section 25 and section 26 processes, payment of compensation may be necessary if using the 2A(iii) (i.e. selective application of rights) type approach to creating higher rights on footpaths. However, legal advice to NRW in September 2020 was not conclusive about whether compensation would necessarily be payable with 2A(iii). Further legal advice will help to indicate whether there should be provision for a compensation process and payments for the higher rights within the envisaged 2A(iii) option process.

Powers provided within a 2A reform are likely to be used to a very limited extent unless local authorities have the necessary resources to do so – and, as referred to above, the processes are relatively quick and efficient to administer. The reform will therefore need to be funded in a targeted way for local authorities to implement new duties, create new rights and manage the resulting rights to the extent wanted by Government.

Recommendation: provision of sufficient funding will be needed to support the administration and implementation of powers and duties provided by Reform 2A and to therefore create and manage new higher rights for cycling and horse riding.

The Status and recording of changes to rights on public footpaths

Changes to the rights that apply to public footpaths will need to be reflected in definitive maps and statements (DM&S) – the legal record of PROW. Local highway authority evidence was that regulating and recording higher rights on footpaths on the definitive map and statement should be straightforward.

While dealing with outstanding legal issues on individual footpaths may be needed if selectively applying higher rights to public footpaths (as in 2A(iii)) widely resolving DM&S legal issues was not considered an essential precursor to implementing higher rights on footpaths.

Recommendation: ‘higher rights footpaths’ will need to be clearly defined and recorded on definitive maps and statements (DM&S). The process for doing so can be considered when drafting the reform legislation.

Accessibility improvements

There was broad support for a 2A reform option including measures facilitating improvements to the accessibility of public footpaths with higher rights applied e.g. giving greater capacity for local highway authorities to improve gates to make them accessible for cyclists and horse riders. Provision would need to be made for consulting with and agreeing changes to structures with landowners (as owners of the structures) and their future maintenance. It was also noted that such improvements can be made on a more informal basis, or through existing mechanisms such as section 147ZA, or section 66 of the Highways Act although their adequacy for this purpose will need to be reviewed.

Accessibility improvements for cyclists and horse riders could also provide an opportunity to provide more inclusive access e.g. for those with mobility problems. Equitable access has been identified as a cross-cutting matter (see the Cross-cutting Themes section below), to help ensure consistency of approach and wider impact. The Expert Group felt that because of Equality Act requirements and that least restrictive working by access authorities is well embedded, providing additional statutory duties for accessibility within the 2A reform was not necessary.

Recommendation: reform provisions and implementation should ensure there are suitable mechanisms for improvement and subsequent management of public footpaths to make them usable by higher rights.

Recommendation: information and guidance about implementing the reform should emphasise access authorities’ existing Equality Act duties and least restrictive access principles and good practice.

Information and planning for ‘public footpaths with higher rights’

Differentiating ‘footpaths with higher rights’ from bridleways or footpaths will help inform users’ expectations as to what they may reasonably encounter on a route, particularly in the case of options 2A(i) or 2A(ii) where the available rights may not always be practically usable. Changing path signs and notices where appropriate would be needed.

It will also be important for the rights available following implementation of the 2A reform to be understood by people in Wales and by visitors. Routes will need to be clearly shown on

maps. This would include Ordnance Survey mapping, as well as any integrated mapping of public access produced as a result of reform 3A.

For options 2A(i) or 2A(ii) in particular information about structures on footpaths with higher rights will be essential to help inform people about the accessibility of the route. A further suggestion from the Expert Group included the possibility of giving the higher rights designated routes a new name such as 'public path'.

There is a clear need and support across stakeholder interests for any 2A reform option to include measures to support the legislative and practical changes through provision of information and guidance about people's responsibilities resulting from any reform option. This extended to providing better means to enforce against irresponsible use where necessary, doing so in a way consistent with an ARAG approach to revising recreational codes (see the section about responsible recreation in the Cross-cutting Themes sections below).

Recommendation: footpaths with higher rights should be clearly shown on access mapping, including any integrated access map produced through reform 3A, preferably linked to information about the path infrastructure on PROW (such as gates, stiles, steps etc).

Recommendation: as part of reform 2A provision should be made for information, guidance and recreational codes to provide clarity about people's responsibilities. Enhanced means to take enforce measures against irresponsible use should be provided in a way that is consistent with the wider approach within ARAG.

There was broad support for local authorities including planning for the implementation of higher rights on footpaths within local authorities' rights of way improvement plans (ROWIPs) - or the replacement plans developed from reform 3B.

Recommendation: A local highway authority's approach to implementing the 2A reform should be included in their statutory plan for improving access [linking to integrated access plans, as outlined in Reform 3B].

Preferences of the ARAG Expert Group 2 for Revised Reform 2A Options

There are 3 sectors on Expert Group 2, each with 4 representatives. 11 of the 12 members of the Group attended the workshop to consider each of the revised options. At the end of the workshop members were asked to indicate their preferred option[s] by allocating up to 2 preferences. The 1 person that couldn't attend the session indicated their option preferences through an email to NRW. There were therefore up to 24 preferences available to allocate (note that 2 were not used).

Preferences were only identified according to the sector a member represented. The preference results were only shared with members at the end of the exercise.

Preferences could only be given in relation to the options presented to deliver Welsh Government's policy intent for the reform. While options were developed with the input of Expert Groups, the expressed preferences may or may not indicate support for the policy intent.

The overall preferences of the group members (by sector and in total) are shown in the table below.

Table 3: Expert Group Option Preferences, Reform 2A

| Option | Public Sector | Land Managers | Recreational Users | Total Preferences (n = 24) |
|---------|---------------|---------------|--------------------|----------------------------|
| 2A(i) | 1 | 0 | 0 | 1 |
| 2A(ii) | 1 | 0 | 3 | 4 |
| 2A(iii) | 5 | 8 | 4 | 17 |

Comments made by Expert Group members during the workshop were noted and key ones, particularly related to the preferences expressed, are included below. (Expert Group and stakeholders' comments have also been included in the commentary sections above.)

The Expert Group preferences, across the sectors, strongly favoured the 2A(iii) option's selective approach to the application of cycling and horse-riding rights for delivering Welsh Government's policy intent. Those supporting this option felt that in providing higher rights to public footpaths, they should be usable at the time rights are applied - with paths improved beforehand where necessary. There was also a strong view that the paths be maintained for higher rights after they are applied.

However, there was a preference from some in the Expert Group for option 2A(ii). This support was on the basis that it would necessarily lead to some action, also because there would be an assumption of upgrading rights unless there was a reason not to do so, and that would lead to a more focussed and efficient application of local authority resources to identify potential problems, whilst still fulfilling the policy intent in the cheapest, least onerous way. Whereas the discretionary powers proposed in 2A(iii), together with a background of limited local authority resources for the work, would not lead to significant creation of higher rights.

The majority of members felt that it was not clear how reform 2A(i) and 2A(ii) would work on the ground, and that it would be hit and miss in terms of delivering fit for purpose routes for higher rights, yet with the potential to cost a great deal of money and time for all concerned. However, some recreational users representatives did not agree with these points, giving the view that the 2A(ii) option applying higher rights through statute across the network, and allowing authorities to disapply or restrict those rights where necessary, would be less onerous and more cost effective at delivering higher rights overall.

There were particular concerns, notably from land management representatives, that responsible recreational behaviours should be actively supported, with enforcement against irresponsible behaviours strengthened. Also, that the reform should not impact on land managers adversely - including being compatible with farmers' ability to comply with farm standards. Similarly, landholders should not be detrimentally affected by improvements sought to path structures.

Some concerns were raised about the interactions of horse riders and cyclists from land managers, although the relevant recreational user representatives noted such shared use on bridleways, byways and vehicular roads occurs largely without problems currently.

The cost implications from higher rights being applied to all public footpaths in terms of maintenance of the paths with higher rights and also demand from landowners to divert footpaths was frequently noted as a concern. An opinion was expressed that there would not be overall benefits of 2A(i) between additional rights for recreational users compared to the impacts on sustainable land and water management and care for the environment.

A comment from a public sector representative was concerned that the routes provided by the general application of higher rights (i.e. option 2A(i) or 2A(ii)) would be variable in quality and utility for horse riding and cycling while requiring significant input of time and money for all concerned. While it was recognised that 2A(ii) was more flexible and pragmatic than 2A(i) they still preferred the selective approach of 2A(iii).

The concern was regularly expressed that making provisions discretionary risked the powers not being used because of the scale and cost of the challenge. (e.g. assessing the suitability of footpaths for higher routes in option 2A(iii) or assessing the unsuitability of higher rights on footpaths in option 2A(ii)).

There were a few concerns raised about the limitations of using online processes (because of Covid) for developing the proposals for Reform 2A rather than face to face meetings. Although there were also comments that people had felt they'd had a good opportunity to contribute through the same workshop sessions.

Reform 2B: Temporary closures and stock control on public rights of way

Summary of Policy Intent for Reform 2B

To improve processes and reduce burdens associated with temporary provisions to facilitate short-term closures and stock controls on public footpaths and bridleways. Also, to allow for more flexibility in relation to controlling stock on and adjacent to public rights of way while making the network more accessible for the public.

Reform 2B Options for Option Selection

| 2B: Option Proposal Title | Outline Description of Option Proposal |
|-------------------------------------|---|
| i. Diversion by notification | Provide a simple process for making short-term diversions of public rights of way (PROW) by registered landholders using a notification to the local highway authority (LHA). Advertising would be online without the need for press advertising. A suitable alternative route with signage would have to be provided by the landholder; the diversion, with maps, would be publicised online. Notifications by the registered landholder could be made for stock control measures and other specified reasons and would not require prior approval by the LHA. |
| ii. Statutory access code diversion | A new enforceable outdoor access statutory code would include provision of powers for landholders to divert public paths for specified land management reasons. Landholders would have to notify the LHA of diversions and provide a suitable alternative route, with associated signage and notices. |
| iii. Temporary diversion for works | Provide a statutory mechanism for local highway authorities (LHAs) to make short-term, temporary diversions of public paths for specified agricultural and forestry land management reasons. Landholders would have the right to apply for such diversions to public paths on their land, which would have to be approved by LHAs. A suitable alternative route and on-site signage would be provided by the landholder; the application and any approved diversion, with maps, would be advertised online. The legislation would be modelled on section 135A of the Highways Act 1980. |

NB: to avoid potential confusion the temporary PROW resulting from a temporary diversion has been referred to as the 'alternative route'.

Option 2B(i): Diversion or closures by notification

2B(i) Option Summary Description

Provide a simple process for making short-term diversions of public rights of way (PROW) by registered landholders using a notification to the local highway authority (LHA). Advertising would be online without the need for press advertising. A suitable alternative route with signage would have to be provided by the landholder; the diversion, with maps, would be publicised online. Notifications by the landholder could be made for stock control measures and other specified reasons and would not require prior approval by the local highway authority.

Option 2B(i) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 2B(i) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. N/A [this element was omitted with revisions made at the Option Selection Stage]

002. New legislation provisions:

- power for registered landholders to notify of short-term temporary diversions of footpaths and bridleways
- powers for the Senedd to issue regulations to govern process and associated requirements

003. Local highway authorities (LHAs) should receive all relevant information packaged within notification from landowners:

- Checklist (reasons for diversion, of what and why)
- Map/plan of route diversion
- Alternative route available
- LHA ability to check frequency of diversions and question need

004. Registration by landholders of land for which notifications for temporary diversions can be made. Associated requirement for local highway authorities to keep a register of landholders and [to] manage the register:

- Registration/ signup required to use the simpler temporary diversion process
- Provides landownership/ plans
- Local highway authorities can identify land parcels and ownership and have on record details of previous diversions and reasons

005. Option for temporary diversion of specified users:

- Exclusion from defined PROW for certain types of user (but still allowing other types of access) if deemed an issue at certain periods. E.g. restriction of dogs during lambing periods/ wildlife protection
- Requirement for provision of an alternative route

006. Grievance process allowing a more transparent [challengeable] process.

- Available to users/public

007. Regulations to set out requirements for notices including:

- to be date stamped [start and end dates]
- Onus on landholder to ensure notices are in place and removed on date stated

- Local highway authority enforcement procedure to prompt this, ensuring diversions are not in place longer than necessary

008. Communicating notifications:

- Duty for landholders to notify local highway authorities – online.
- LHA duty to notify by electronic notice and communication to [e.g.]:
 - a. User groups
 - b. Public
 - c. Others (as specified)
- Landholders [duty for]:
 - a. [Placing of] On-site notice[s] and plan[s] required regardless of closure length and duration

009. Outdoor responsible recreation and access code[s] revised as appropriate

Option 2B(ii): Statutory access code diversion

Option 2B(ii) Summary Description

A new enforceable outdoor access statutory code would include provision of powers for landholders to divert public paths for specified land management reasons. Landholders would have to notify the LHA of diversions and provide a suitable alternative route, with associated signage and notices.

Option 2B(ii) Revised Key Elements

The following section proposes the ‘key elements’ (002, 003 etc) for inclusion in this revised 2B(ii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

- 001. Legislation for an enforceable statutory access code [‘the code’] to enable this option (which would have both mandatory and advisory elements)
- 002. Define (in guidance within code) circumstances of short-term, temporary diversion(s). Clearly defined circumstances in code for users/landowners/ managers to make diversions and limits to use and agricultural land management reasons
- 003. Define reasonable alternative route
 - Safe and reasonable provision
 - Equivalent access to existing route
 - Notices, signage
 - Liabilities that apply
- 004. Communication of the code
 - What to expect included in the code
 - Cascading the code to all
 - Providing information about all aspects of the process to the public, access managers and landholders
- 005. Development of an enforceable statutory access code – for all CRow/PRow access
- 006. Code to define details about limits to the extent and duration of temporary diversions
- 007. Communication of temporary diversion:

- Signage template and notices (to be part of the code)
- Dedicated social media presence about diversions

008. Grievance process through local highway authority

- For users who have a grievance or complaint over short-term diversions using this procedure
- Penalties or an order to be provided for in the enforceable statutory code process or directly linked to it

Option 2B(iii): Temporary Diversion for Works

Option 2B(iii) Summary Description

Provide a statutory mechanism for local highway authorities (LHAs) to make short-term, temporary diversions of public paths for specified agricultural and forestry land management reasons. Landholders would have the right to apply for such diversions to public paths on their land, which would be subject to approval by LHAs. A suitable alternative route and on-site signage would be provided by the landholder; the application and any approved diversion, with maps, would be advertised online. The legislation would be modelled on section 135A of the Highways Act 1980.

Option 2B(iii) Revised Key Elements

The following section lists the 'key elements' (002, 003 etc) for inclusion in this revised 2B(iii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Define [drawing on draft legislative proposals in England] a new section 135A of the Highways Act 1980:

- Local highway authorities (LHAs) to have new powers to create temporary diversions for specified land management reasons: [agricultural and forestry related] works and agricultural management of livestock.
- Determination and making of temporary diversions by local highway authority;
- Diversions duly made to have status of temporary PROW with associated powers [for LHAs], rights and responsibilities
- Limitations to use
- Regulations for process

002. Regulatory powers to define process and criteria, including:

- form and making of applications,
- assessment criteria and processing of applications;
- decision criteria (including assessment of alternative routes e.g. impact on network/onward journeys; health & safety; least restrictive access (LRA) etc);
- online applications [and notices – see below] to local highway authority;
- standards for provision of alternative routes (including connectivity; form of notices/signage)

003. Provision of 14-day notice period before any work is carried out. Notice required to be given online through the local highway authority's website. Local highway authorities

to provide start/end date stamped standard notices/signage for landowners / managers to put up on site

004. N/A [this element was omitted as part of revisions made at the Option Selection Stage]
005. Online application process to reduce the administration time for the local highway authority, including templates/forms to create all required legal paperwork online. Online notification of diversions – reducing costs of advertising
006. The temporarily diverted PROW would have same liabilities for local highway authorities and landholders
007. Duty of the landholder to provide suitable alternative route including infrastructure and to put up notices, signs / temporary fencing (in the instances of stock control) to mark out the diversion. Duty of the local highway authority to provide date stamped, authorised standard notices and signage for the landholder to use and post notices with map of affected route on local highway authority website
008. Provisions will need to take account of potential cycling and horse-riding rights applied to footpaths (subject to outcome of Reform 2A proposals). Enabling legislation with details provided through regulations would be more flexible and readily revised in future.
009. **[New 009*]** Information and guidance about the new provisions provided for the public, land managers and other interests; information included within responsible recreation codes [** this element was added at the Option Selection stage*]

Commentary on common issues and associated recommendations for the reform of temporary diversions to public rights of way

The following sections should be considered in conjunction with the descriptions and key elements for each option (see above - and Appendix A for the full key element tables).

The Scope of Reform 2B

At the Option Selection stage, the Expert Group still felt that (regardless of the option) there is a need for further work to define the reform scope and for greater clarity within the policy intent about the balance to be struck between quicker, easier and more flexible temporary diversions for landholders, increased burdens on local authorities and impacts on the public's access rights.

Many expert group members also felt that further detail was needed about what reform 2B restrictions could be used for. For example:

- What types of agricultural, land management or other purposes/activities the temporary diversions could be used?
- The types of landholders that could apply to or notify local highway authorities about restrictions?
- The duration, extent and frequency of restrictions?

There are existing mechanisms available to local highway authorities for the purpose of temporarily restricting access on public paths. Usually traffic regulation orders are used, however, use of this mechanism is low. Welsh Government research in 2017 indicated there have been, on average, around 3 traffic regulation orders (TROs) used on rights of

way per local highway authority per year. There is no clear indication about the reasons for the current low level of TRO use e.g. whether it reflects the limitations of current processes or the limited demand from land managers for restrictions to PROW. The same research showed there are around 37 enforcement actions per local authority per year.

Little evidence has come forward during ARAG about what elements of the current restriction processes make them inefficient, inflexible and costly – and therefore how the reform 2B proposals could most effectively address these issues. (With the exception of moving to online advertising and notifications - see the ‘Provision of information’ section below for further detail.)

The 2B options do include some limitations to the scope of the powers proposed. Local authority and recreational users in particular supported the limitation in the reform to the making of temporary diversions (not closures) of PROW (therefore always requiring alternative routes to be provided). Also, for the reform powers to only be applicable to public footpaths and public bridleways, not vehicular PROW.

However, the scope for Reform 2B needs to be clearer about what types of closure or diversion processes would be covered by these new provisions and what restrictions should still require use of existing legislation, such as those for PROW related traffic regulation orders.

It is also noted that the equivalent restriction processes for Countryside and Rights of Way Act (CROW) open access apply a ‘least restrictive access’ principle when considering the application of exclusions and restrictions to the public’s rights and this could be a guiding principle for use with reform 2B temporary diversions.

It should be noted that the option 2B(ii) approach is reliant on Welsh Government deciding to take forward a new, enforceable statutory outdoor access code to define many of the key elements upon which the option would rely. 2B(ii) would therefore need to be decided and developed in conjunction with responsible recreation proposals. The underpinning legislation and the access code itself would need to be well drafted and well implemented to provide the necessary foundations.

As and when the details of the 2B reform are further developed sectoral interests wanted to be consulted.

Recommendation: the policy intent for Reform 2B needs to clarify the balance wanted between flexible and efficient processes to help landholders better manage their land, and increasing the burdens on the public sector and impacting the public’s use of existing rights of way.

Recommendation: a least restrictive access approach should be applied as part of the 2B reform, as with Countryside and Rights of Way Act exclusions and restrictions.

Recommendation: in developing the 2B reform, limitations for the use of temporary diversion powers should be set. The reform should only provide for temporary closures with provision of an alternative/diversion route.

Recommendation: to progress with option 2B(ii) a suitable enforceable statutory access code would also have to be progressed, underpinned by legislation and consultation with stakeholders.

Provision of notifications or applications for temporary diversions

As part of the process of putting in place a temporary diversion all the reform 2B options would require notices/applications containing sufficient information about the diversion proposed

(purpose, duration etc) and the alternative route to be provided. The information required and the notice period would need to balance the interests of landholders, local highway authorities, others with an interest in the land and the public's rights.

For all the reform 2B options (assuming the application or notice is correct) local highway authorities would have to provide online notifications for the public and others with an interest. Landholders would provide standard notices required onsite.

The details for providing notices/applications and the associated process would need further consideration whatever the option taken forward. For example, in the Expert Group 2 proposals for option 2B(iii), the length of notice period required before work could commence was suggested as 14 days. However, sectoral interests did not agree on what was a reasonable notice period. The Expert Groups' discussions also led to a suggestion for option 2B(iii) to have a 2-step notification process, with an outline approval (in principle approval for a diversion within a specified date window) followed by shorter notice period requirement to confirm exact diversion dates. This was felt to be possible way to better meet land managers' needs for a more responsive process e.g. for weather dependent operations.

Option 2B(i) would require registration of land holders' land for them to qualify to use notifications for temporary diversions. Local authority representatives noted this provided some reassurance around their concerns about a notification-only based process. However, while a reassurance, registration of land holdings would need authorities to verify the details and also maintain a register and such a process would introduce a level of bureaucracy for authorities and land holders alike.

Option 2B(ii) would require many of the details to be developed as part of an enforceable statutory access code – if a code is taken forward as part of access reforms - and underpinned by primary legislation.

Option 2B(iii) would require an application for a temporary diversion to the local highway authority – although the required information would likely be similar to that for notices sent to authorities. As the 2B(iii) option follows the model of section 135A of the Highways Act, this option includes the greatest level of detail and could help to inform the processes within any of the 2B options.

The Expert Group commented that local authorities would be best placed to produce the maps of the route[s] for onsite and online notices.

Recommendation: detailed provisions about notice requirements and related information will need to be developed for the reform option taken forward, balancing the needs of different interests.

Provision of alternative routes

To ensure public access routes and networks are not significantly diminished, alternative routes should be provided with any temporary restrictions i.e. there should be no provision for closures under this reform legislation. In all the 2B reform options proposals it would be for landholders to provide the alternative route(s) and associated onsite notices and signage. There was support across the Expert Group for alternative routes to be of at least the same quality as the diverted PROW.

It is therefore essential that the reform options provide (e.g. by regulations) defined standards for alternative routes, such as the route's alignment, physical standards, available rights and accessibility; it should also set out the requirements for notices and signage. The standards will need to reinforce equalities requirements. There would need to

be criteria for the local highway authority deciding on the acceptability of an alternative route and where an authority requires changes to the route or removal of the diversion and reinstatement of the route of the original PROW.

Streamlined, quick and easy processes were important for land management representatives, which the notification-based processes of options 2B(i) and 2B(ii) were felt to provide. However, the lack of inspection and approval of provided alternative routes within the option 2B(i) and 2B(ii) proposals was raised as a concern by local authority and recreational access user representatives, particularly with option 2B(ii). Local authorities preferred having safeguards provided by either registration of landholders (option 2B(i)) or a requirement for applications to and local highway authority approval of diversions (option 2B(iii)). The Expert Group generally felt that there would need to be effective enforcement mechanisms and grievance procedures to manage the 2B(i) and 2B(ii) approaches in particular (see section below for more details about enforcement issues). The significant level of flexibility to divert paths that would be provided for landholders under the 2B(ii) statutory code approach was strongly supported by land management representatives.

Recommendation: reform 2B should include regulations for setting standards for the provision of alternative routes, associated notices and signs, taking account of equalities legislation and guidance.

Costs and resources

Any 2B option will need to provide an overall benefit to landholders in terms of quick, flexible and efficient processes for them to use for their management of the land versus the disadvantages of existing PROW access.

However, because current use of restrictions on PROW are very low across Welsh local authorities (see section about 'Scope' above) all the proposed options for reform 2B can be expected to increase burdens on local highway authorities and, subject to the scope of the provisions and how they were used by landholders, will impact on the public's access to existing PROW - albeit to an extent that is hard to predict.

The development of reform 2B needs to find the right balance between increased resource demands on the public sector and impacts to the public's rights of access, with a usable process for landholders.

Current burdens (supported by evidence) show the capacity of local highway authorities to process current public paths orders and traffic regulation orders on public rights of way is limited.

However, assessing the additional resource demands from the proposed reform 2B options can only realistically be carried out once proposals are developed in more detail. The evidence shows there is low use of restrictions on PROW currently, indicating that overall administrative costs to local authorities would increase with greater use of a new process. There would also be increased demands for enforcement by authorities (see section below). The additional resource demands from the reform, once assessed, would need to be provided for the proper implementation of the provisions.

Expert Group land management representatives noted that any reform under 2B needed to be compatible with other regulatory demands on farmers. The Rural Inspectorate Wales' noted to NRW (March 2021) that to date they have had low numbers of cases with farmers not meeting regulatory standards on farm holdings because of issues with public access.

Recommendation: further assessment of the resource and cost implications should be undertaken once the details of the reform are developed.

Provision of information about temporary diversions

All the 2B options recognise that it will be important for the reform to include provision for information and guidance.

All reform 2B options propose an information campaign to support awareness about and implementation of any introduced reform. This was viewed by the Expert Group as essential, both to ensure the provisions are understood and used correctly (e.g. guidance to local authorities and land managers) and so that people using PROW know what to expect.

The use of online procedures for the 2B reform, particularly online notices and adverts, was also strongly supported across sectors. The saving of costs from having to advertise in a newspaper, and the recent success of providing online lists of Covid-related CRoW access land and PROW restrictions were cited as evidence in support of such a provision – while noting that there should be a requirement for accompanying online maps of the routes affected. Standardised, dated notices and signs would be provided by local highway authorities for posting by landholders on the site of active diversions.

The online information would need to be accessible and publicised to support public use of PROW and to anyone with an interest in the process and PROW in an area, including for members of the public seeking to challenge proposed, active or expired diversions.

As well as local highway authority websites, key online information about temporary diversions could also be included on an all-Wales digital map of public access (see Reform 3A for proposals).

Recommendation: The 2B Reform should allow for provision for digital, online procedures – including adverts, notices/applications and mapping as appropriate. Some off-line procedures would still need to be available for those that cannot use ICT for whatever reason.

Recommendation: Provision should be made in reform 2B for the issuing of information and guidance to raise awareness and understanding about the legislation and its implementation.

Liability for provided alternative routes

The responsibilities of landholders and local highway authorities for PROW are well understood. However, in Expert Group 2 discussions there was a large degree of uncertainty about where the various liabilities would rest for the alternative routes that landholders would have to provide as part of the diversion process for reform 2B options.

Landholder representatives' preferences were for the liabilities for the alternative route to be as for the defined PROW. Local authority representatives views were that authorities could not reasonably be expected to accept (whatever the reform option) the same risks and burdens for the landholders provided alternative route that they had for the PROW - particularly when the benefit of the diversion is largely to the landholder not the local highway authority or the public's access. In addition, in practice a local highway authority may not agree that a previously uninspected alternative route provided by a landholder meets the standards specified in legislation. Therefore, the liability for such matters as user safety on the alternative route could always become open to dispute e.g. if a claim was made against one or other party by a member of the public injured when using the alternative route.

In Expert Group discussions for reform 2B option selection it was noted that landholders need this reform to deliver a quick, easy and flexible process for creating diversions for it to be valuable to them. To that end it was noted land managers were willing to consider taking on the liability for the alternative route in order to progress the reform – a position welcomed in comments by recreational users. There would still be benefit for landholders from the public being required to use an alternative route and not the original PROW – a requirement that is not possible when landholders provide permissive (therefore voluntary) alternative routes.

Recommendation: Further legal advice about liabilities on provided alternative routes should be sought. Subject to that legal advice and discussion with stakeholders, liabilities arising from the provision of alternative provided routes should rest with landholders.

Monitoring and enforcement of Reform 2B options

Option 2B(i) and 2B(ii) both propose temporary diversions of PROW for specified purposes by notification to a local highway authority by a landholder. No prior local highway authority inspection of the alternative route or approval for the diversion would be needed.

A notification process would therefore be quicker, easier and more flexible for land managers to temporarily divert PROW.

It is difficult to determine what level of benefits there would be to the public's access (e.g. avoidance of livestock) and/or detriment (reduction in clarity and certainty of access). Assuming landholders should currently meet their responsibilities for PROW there would be limited benefit from any of the 2B reform options to the public's safety while using rights of way.

Compared to a local highway authority approval process (as in option 2B(iii)), for the notification processes proposed for option 2B(i) and 2B(ii) there's likely to be a greater risk of unmonitored and unenforced misuse of the powers. Remedying problems that came to the local highway authority's attention would require enforcement action by the authority. As current restrictions on PROW and use of enforcement procedures are currently low across local highway authorities, they could expect an increase in monitoring and enforcement demands.

Grievance procedures for all three options were broadly agreed as necessary for the public to raise concerns, and as a further check against improper use of the proposed temporary diversion powers.

For option 2B(iii), problems with alternative routes after they've been approved by authorities would need to be addressed through provided enforcement and grievance mechanisms.

There would be additional costs to local highway authorities for them to be able to monitor and enforce reform 2B provisions. The risks from a notification process would be mitigated to a significant degree in Option 2B(i) by landholders having to be registered to use notifications, and to a further extent in Option 2B(iii) by requiring authorities' prior approval of diversions. The mitigation against misuse in the case of option 2B(ii) would rely on enforcement and grievance procedures.

In Expert Group discussions it was noted that taking enforcement action was likely to be difficult, contentious and potentially resource intensive. This view is supported by Welsh Government research published in 2017 that found the average number of various enforcement actions taken by local authorities across Wales annually are very low. If recent levels of enforcement were to be applied to issues arising from new 2B powers the

issues are likely to be rarely dealt with through local authority interventions. Additional resources would be needed for local highway authorities to meet the additional demands on their services.

For all options, provision would be made for an appropriate range and level of penalties to be set to deal with the misuse of the powers. A suggestion was made in the Expert Group discussions for local highway authorities to have powers to issue fixed penalty notices where breaches of the provisions occur e.g. if the diversion continues for longer than the authorised period.

Recommendation: Any reform 2B option must provide for and be realistically enforceable by local highway authorities to be workable. There should be a grievance process available to the public and managed by local authorities.

Potential legislative approaches that could be followed

During the course of the ARAG process for reform 2B a number of legislative models have been suggested for the development of more detailed provisions.

A reform along the lines of CRoW section 135A of CRoW provides a legislative guide to key elements for proposals for the 2B(i) approach, as well as being the foundation of the 2B(iii) option. However, section 135A was not enacted in Wales or England so has not operated in practice. In England, proposals to further develop section 135A have not, as yet, generated cross-sector support.

The Road Traffic Regulation Act 1984, section 14 (RTRA s14) has the advantage that the powers are already being used for restricting access on PROW. There was a suggestion for adapting and streamlining other traffic regulation order powers in the RTRA, such as section 22 and section 22A, rather than creating new legislation.

If the liability for alternative routes was to rest with landholders, a number of stakeholders noted the potential for greater use of permissive routes as alternatives to PROW, with the advantage of not involving legal processes. Examples referenced included authorities' own practises, trials with using permissive routes in south west England and the use of permissive routes during Covid restrictions instead of formal closures.

Recommendation: legal advice should be taken about the potential to deliver the 2B reform by adapting and improving existing legislative powers for restricting PROW.

Preferences of the ARAG Expert Group 2 for Revised Reform 2B Options

There are 3 sectors on Expert Group 2, each with 4 representatives. 11 of the 12 members of the Group attended the workshop to consider each of the revised options. At the end of the workshop members were asked to indicate their preferred option[s] by allocating up to 2 preferences. The 1 person that couldn't attend the session indicated their option preferences through an email to NRW. There were therefore up to 24 preferences available.

Preferences were only identified according to the sector a member represented. The preference results were only shared with members at the end of the exercise.

Preferences could only be given in relation to the options presented to deliver Welsh Government's policy intent for the reform. While options were developed with the input of

Expert Groups, the expressed preferences may or may not indicate support for the policy intent.

The overall preferences of the group members (by sector and in total) are shown in the table below.

Table 4: Expert Group Option Preferences, Reform 2B

| Option | Public Sector | Land Managers | Recreational Users | Total (n = 24) |
|---------|---------------|---------------|--------------------|----------------|
| 2B(i) | 4 | 0 | 1 | 5 |
| 2B(ii) | 0 | 6 | 0 | 6 |
| 2B(iii) | 4 | 2 | 7 | 13 |

The greatest number of preferences of the Expert Group members was for reform option 2B(iii). However, there was significant divergence between different sectors for the different reform options. The preference of land management representatives was weighted towards the apparent greater speed, ease and flexibility to notify of diversions. The associated scrutiny and prior approval associated with option 2B(iii) was strongly preferred by recreational users. The public sector representatives preferred the options that included some assurances within them, provided by either the registration of landowners to be able to use notification of temporary diversions within option 2B(i) proposals or the application and approval requirements of the 2B(iii) option.

For option 2B(iii) a recreational user noted that their expressed preference for the option was subject to adherence to a proper application and approval process, fees charged to applicant which cover the true public costs, sufficient publicity to approved diversions, discretion for local highway authorities to refuse an application, and powers to enforce through fixed penalty notices. (The issues of charges and fixed penalty notices would require further consideration when developing the reform as they were raised at the option selection stage and not subject to earlier scrutiny.)

Comments during Expert Group discussions noted that for the 2B reform, it is hard to meet landowners wishes (notably for a quick, flexible, less burdensome system of temporary diversions) whilst protecting users' rights and ensuring local authorities have the time and resources to determine notices or applications for temporary diversions.

Comments also referred to the 2B(ii) option giving greater freedom to landowners to temporarily divert PROW with minimal local highway authority scrutiny. The recreational users and local authority representatives were particularly uncomfortable with the 2B(ii) option. This was felt to leave a lot of unanswered questions about how such an option might be delivered in practice and to be reliant on the development of an enforceable statutory access code.

The cost implications of the reforms were raised as a particular concern with local authority representatives, noting the need for authorities to regulate and monitor the process to ensure quality of public access is not compromised - and that this will take local authority time and resources.

A suggestion was made in the Expert Group at the option selection stage for fees to be chargeable as part of the reform provisions.

There were several comments from all sectors that they wanted to be consulted as and when the further details for 2B reform are developed.



Recommendation: include further consultation with a cross-section of stakeholders as part of developing further details of the 2B reform.

Reform 3A - Communicating Access Rights

Summary of Policy Intent for Reform 3A

To deliver a more integrated and updatable system for statutory public access and for publicly accessible areas, and to provide comprehensive and easily accessible mapping for public use.

Reform 3A Options for Option Selection

| 3A: Option Proposal Title | Outline Description of Option Proposal |
|--|--|
| i. Digital map of public access | <p>Development and collation of data to produce and publish one digital map for public access in Wales.</p> <p>The map will contain digital spatial data of statutory access and other recreational access; it will not be the legal record (definitive map).</p> <p>It will be managed by a single statutory body working with and reliant on, data providers responsible for the records of access in their areas.</p> |
| ii. Digital definitive map of public access | <p>Development and collation of data to produce and publish one digital definitive map for statutory public access in Wales.</p> <p>The map will contain digital spatial data of statutory access and other recreational access. The digital definitive map will be the legally definitive record for the statutory access rights included in it.</p> <p>This will be managed by a single statutory body, working with and reliant on, the data providers responsible for the records of access in their areas. Existing duties for production and management of the record will be retained locally.</p> |
| iii. Digital map of public access - managed by third sector mapping and promotion organisation | <p>Development and collation of data to produce and publish one digital map for public access in Wales.</p> <p>The map will contain digital spatial data of statutory access and other recreational access; it will not be the legal record (definitive map).</p> <p>This will be managed by a statutory not-for-profit body/trust set up with aim to: 'encourage more people to responsibly enjoy the outdoors and to secure wellbeing, environmental and economic benefits for people and communities in Wales and its visitors'</p> <p>The statutory not-for-profit body/trust will work with and be reliant on, data providers responsible for the records of access in their areas.</p> |

Option 3A(i) Digital map of public access

Option 3A(i) Summary Description

Management of digital data and mapping through a single statutory body where the responsibility of data is held with the individual data providers, but the information is collated into one digital map for public viewing. This will not be the legal record (definitive map) but will contain digital spatial data of statutory access and other recreational access for public consumption.

Option 3A(i) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 3A(i) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Legislation introduced:

- Defines responsibility for a single body to produce and publish online data and map[s] of specified public access in Wales.
- Each public body [as now] to have responsibility for their own public access records i.e. local authorities, national park authorities, NRW [others could be specified]
- Public bodies required to produce their records in suitable digital spatial format and provide to single body
- Use mechanism to aggregate data in one data portal online (e.g. Welsh Government's Data Map Wales) and allow people and organisations to freely use, subject to license for appropriate use.
- Resources identified to meet cost of producing digital spatial data to specified schema and consistent standard
- Data layers to include on single map and data portal: PROW, CRoW access land, National Trails, Wales Coastal Path and accessible Common Land.
- Powers to include other recreational access data within map and enter into agreements for data provision [e.g. National Cycle Network; promoted recreational routes [PRRs]; access furniture data]

002. Legislation to specify relevant spatial data to be open-source and free to use by the public, also for commercial and non-commercial purposes [within basic Terms & Conditions].

Putting data together as a single source

003. Regulatory powers for setting Wales' access data standards and other necessary processes

This must include what, how, when [etc] each data layer provider supplies their data (e.g. via Web Feature Services) to the single body for sharing through a data portal and for online integrated map

004. Legislation will not specify that the integrated map is a legally conclusive map (i.e. definitive in law)

005. Liability for the data to stay with the data provider

006. Requirement for single body to publish online and promote data/map

Legislation will define 'promote' to include promotion of use to other organisations as well as to the public

Power for data providers to promote the Wales online mapping/ data

- 007. Accompanying information with data and mapping to ensure clarity as to rights and responsibilities that apply
- 008. Legislation to specify that all organisations and public bodies involved in the provision of data and publication of the map to have formalised mechanism for communications
Powers to include technical solutions for reporting of issues and crowd sourcing information
- 009. Powers to include other data layers meeting specified data and quality standards
- 010. Duty for highways authority to digitally record and map all newly authorised s147 structures
Incremental duty for existing access infrastructure on public access [on definitive map and statement and via s147 authorisations] to be digitally recorded and mapped

Option 3A(ii): Digital definitive map of public access

Option 3A(ii) Summary Description

Management of digital data and mapping through a single statutory body where the responsibility of data is held with the individual data providers, but the information is collated into one digital definitive map for public viewing. This will contain digital spatial data of statutory access and other recreational access for public consumption and will be a legal record for data providers to keep updated also.

Option 3A(ii) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 3A(ii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

- 001. Duty for specified public bodies (local authorities, national park authorities and Natural Resources Wales) to produce their definitive records of PROW/ CRoW mapping in suitable digital format and provide this data to single body
Duty for single body to collate and integrate definitive digital spatial data from specified public bodies into one conclusive map
Use mechanism to aggregate data in one data portal online (e.g. Welsh Government's Data Map Wales) and allow people and organisations to freely use, subject to license for appropriate use.
Resources identified to meet cost of producing digital data to specified format and consistent standard
- 002. Single body with duty to publish integrated mapping online
- 003. Legislation provides that resulting map would be legally conclusive as to the information it contains
- 004. Regulations to specify technical data requirements for data layers
- 005. N/A [this element was omitted as part of revisions made at the Option Selection Stage]



- 006. N/A [this element was omitted as part of revisions made at the Option Selection Stage]
- 007. N/A [this element was omitted as part of revisions made at the Option Selection Stage]
- 008. Incremental duties and outputs in relation to 001. To allow for progress depending on local authority readiness.
 - Responsibility to survey, record, publish and maintain definitive map and statement is retained by local authority
 - Local authorities to publish own definitive maps online (to common standards)
 - A mapping hub directing people to local authorities or NRW online pages provides Wales's single point of access
 - Publication of an integrated map (using the same definitive data)
- 009. Use technical solutions available to provide 'real time' update of the integrated map from local authorities/Natural Resources Wales data

Option 3A(iii): Digital map of public access - managed by third sector mapping and promotion organisation

Option 3A(iii) Summary Description

Managed by a statutory not-for-profit body/trust set up with aim to: 'encourage more people to responsibly enjoy the outdoors and to secure wellbeing, environmental and economic benefits for people and communities in Wales and its visitors'. This will be a digital map with spatial data of statutory access and other recreational access, not a legal record (definitive map) but will be the responsibility of data providers to manage this information.

Option 3A(iii) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 3A(iii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

- 001. Legislate for a not-for profit 'access promotion organisation/trust' with purpose of providing information for and to promote enjoyment of the outdoors.
 - Statutory duty for access promotion organisation to promote specified access information to people of and visitors to Wales.
 - Powers to promote access information to people outside Wales in accordance with organisation's aims
 - Legislation to specify relationship of organisation/trust to existing organisations with role in provision of information and promotion
 - Legislation to set out accountability of organisation
- 002. Duty on Natural Resources Wales/Local Authorities to provide specified public access data to access promotion organisation Data to include:
 - Defined PROW

- Defined CRoW access land (including Exclusions & Restrictions)
- Designated National Trails & Wales Coastal Path
- Others to be specified in regulations
- Discretion to include others as meet organisation's overall purpose

Powers to include other recreational access data within map and enter into agreements for data provision with other bodies that provide long term public access to the outdoors (e.g. National Trust, Canal and Rivers Trust, etc)

003. Regulatory powers to define how the specified public access data [see above] should be recorded, spatially represented and provided to the access promotion organisation and in turn to the public [and others where required]
004. Specified duty to provide the mapping information and data for the public online for free; free data use and re-use subject to licence
Require fee for commercial re-use of data and mapping above a certain value
005. Legislation to provide ability for organisation to generate income, secure grants etc in support of statutory purposes
Ability to charge/derive income for additional services outside statutory requirement
006. Legislation would allow for inclusion of other public access layers to be included on the mapping or as data
007. Respective liabilities for data maintainer and data publisher need to be defined
008. A uniformed way to publish and promotion of the information service; campaign of providing the information (publicising)
009. Others also promoting (duty to) as voluntary organisation

Commentary on common issues and associated recommendations for the reform of Communicating Access Rights

The following sections should be considered in conjunction with the descriptions and key elements for each option (see above - and Appendix A for the full key element tables).

Introduction specific to 3A options about delivery of the policy intent.

The policy intent is to deliver a more integrated and updatable system for statutory public access and for publicly accessible areas, and to provide comprehensive and easily accessible mapping for public use. This was interpreted by the Expert Group as requiring the development and provision of an all-Wales digital map for recreational public access.

The development of an online all-Wales digital map for recreational access is seen as a positive step which received general support from external feedback to the call for evidence.

What is a digital map?

There is a need to consider the component parts of the provision of an online digital map in terms of public use, standards and delivery. These are:

- Provision of a map: which is the visualisation of geographic information but is not the data itself, though it can present the data
- Provision of the data displayed on and associated with the map

Purpose of the map

The policy intent makes clear that the map should be for public use whilst also delivering a more integrated and updateable system for the management of public access. The purpose of public use can vary, for example to inform recreational use, inform planning applications, and commercial use. Management of public access can be considered in terms of management of public access records and management of the physical resources on the ground.

The Expert Group suggests consideration of the sources of data that would inform the mapping, this includes data provided by the statutory data providers and through other means (e.g. crowd sourced). This infers that the map is to have an improved system for the recording of public rights, as well as being a tool to convey information to the public about these rights. It was also suggested that this will support the planning and management of physical resources on the ground.

Recommendation: Welsh Government should confirm their intention that the integrated system will be an all-Wales digital map for the collation of records of statutory public access and publicly accessible areas, with the purpose of national record management and as a promotion/information tool for the public.

Recommendation: To enable the greatest level of integration, Welsh Government should explore the potential and value of the map as a national tool for management of physical resources on the ground.

Robustness of legal record

The definitive map and statement are the legal record of public rights of way. It will be important to convey the legal status of the information shown on the digital map depending on the reform option taken forward. If the digital map does not become the legal record it will be important to state this and refer people to the definitive record.

There is a need to protect the veracity of the legal record and ensure if the digital map is to become the legal record (as in option 3A(ii)) there is an appropriate level of robustness and quality assurance in development and ongoing management. Clarity should be enhanced in the process rather than adding another level of bureaucracy.

In option 3A(ii) the all-Wales map would be the definitive legal record, for any given geographical area, this would be the same digital records presented at both the national and local authority levels. Expert Group feedback suggests that there may be some challenges associated with the definitive record being available from two different locations and this will need to be considered further.

Recommendation: The legal status of the all-Wales digital map will need to be made clear. Further advice will need to be sought so that appropriate systems are used to ensure robustness of digital record as legal record for PROW if progressing option 3A(ii).

Equality and digital accessibility

There is a need to adhere to Equality Act 2010 and the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 in developing this reform in two keyways.

- To consider online accessibility guidance in developing the digital map to ensure that the final product promoting access enables as many people as possible to access and use the digital map and

- Ensure that the map content and information about the attributes of access on the ground support decisions to use the access resource.

See Cross-cutting Themes section (2) for further detail.

Recommendation: Incorporate Equality Act 2010 requirements for digital mapping in the reform development to ensure that the final map, and the public access shown on it, is accessible to as many people as possible.

Further legal analysis requirements

Legal advice sought in preparing this report states that it will be necessary, once reform detail has been further developed, for Welsh Government to carry out legislative analysis of its competencies in relation to data under the Government of Wales Act 2006 in progressing this area of reform. The law on the protection of personal data and access to information held by public authorities in Wales are reserved matters within the Government of Wales Act 2006 ('GoWA 2006') and any limitations on the type of data that can be included in the all-Wales digital map will need to be taken into account.

Database rights and copyright protection will apply to the data and maps that form the basis of the all-Wales map. This information is used and re-used under license from Ordnance Survey Limited which has a license to use, license and manage mapping data subject to Crown copyright and database rights.

The legal advice also identified that there are considerations regarding data protection if the creation of the map involves processing personal data which may need to be processed in compiling information about rights of access, even when this information will not be shown in the final map.

Recommendation: it will be necessary for Welsh Government to carry out further legislative analysis of competencies in relation to data under the Government of Wales Act and to take account of copyright, licensing and data protection issues in developing reform 3A.

Existing mechanisms

There is a range of relevant existing data and mapping mechanisms which may provide insights, basis for development and opportunity for linkages for the digital map, examples include the [national street gazetteer](#), the electronic register of common land for Wales, the Natural England managed [MAGIC website](#). [LANDMAP](#) was cited in the Welsh Public Rights of Way Analysis report as an example of a national dataset with consistent controlled terminology.

Recommendation: Welsh Government should carry out a further scoping exercise to identify existing best practice in digital mapping that can inform reform 3A development and technological solutions.

Role and involvement of the Ordnance Survey

In developing this reform further, there is a need to consider the involvement of the Ordnance Survey. Legal advice sought to date, is that database rights and copyright protection would apply to the data and maps that would form the basis of the all-Wales digital map.

Since this information is used and re-used under license from Ordnance Survey Limited which has a license to use, license and manage mapping data subject to Crown copyright and database rights, it will be essential to work with the Ordnance Survey to understand

the implications in relation to each option and opportunities for development. Ordnance Survey will also be best placed to clarify some of the issues raised in the Analysis Report in relation to whether PROW data can be provided under Open Government Licence and to explore commercial use and conditions and principles around free public use of the information.

Recommendation: Welsh Government should involve the Ordnance Survey Ltd in reform 3A to consider existing copyright and licensing issues and their potential role in reform development and solutions.

Building an all-Wales digital map

A number of component parts, or jigsaw pieces, need to be brought together to complete an all-Wales digital map. These are as follows:

Component parts

Fundamental to achieving an all-Wales digital map and the 3A policy intent is that there is currently no requirement for the component parts of the all-Wales map to be produced in a digital format. For public rights of way information, the definitive maps and statements are the component parts, these are the responsibility of local authorities in Wales who each have responsibility for their own areas. Whilst some authorities have digital information, including the ability to make online copies available, this is not consistent. The current requirement is to produce the definitive map and statement in documentary (paper) form.

To enable this reform area to be progressed in any of the options, it will first be necessary to produce these local records in a digital spatial format, thereby introducing a new duty for local authorities.

Furthermore, to deliver the policy intent, of integration and updatable systems, there is a need to build standardisation and consistency in the way public access information is recorded and managed for the whole of Wales. Research sets out a possible approach and benefits of developing a central dataset. Consideration should be given to where this could be applied in any of the 3A options. For example, whether 'a single data schema (framework) setting out the required and optional attribution, along with controlled terminology, would facilitate the future development of a single all-Wales [PROW] map' will be necessary for any of the options.

Recommendations:

It will be necessary to develop the component parts of the all-Wales integrated access map on a progressive basis. Welsh Government should:

- Develop consistent national standards for digital definitive maps of public access.
- Carry out further analysis to understand the time and resources needed for each authority to be able to deliver the requirement of local digital map to the national standard.
- Carry out further technical analysis of benefits of developing central dataset for public access.

Processes for recording and changing of mapped rights

The usefulness of the digital map to the public (whether definitive or not) will be dependent on how accurate and up to date the component maps and associated information is, backlogs of legal orders to update the definitive maps will impact on this. For the digital map to be as accurate as possible, there is a need to address these backlogs.

Research carried out to support the ARAG process highlighted that local authorities have different baselines in terms of accuracy of existing definitive maps. Some authorities have backlogs they estimate will take more than 10 years to process. Consistency between authorities will take resources and time to achieve since all the authorities are not starting from the same point.

Lack of time and officer capacity was cited as the reason for this by some authorities as well as the complexity of the process and desire to move some elements online. This situation may be alleviated if efficiencies and streamlining are achieved as part of the reforms planned under the Welsh Government Access Reform Programme Group 1: Reform 20 Amend technical provisions around creating, diverting and extinguishing rights of way.

Organisations roles and interdependencies

Successful delivery of the map will be affected by interdependencies between data providers (local authorities/national park authorities/NRW) and the single body (option 3A(i) and 3A(ii)) or the not for profit organisation/trust in option 3(iii)) to deliver the policy intent. This interdependency should be considered when developing the reform. Under option 3A(i), feedback suggested that there will be a need for legally binding agreements to support the provision of data and information, as well as for the creation of databases. Sanctions in this regard were considered unreasonable in feedback to option 3A(iii). There was no appetite for the creation of a third sector organisation to carry out the national functions associated with an all-Wales digital map with particular concerns raised about long-term sustainability and public accountability of a such an organisation (option 3A(iii)). Expert Groups strongly indicated their preference for the national role to be performed by a single public sector body.

Recommendation: the duty to produce the map should be allocated to the appropriate public sector authorities and organisations.

Ability to adapt to rapid changes in technology and future enhancements

The way in which the reform is brought forward should allow flexibility to enable, as far as possible, the requirement to adapt as technology continues to develop and improve. Including requirements in detailed guidance (rather than regulation) will enable them to be updated more easily. Such guidance should be developed and consulted upon to set out technical standards to allow for flexibility as technology changes.

As technology changes there may be other opportunities to enhance the content and use of the digital map in line with the policy intent, considering opportunities for crowd sourced information and interactivity with the map in future to enrich the map and improve quality and extent of information.

Recommendation: mechanisms for bringing forward reform 3A should be selected on the basis that they enable ease of updating and flexibility to respond to rapid changes in digital technology, such as including requirements in statutory guidance rather than regulation.

Promoting use of the published map

Consideration should be given to the promotion of the all-Wales digital map once published. A range of public sector organisations have a potential role and there is opportunity to coordinate, to clarify roles and avoid competition or duplication between the different organisations with remit for promotion of recreation and access.

The reform key elements proposed a discretionary power for local authorities to promote the integrated map. If this is not considered to be sufficiently strong in ensuring action is taken, then this could be introduced as a new duty for local promotion. Sufficient resources will need to be identified to enable local authorities to carry out this additional power or duty.

Recommendation: in bringing forward reform 3A, Welsh Government should set out its intentions for coordinated promotion of the online all-Wales map for public access and for organisations' roles associated with this.

Links to other reforms

The digital map will support delivery of other reform areas as a mechanism for conveying the location of any additional access rights that are brought about (in reforms 1 and 2) as well as a tool for access planning (reform 3B).

Recommendation: recognise opportunities for and maximise the use of the digital map as a tool to support communication of and planning for other reform areas.

Costs and resources

The costs associated with development of reform 3A would be expected to include:

- Staff time and expertise
- Cost of hosting and data storage
- Costs of tasks associated with meeting consistency standards e.g. digitisation of PROW where no digital working copy exists, re-digitisation if required to meet consistent standard
- Upkeep and server costs
- Costs and staff resources associated with promotion

All reform options introduce new duties and requirements that would need to be resourced. The Expert Group noted that there is a need for further information to understand the costs associated with the requirement for provision of digital information and emphasised the importance of adequate resourcing for the initial digital data to be provided, whilst voicing concern about what happens if the resource isn't available.

All reform options will require some of the same elements (and equivalent costs) e.g. they will all require the production of access records in suitable digital spatial format at the local level. However, some of the differences between the reform options are likely to incur different costs relative to each other. Option 3A(ii) is likely to require more resources to build in sufficient quality assurance to be the definitive map relative to option 3A(i), and option 3A(iii) would require the establishment and long-term funding of a third sector organisation. The Expert Group again raised concerns regarding the need for the long-term funding of this third sector organisation (option 3A (iii)) it's, powers, accountability and governance of the proposed body in the option selection stage.

The Welsh Public Rights of Way Analysis Report conclusions note that the survey revealed enormous variation in the management of PROW data across Wales in different states of 'readiness' to be used and in a range of formats. It also highlighted that capacity issues may hinder efforts to complete outstanding tasks.

'A number of officers noted that the process of making amendments to the map could usefully be streamline to speed up the modification process and even reduce costs. Lack of time and officer capacity was cited as a reason that some local authorities will need 10+

years to have an up to date Definitive Map and Statement. As such it would seem important to understand where digitisation and streamlining of the process could bring efficiencies to the process and free up officer capacity'

This emphasises the need for staff resource as well as funding to implement the reform.

By producing this combined national copy of the individual legal records, there may be opportunities for resource and cost efficiencies through technology that enables a centralised database rather than a collation system. It will also be important to ensure that reform does not add a further layer of bureaucracy or duplication, for example, the legally conclusive record and roles associated with scrutiny or amendment of the legal record should be retained with the organisation from which the data originates, the local authority in relation to PROW.

Recommendation: further assessment of the resource and cost implications of reform 3A should be undertaken once the details of the reform are developed; to assess cost of producing digital spatial data to specified schema and consistent standard, the cost associated with role of single body.

Preferences of the ARAG Expert Group 3 for 3A Revised Options

There are 3 sectors on Expert Group 3, with 11 representatives. Land managers and recreational users each with 4 representatives, public sector had 3 representatives. 9 of the 11 members of the Group attended the workshop to consider each of the revised options. At the end of the workshop members were asked to indicate their preferred option[s] by allocating up to 2 preferences. The 2 people that couldn't attend the session indicated their option preferences through an email to NRW. There were therefore up to 22 preferences available to allocate.

Preferences were only identified according to the sector a member represented. The preference results were only shared with members at the end of the exercise.

Preferences could only be given in relation to the options presented to deliver Welsh Government's policy intent for the reform. While options were developed with the input of Expert Groups, the expressed preferences may or may not indicate support for the policy intent.

The overall preferences of the group members (by sector and in total) are shown in the table below.

Table 5: Expert Group Option Preferences, Reform 3A

| Option | Public Sector | Land Managers | Recreational Users | Total (n = 11) |
|---------|---------------|---------------|--------------------|----------------|
| 3A(i) | 3 | 0 | 4 | 7 |
| 3A(ii) | 3 | 6 | 5 | 14 |
| 3A(iii) | 0 | 0 | 1 | 1 |

Option 3A(iii) received the least support from the Expert Groups, with just one recreational user expressing a preference for this option. This reflects feedback in the evidence gathering stage about the long-term sustainability and sufficient authority of a third sector body undertaking the national level role in the digital map production.

Both option 3A(i) and option 3A(ii) involved local data providers with a single body. Option 3A (ii) showed the highest level of preference, with the main notable difference being the

preference for option 3A(ii) from land management sector. This indicates the preference for the digital definitive map, and the all-Wales map becoming the definitive legal record.

Comments made in Expert Group reflect understanding of the scale of the task to bring all local authorities to the same stage, highlighted by the *Welsh Public Rights of Way Analysis Report* given the current inconsistencies outlined above. One comment from Expert Group member noted that this reform area would bring local authority information into the digital era – and that they must be fully supported and instructed to do this.

Given the scale of the task, Expert Group feedback suggested that it may be realistic to have the delivery of option 3A(i) as an interim stage in progress towards subsequent provision of the national digital definitive map (option 3A(ii)). Expert Group comment from a public sector representative stated that:

‘3Aii should be the ultimate aim where the definitive map becomes the single document and orders are continuously consolidated into it. This is, however, a huge endeavour and will require the republication of all def maps to the same scale and base maps, 3Ai is a more realistic interim proposition whilst that exercise takes place’

In 3A(ii) local authorities continue to be responsible for surveying, recording, publishing and maintaining the definitive map and statement and providing their definitive records in suitable digital format to the single body. Expertise in local government would continue to be important in relation to supporting interpretation of the map beyond recreational use e.g. for planning purposes and where any issues arise.

The policy intent of both ‘statutory public access and for publicly accessible areas’ being included in the map. If a single digital definitive map (option 3A(ii)) is seen as desirable, it may be possible to combine elements of option 3A(i) that allow information about other publicly accessible areas to accompany the definitive public access records (PROW and CROW data).

Recommendation: Welsh Government should further explore the creation of a single digital map hosted by a single statutory body. The initial intention should be to combine data prepared and presented by statutory data providers, with the aim to explore the viability of this map becoming the definitive record over time.

Reform 3B – Integrated Plans

Summary of Policy Intent for Reform 3B

To create the requirement for local authorities and national park authorities to develop integrated plans of public recreational access in local authority areas in order to facilitate and support delivery across multiple policy areas and integrating with other services.

Reform 3A Options for Option Selection

| 3B: Option Proposal Title | Revised Outline Description of Option Proposal |
|--|--|
| i. Integrated Recreational Access Plans | <p>Integrated Recreational Access Plans (IRAP) will replace Rights of Way Improvement Plans as the statutory strategic plan for public access.</p> <p>The scope of the plan will include all statutory public access (PROW and CRoW access land) and other important access with additional flexibility to widen scope to enhance integration.</p> <p>Local authorities (rather than local highway authority) will have a duty to produce the IRAP with powers for national park authorities to produce the IRAP for their areas.</p> <p>Statutory guidance will be issued to detail the requirements and will include an optional template or model IRAP</p> |
| ii. Revised and extended ROWIP Approach (ROWIP+) | <p>ROWIP+ will replace and expand on Rights of Way Improvement Plans as the statutory strategic plan for public access planning.</p> <p>Local authorities (rather than local highway authority) will have a duty to produce the ROWIP+ with powers for national park authorities to produce the ROWIP+ for their areas.</p> <p>The scope of access required to be included in the plan would be wider than the IRAP in 3B(i). The ROWIP+ would include all statutory public access (PROW and CRoW access land), other provision important for recreational use as well as extending the types of public access beyond those directly managed by local authorities/national park authorities.</p> <p>This option would introduce a duty on specified public sector partners to contribute to the process and to give other organisations discretionary powers to do so.</p> |
| iii. National Strategic Recreational Access Improvement Plan | <p>This would be an additional option rather than an alternative to 3B(i) or 3B(ii).</p> |

| | |
|--|---|
| | <p>Welsh Government would have a duty to produce a strategic plan for specified national scale recreational assets such as the Wales Coast Path and national trails. The national plan should feed into the integrated access plans of local authorities/national park authorities.</p> |
|--|---|

Option 3B(i): Integrated Recreational Access Plans (IRAP)

Option 3B(i) Summary Description

Integrated Recreational Access Plans (IRAP) will replace Rights of Way Improvement Plans as the statutory strategic plan for public access. The plan will include all statutory public access and other important access. Local authorities will have a duty to produce the IRAP with powers for national park authorities to produce the IRAP for their areas.

Option 3B(i) Revised Key Elements

The following section outlines the ‘key elements’ (002, 003 etc) proposed for inclusion in this revised 3B(i) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Duty for local authorities to produce an integrated recreational access plan (IRAP) – the core to be modelled on current Rights of Way Improvement Plan requirements [see below]

Powers for national park authorities to produce a plan in agreement with constituent local authorities

002. Legislation to specify the elements new integrated access plans must include:

- assessment of public needs
- assessment of specified public access
- the actions to be taken to improve access
- period to produce plan and for subsequent reviews (current 10-year cycle)
- plan consultation and publication requirements
- delivery plan requirements (currently in guidance 1-3 years)
- monitoring and evaluation requirements

Specify public access covered by Plan: local PROW, CRoW access land, cycle paths, promoted recreational routes, National Trails, Wales Coast Path; plus, others subject to guidance [see below]

Amend/repeal Rights of Way Improvement Plan (ROWIP) Local Authority duties – provide transitional provisions for move from ROWIPs to IRAP

Powers for the Senedd to issue statutory guidance for IRAP production - guidance modelled on current ROWIP guidance. [Identify which parts of ROWIP to be retained for integrated plan guidance.]

Guidance [see ROWIP guidance] would need to include further details about:

- timetable

- stages/processes
- assessments required
- additional consultation requirements
- Local Access Forums role
- topics/content to be included Plan
- optional model/template for required outputs – Plan itself plus assessments; map of access [see also Reform 3A] action plan/map;
- Ability for local authorities to include additional relevant content e.g. relating to community identified needs, priorities and actions [relates also to Area Statements, Place Plans processes].
- Detailed interpretations of provisions e.g. for assessing public needs

Guidance to specify authorities to consult relevant bodies and cross-reference other plans as appropriate e.g. local authorities in relation to relevant traffic management issues as part of plan production and include as appropriate

Funding support or scheme for improvements

Option 3B(ii): Revised and extended ROWIP Approach (ROWIP+)

Option 3B(ii) Summary Description

ROWIP+ will replace and expand on Rights of Way Improvement Plans as the statutory strategic plan for public access planning. Local authorities will have a duty to develop a ROWIP+ for their area.

Option 3B(ii) Revised Key Elements

The following section outlines the ‘key elements’ (002, 003 etc) proposed for inclusion in this revised 3B(ii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Duty for local authorities (LA) to produce revised and extended Rights of Way Improvement Plan (ROWIP)

Powers for national park authorities (NPAs) to produce Plan for their areas in agreement with constituent LA. In such cases, the area in the NPA would be excluded from the local authority plan(s)

002. Amend/repeal of the duty for ROWIPs – with transitional arrangements included

003. Legislation to specify access to be included in Plans, which would include:

- local rights of way
- cycle routes, including National Cycle Network in area
- access to and within designated CRoW access land [including Reforms if implemented]
- Unclassified Roads (UCRs) important for recreation and enjoyment of outdoors
- Publicly accessible National Trust land
- Active Travel Routes of importance to recreation and enjoyment of the outdoors
- managed publicly accessible green and blue space

004. N/A [this element was omitted as part of revisions made at the Option Selection Stage]
005. Legislation to specify organisations required to be consulted in the planning process (based on current requirement in section 61(1) of CRow)
- Duty on specified public sector partners to contribute to the process. Legislation to define meaning of 'contribute'
- Discretionary power for (Non-governmental organisations) NGOs to contribute as appropriate to the process
- Guidance to set out specific role and requirements for duty to consult local access forums (LAFs) in producing Plan, or all relevant LAFs for joint-Plans
006. Duty for Plan to include:
- an assessment of the current and future needs of the public for outdoor recreational access;
 - a strategic statement of how the access will be improved;
 - a 10-year action plan with specific actions for the improvement of access for the public
 - delivery plan requirements (currently in guidance 1-3 years)
 - an interim review of the Plans would be required at the end of 5 years. A reviewed and revised plan would have to be produced at the end of 10 years
 - Responsibility for leading the actions specified within the Plan stages
007. Powers for the Senedd to issue guidance about Plan processes, format and content
- Timetable
 - Stages/processes
 - Assessments required
 - Additional consultation requirements
 - Local Access Forums role
 - Topics/content to be included Plan
 - Model/template for required outputs – Plan itself plus assessments; map of access [see also Reform 3A] action plan/map
 - Requirements for how to address Wellbeing of Future Generations Act and support for Area Statements to be included in Plan topics/content; similarly, the other plans to be considered
008. Guidance to identify parts of Local Authorities to be involved: such as Highway Authority, Surveying Authority, Traffic Authority, other departments managing other publicly accessible green space/ access within the plan. (Specified according to how they are constituted in law)
- Duty for LAs to respond to reasonable requests for information from NPAs for them to get relevant input to their Plans
009. Plan duty would apply to all specified access within LA/NPA area.
- Powers/flexibility to combine with other LAs to produce a joint plan (including with NPAs).
- NB: Requirement also to consult neighbouring local authorities and NPAs, i.e. those producing Plans

010. Guidance to specify inclusion of work related to maintenance of Definitive Map of PROW; CRoW related mapping [including CRoW Exclusions & Restrictions (E&Rs)]; strategic policies, aims
011. No duty to implement but a responsibility to produce an action plan, monitor and report on progress
012. Funding provision for implementation of Plan's access improvements, including linking to future Agri-environment/land management schemes

Option 3B(iii) National Strategic Recreational Access Improvement Plan

Option 3B(iii) Summary Description

This would be an additional option rather than an alternative to 3B(i) or 3B(ii). Welsh Government would have a duty to produce a strategic plan for specified national scale recreational assets such as the Wales Coast Path and national trails.

Option 3B(iii) Revised Key Elements

The following section outlines the 'key elements' (002, 003 etc) proposed for inclusion in this revised 3B(iii) reform option (including both legislative and non-legislative provisions) as presented at the Option Selection stage.

001. Duty for Welsh Government (WG) to produce a strategic plan for improvement, development and strategic promotion of national recreational assets providing a framework for enhancing their support/ delivery of Wellbeing of Future Generations objectives
002. Powers to specify routes or recreational assets duty applies to and to set standards for the management, quality, improvement of nationally significant recreational routes or areas; enhance linkage between such assets
Consideration of inclusion of mapping representation of such routes and areas
003. Powers for Welsh Government to determine how they produce the national plan and/or elements of it including:
 - consulting others,
 - the plan's governance,
 - reporting,
 - plan duration,
 - timetable to be followed
 - links to other plans
004. Duty would specify assets for inclusion should be regionally significant or national recreational assets/routes. For Welsh Government to determine the assets for inclusion. Such as National Trails; Wales Coast Path (WCP); with discretion as to other recreational routes or areas (see also following bullet), include Welsh Government owned recreational assets
005. Plan would be required to include an 'action plan' for improvements and maintaining of standards of specified assets

006. Monitoring and reporting requirement as to Plan's implementation and progress

Legislation to specify reporting requirement e.g. Welsh Ministers required to issue reports and frequency of reporting e.g. annually (see example of Active Travel Act section 8)

007. Resource provided to carry out the duty

008. Synchronise and integrate the national plan with local integrated access plans and specific programmes plans [such as for National Trails and Wales Coastal Path]

009. Link between this requirement and reform 3A: specified access for national plan to be included in Integrated Access Map

010. Integrating existing national trail plans with a strategic overview

Commentary on common issues and associated recommendations for the reform of Integrated Plans

The following sections should be considered in conjunction with the descriptions and key elements for each option (see above and/or in Appendix A).

Options 3B(i) and 3B(ii) put forward proposals for reforms to [local] integrated plans for public recreational access. Option 3A(iii) introduces the option of an integrated recreational access plan for national level assets.

Feasibility of local plan reforms

Both Option 3B(i) and Option 3B(ii) will affect the current requirements for local authority strategic access plans (i.e. rights of way improvement plans) as set out in the Countryside and Rights of Way Act 2000 (CRoW), sections 60 (s60) and 61 (s61).

Section 60 of CRoW requires local highway authorities (part of a unitary authority's functions) to produce a rights of way improvement plan (ROWIP), states what the plan should cover and that the plans should be reviewed every 10 years. Section 61 sets out what is required to produce a plan including the guidance to be followed, consultations, publishing and making the plan available to the public.

It would be feasible to amend section 60 and section 61 of CRoW to bring effect to either option. Additionally, ministers may issue directions prescribing extra content to be included in a plan, as well as further matters to be considered in an assessment; they can also revise statutory guidance associated with the duty.

Recommendation: bring forward the reform 3B for local access plans by amending the Countryside and Rights of Way Act 2000 as necessary.

Organisations' roles

Local authorities

The 3B reform policy intent states that the level at which the plans should be developed, are the local authority and national park authorities. Currently the task for the production of ROWIPs, falls to the local highway authority, which is a function of unitary (local) authorities.

It is proposed, as part of the reform key elements that the requirement should be given to the local authority as a whole. This is intended to support integration with other related responsibilities, relevant to the access plans such as green infrastructure assessments, and duties under the Active Travel Act 2014 and to gain wider support across the authority.

National Park Authorities

There was broad support within the Expert Group discussions for the 3B(i) and (ii) options to provide a power, rather than a duty, for national park authorities to produce plans working with their constituent local authorities. This would give national park authorities and local authorities flexibility to work according to local circumstances e.g. Brecon Beacons National Park Authority has its own ROWIP; Pembrokeshire Coast National Park Authority has a joint plan with Pembrokeshire County Council; Snowdonia National Park Authority has contributed to its constituent authorities' ROWIPs.

Legislation would need to include a requirement for national park authorities to consult its constituent authorities.

Recommendation: the 3B reform should amend the current requirement so that the duty for production of integrated access plan applies to local authorities. National park authorities should be given a power to produce the plan where agreed with their constituent local authorities. Interpretation of the duty should be included in statutory guidance.

The role of other organisations

Local Access Forums (LAFs)

Legislation and guidance currently specify the involvement of LAFs, and statutory guidance provides further detail. This has generally helped define LAFs' role, although the extent of their involvement has varied. Continuing LAFs' central advisory role, rather than as a partner in the plans, would be more in keeping with current ways of working. However, account will need to be taken of any changes to the role of LAFs that may emerge from reforms being considered by Welsh Government outside of the ARAG process.

Recommendation: define the role of LAFs in the production of integrated access plans, in light of any changes occurring as a result of Welsh Government reforms to the role of LAFs.

Statutory Guidance

Statutory guidance will be required to help local authorities delivering the integrated plan to understand the requirements for their plans and to support consistency across Wales. The inclusion of an optional template or model plan as part of the guidance is proposed to assist with the consistency and efficiency of the process.

In addition, for option 3B(ii), the guidance will be important to support other named organisations (external to the local authority) in carrying out their responsibilities.

Guidance should specify that the duty falls to the whole organisation rather than one department within an authority to support integration across service areas as set out in the policy intent.

Recommendation: develop statutory guidance for integrated access plans to accompany the reform.

Integration across policy and service areas

The 3B policy intent refers to integrated plans facilitating and supporting delivery across multiple policy areas and integrating with other services. All the options have elements designed to build on the policy integration required within the existing ROWIP process.

Integration across policy and service area is identified in the reform through:

- The allocation of the duty to the whole authority as opposed to the local highway authority.
- In both options, key elements set out that statutory guidance should include requirements or identify opportunities for integration with other policy areas. How the revised plans can best integrate and interface with other policies and plans will need to be considered and defined further in statutory guidance following scrutiny and assessment of specific interfaces with relevant plans.
- Specific to option 3B(ii) is the opportunity for integration of a broader scope of types of access, including access not directly managed by a local authority or national park authority, with potential for integration of access management in other organisations
- Proposed powers for local plans to be produced as joint plans (across more than one authority) thereby integrating access management across authority boundaries. This should be an option where local circumstances are favourable rather than as a requirement
- As part of Option 3B (iii) integration between national and local plans is identified together with opportunities for and enhanced linkages between the assets to be identified in the national plan

The 2008/9 evaluation of the first ROWIPs produced found that ‘...integration with other authority plans and strategies was limited.’ This issue was considered in the Government’s revised ROWIP guidance by strengthening this element and indicating where opportunities for integration with other legislation and policy delivery exists. After revisions, it reads:

‘It is important that ROWIPs integrate with other plans and priorities and that the integration also carries over into the action planning stage and eventual delivery’.

Further studies into ROWIPs have not been commissioned since the statutory guidance was updated in 2015, and since the Environment Act 2016 and Wellbeing of Future Generations Act 2015 changed the legislative landscape in Wales, introducing principles of integration as part of how the public sector should work.

Consideration is needed in the option 3B(ii) elements around whether it is necessary to include an additional requirement in legislation as opposed to statutory guidance (as now) for the recreational access plans to reinforce wider duties and further strengthen the impetus for integration to happen in practice. The Expert Group noted that this is already addressed in Wellbeing of Future Generations Act and the Environment Act and whether including a requirement specific to integrated access plans (option 3A (ii) key element 007) would be an unnecessary duplication. The Expert Group highlighted the need for the new plans to also connect to health, biodiversity and nature recovery.

New integrated plans will need to balance widening their scope and integration with other policy areas, with retaining depth and focus on delivery. Expert Group comments noted that a broader scope, may result in a less achievable plan and highlighted the current challenge that only around half of authorities have been able to meet their existing ROWIP duty to review their plan. This will need to be addressed in developing the reform. It was

anticipated that increasing integration would likely require greater resourcing and a need for long-term sustainable funding. Public sector representatives commented that there is a risk that there could be conflicting views between departments / organisations the wider the plan's scope, making plans less achievable.

Both 3B options for local plans include elements intended to strengthen integration across policy and service areas: option 3B(i) is most similar to the current situation with guidance and options for integrated working (currently included in statutory guidance for ROWIP review); option 3B(ii) is slightly stronger in that elements would set out specific requirements for how to address Wellbeing of Future Generations Act and support for Areas Statements and other plans to be considered.

Recommendation: Welsh Government should decide if it wants to require and specify integration of the Plans with other strategic plans or provide discretion for local authorities to determine that according to local circumstances. The Government's detailed expectations for interactions and specific connections between other plans should be specified in statutory guidance.

Recommendation: Welsh Government should allocate the duty to produce integrated access plans to the whole local authority to better support integration.

Integration of access resources

The 3B reform presents opportunities for more integrated management of access resources in Wales as well as a link to how information about these access resources are presented to the public (see Reform 3A).

Including a broader scope of access resources in a 10-year strategic plan than ROWIPs require currently, will support oversight and management of the whole resource available to the public for recreational access. There is a clear difference between the 3B options in the scope of access proposed for inclusion in integrated plans. Option 3B(ii) includes the greatest extent of recreational access resource, including resources managed by organisations outside the public sector, whilst 3B(i) focuses on statutory access and key promoted routes predominantly managed by local authorities or national park authorities.

Incorporating all public recreational access resources available could provide opportunities for planners and managers to work in more integrated and collaborative ways, within and across different organisations and sectors to better meet the needs of the public. The 3B(ii) option if taken forward would need to make clear the lines of responsibility and democratic accountability for the plans, their content and their delivery, to take account of this.

In Option 3B (ii) Introducing a duty for partners to contribute to plans (see key element 005) will generate a more proactive response than the alternative for them to be consulted but will add significant complexity, heighten expectations and have significant resource implications.

Recommendation: Welsh Government should strengthen requirements for integrated management of recreational access resources.

Compliance and enforcement of duty

Transitional provisions will need to account for authorities to move from ROWIPs to the new duties, including allowing for those authorities that are out of sync with the ROWIP statutory timetable. As of September 2020, 10 authorities had yet to review their first ROWIP and consult on revised plans that should have been produced during 2018/19 at

the latest. Some feedback from authorities suggested that there is a need to streamline the process, or allow more resources for access planning, in light of the inability of many authorities to meet the existing requirements for reviewing ROWIPs. Research would be needed to understand the factors affecting the lack of progress with reviewing ROWIPs in some authorities. There is currently no provision available for Welsh Government to enforce ROWIP duties. Reporting of rights of way duties to Government can be required under s71 of the CROW Act.

The Expert Group considered that there is a need for the local integrated plans to be accompanied by a process to scrutinise each plan, carried out by Welsh Government or NRW to improve accountability. Comment suggested that the duty needs to be incentivised by funding that is only accessible once the plan is up to the appropriate standard. Progress on delivery of the plan also needs to be monitored by Welsh Government or NRW as part of this process.

The Expert Group identified the need for real and long-lasting commitment to resources for the implementation of the duty. The difference between the first ROWIP production where all authorities met the requirement to produce the plan (within 12 months of the statutory deadline) and the current situation where only half of authorities have published a reviewed plan was noted. Findings from the Wales ROWIP Review (March 2009) and an NRW Research Report Evaluation of ROWIP Implementation & ROWIP Funding Programme (2013) should be used to inform further research into the factors affecting the successful implementation of the integrated plan duty.

Recommendation: Welsh Government should review the factors and support provided for the first Rights of Way Improvement Plans to develop and implement effective supporting mechanisms to accompany the reform 3B duty.

Recommendation: put in place mechanisms to incentivise and enforce the implementation of the reform 3B duty to help ensure its successful delivery and implementation.

Recommendation: transitional provisions will be required for authorities to move from ROWIPs to the new duties, including allowing for those authorities that are out of sync with the ROWIP statutory timetable.

Related reform areas

As the local strategic plan for recreational access it is to be expected that there are multiple connections and interfaces with other reform areas both within and outside of the ARAG reform programme. These are identified above and within accompanying documents.

Recommendation: In bringing forward reform for integrated access plans, take account of connections with other reform areas to ensure they are integrated.

Costs and resources

The costs and resources associated with development of reform 3B would be expected to cover plan development and plan delivery. These will include:

- Staff time and expertise
- Plan development costs including research costs for plan assessments and associated engagement work
- Collaborative planning and integration of policy and access resource within public sector and for option 3B(ii) with partner organisations
- Consultation and publication costs

- Implementation costs and any associated funding programme or additional mechanisms to support implementation and associated administrative costs
- Local access forum input to the planning process

All reform options introduce new duties and requirements that would need to be resourced.

All-Wales Plan

The production of an all-Wales plan is a new requirement and as such the Expert Group noted that resources would need to be identified to deliver this option. Plan production and governance associated with this option will be new costs. Planning and delivery of existing assets that would be coordinated under the plan are already funded e.g. Wales Coast Path and National Trails. Information about costs associated with national plan development and governance may be informed by those associated with the Active Travel Act.

Local Integrated Plans

Local integrated plans will replace the existing duty for the production and review of Rights of Way Improvement Plans. The Expert Group noted the lack of delivery of existing ROWIP duties to undertake a 10-year review by around half authorities. As noted above, detailed research into ROWIP implementation has not been carried out since the second round of ROWIPs were produced. Further information is needed to assess the factors associated with current inability to meet existing duties. Since both options for local plans increase the existing requirements it will be necessary to understand the factors and resourcing issues that need to be addressed in order to ensure delivery across Wales in this reform area.

Expert Group 3 noted that to develop the Plans and to implement them it will be vital that sufficient funding resources are provided, especially against a background of a difficult economic situation and the incomplete review of the current ROWIPs. The Expert Group suggested that there is a need for commitment from government for long-term sustainable funding and made a suggestion to incentivise aspirational plans by enabling access to additional funding for both development of plan and delivery.

All reform options will require some of the same elements (and equivalent costs) e.g. they will all require staff time and research to carry out assessments, they will all have publication and consultation costs. However, some of the differences between the reform options are likely to incur different costs relative to each other. Option 3B(ii) is likely to require greater resources in order to factor in the additional time required to expand both the scope of the access to be included and the involvement of other organisations.

Recommendation: further assessment of the resource and cost implications of reform 3B should be undertaken once the details of the reform are developed.

Preferences of the ARAG Expert Group 3 for 3A Revised Options

There are 3 sectors on Expert Group 3, land manager and recreational users each with 4 representatives, public sector with 3 representatives. 9 of the 11 members of the Group attended the preference workshop to consider each of the revised options. At the end of the workshop members were asked to indicate their preferred option[s] for either 3B(i) or 3B(ii). 1 of the 2 representatives that couldn't attend the session indicated their option preferences through an email to NRW. There were therefore up to 10 preferences available.

Members were asked to place a preference for 3B(iii) only if they supported it being developed further. No preference was allocated if a member did not support 3B(iii).

Preferences were only identified according to the sector a member represented. The preference results were only shared with members at the end of the exercise.

Preferences could only be given in relation to the options presented to deliver Welsh Government's policy intent for the reform. While options were developed with the input of Expert Groups, the expressed preferences may or may not indicate support for the policy intent.

The overall preferences of the group members (by sector and in total) are shown in the table below.

Table 6: Expert Group Option Preferences, Reform 3B

| Option | Public Sector | Land Managers | Recreational Users | Total n=9 |
|---------|---------------|---------------|--------------------|-----------|
| 3B(i) | 2 | 3 | 1 | 6 |
| 3B(ii) | 0 | 0 | 3 | 3 |
| 3B(iii) | 2 | 1 | 4 | 7 |

Reform options for local plans

Expert Groups were firstly asked to consider their preferences for local plans to address the policy intent (i.e. options 3B(i) or 3B(ii)). The Expert Group preferences indicate greatest overall support for Reform Option 3B(i) although most recreational users indicated preference for Reform Option 3B (ii) with a broader scope of access included.

There are issues around deliverability of the existing duty, (as identified in the Analysis Report, around half of authorities have yet to meet existing requirements to review their ROWIPs) and the Expert Group considered this in terms of expanding the scope of the plans further. The need for sufficient and sustainable funding for integrated plans as well as the opportunities around incentivising (through access to additional funding) ambitious or aspirational plans. Scrutiny to ensure quality of plans was also raised (with the possible model for this being the scrutiny of Active Travel Plans by Welsh Government) as well as monitoring and enforcement of the duty.

In terms of integration with other service and policy areas, Expert Group members highlighted the opportunity to make links between the integrated access plans and nature recovery, biodiversity and public health, suggesting links to Public Health Wales and local health boards. In considering the organisation role, further points were added around improving links with planning authority duties and integration with Community Infrastructure Levy and mitigation measures through s106 of Town and Country Planning Act 1990.

Reform option for national plan

The national plan option is proposed as an additional option, rather than alternative, to local plans.

National Strategic Recreational Access Improvement Plan

The 3B(iii) option proposal is for a national strategic planning of recreational access linked to and supporting the delivery of Welsh Government's strategic objectives and plans.

The option was supported by 8 out of 10 of Expert Group members. The Expert Group considered that a new national plan would be a place for Welsh Government to set out a

vision for recreational access to the outdoors, together with principles and strategic actions for national level working e.g. for equity of access and promotion to support sustainable tourism. The Expert Group identified that there is opportunity to build on and embed strategic recognition through the identification of rights of way and access to common land as national assets as intended to be reflected in the 'Future Wales: The National Plan 2040' (the National Development Framework for Wales).

The Expert Group noted that the development and steering of a national strategic plan should involve representatives of key public bodies and other national partners. Also, that there would need to be consideration of how the national and local access plans integrate and inform each other.

Legislation will need to recognise the role of delivery partners and different roles in management, national promotion and on the ground delivery and promotion of the assets. Legislation may need to amend the Development of Tourism Act 1969. The Active Travel Act 2013 s10 has similarities in requiring Welsh Ministers and local authorities to promote active travel. Experience from the Active Travel Action Plan for Wales and associated governance arrangements may provide useful insight.

Legislation will need to provide powers for specifying the recreational assets to be included in a plan. The powers could define specific assets or leave as a discretionary matter for the Welsh Government. There should be consultation with key stakeholders, as well as the assets needing to be of a nature where they can be defined as specific entities, such as the Wales Coast Path (WCP), the Welsh Government Woodland Estate, National Trails and National Cycle Network routes.

The 3B(iii) powers could be linked to the proposed 3A reforms, with the specified national assets also included in any integrated mapping duty proposed in reform 3A. Key national scale recreational assets could be included as separate layers on the integrated access map. This would also link to promotion of a specific asset such as the WCP, as well as spatial analysis and planning.

Recommendation: Welsh Government should develop the option 3B(iii) reform proposal introducing the requirement for Government to produce and maintain a national strategic plan for recreational access.

Cross-cutting Themes

Across the six reform areas, 1A, 1B, 2A, etc, a number of cross-cutting themes occur within all the options that were identified for specific consideration. The themes are:

1. Responsible recreation
2. Equity, inclusivity and accessibility
3. Local access forums' responsibilities within reform options
4. Commercial activity and organised events

This section considers in detail each theme within the context of the currently proposed ARAG reforms; it also includes proposals for the development of reform options for responsible recreation within Wales.

Theme 1: Responsible Recreation

While it has not been specifically defined within the ARAG context, responsible recreation refers to behaviours, perceptions and actions relevant to the rights and responsibilities of recreational users and those managing recreation (including land managers, landholders and public bodies). The written statement issued on April 4th, 2019 that initiated the Access Reform Programme by Welsh Government stated that:

“Two specific proposals in the consultation relate to promoting responsible behaviour by users in the countryside, with a proposed statutory caveat and statutory code. Until we explore what new access will look like we intend to keep these under review, but with a view to developing voluntary codes in the future. Natural Resources Wales already have a duty to produce countryside codes and promote responsible behaviour and our partners, such as the National Park Authorities, must continue to promote these codes and responsible behaviour more widely. We recognise that the vast majority of people accessing the countryside are responsible users.”

However, throughout the ARAG process, ‘responsible recreation’ has been referenced strongly, particularly in reform areas 1, 2 and partly in reform 3, emerging through elements as a key consideration. Currently, this is particularly acute due to the high-profile instances of irresponsible recreation documented during the time in and around the Covid-19 lockdown and following the lifting of restrictions. Due to the prominence of responsible recreation within the reforms, a more detailed analysis of the issues has been included in this report and a set of options have been developed.

Approaches to drafting a code of conduct

Based on the evidence and analysis within the process to date, three option approaches were presented for drafting a responsible recreation code of conduct. This includes:

- Continuing with the existing Countryside Code
- Developing an advisory code that uses a clear drafting mechanism to highlight enforceable aspects (similar to the approach used in the Highway Code)
- Legislate for a new ‘enforceable’ code of conduct that defines responsible access and can be used to withdraw access rights through civil sanctions (similar to the status of the Scottish Outdoor Access Code)

It is important to note from the outset that these approaches are not mutually exclusive. Elements of each could be selected and a hybrid option developed. These approaches were presented to the Expert Group separately to help understand the relative strengths and weaknesses of some of the drafting principles that underpin them. The following analysis looks specifically at each of these.

The Countryside Code approach.

The Countryside Code has been produced and publicised, in one form or another, since 1951 to meet NRW and Natural England's duty to inform about and publicise responsible behaviours. Although there is a requirement to inform the public about their responsibilities in relation to public access, the Countryside Code itself is purely an advisory document. The CRoW Act does set out examples of behaviours not permitted on open access land and includes civil sanctions if breached. However, there are no mechanisms to link the Countryside Code to these requirements. In its current form, it is unlikely that the Countryside Code could be used as part of any form of sanctions (civil or otherwise).

The Expert Group were asked to consider the continuation of the Countryside Code approach and outline what they thought would be its Strengths, Weaknesses, Opportunities and Threats (SWOT analysis). The outcome of this is set out below:

Strengths

- All stakeholders are already or should be familiar with the existing Countryside Code. There is an existing brand and message.
- Amending or strengthening this code would mean working from an existing foundation which would be easier from a resource perspective.
- The current Countryside Code has both long and short, succinct versions and this approach is very much commended.
- This approach is advisory, offering guidance rather than punitive measures or providing a disincentive to getting out into fresh air or outdoor recreation.
- Advantages of being consistent with England. N.B. Natural England are currently reviewing the Countryside Code with all stakeholders including Natural Resources Wales as co-owners of the code.

Weaknesses

- The Countryside Code is currently not a very balanced document with the rights and responsibilities of some stakeholders missing.
- Access reform may lead to an increase in rights, but the Countryside Code won't provide an improved mechanism for securing improvements to responsible recreation
- The vast majority of access users behave responsibly but this code would not necessarily provide assistance where access by users is not deemed responsible.
- There is difficulty in obtaining or promoting behavioural change, in developing knowledge of the code and a lack of enforcement.
- It is difficult to communicate a simple message out of a complicated system of access rights and responsibilities.

Opportunities

- To align Welsh access rights into any new or updated Countryside Code for England and Wales.

Threats

- If access fundamentally changes and there is a political desire to have a Welsh approach, the relationship with Natural England may prove difficult and this could be a threat to the Countryside Code in the long-term as well as providing confusion for users.

The Highway Code approach

The Highway Code sets out both the legal position and additional guidance to highway users. Non-compliance with the code is not in itself an offence or breach of any regulation, however, enforcement action can be taken against individuals in connection with breaches of the underlying legal provisions (e.g. the Road Traffic Act).

With a Highway Code approach, much of the guidance remains advisory, as with the existing Countryside Code. However, there are rules that are identified as legal obligations by the use of the words 'MUST/MUST NOT' being mandatory and 'SHOULD/SHOULD NOT' being advisory. This does create an understanding that enforcement could be taken against certain individuals in breach of certain mandatory rules with the possibility of facing fines or sanction (e.g. by a Fixed Penalty Notice (FPN)). Failure to observe a provision of the Highway Code is not in itself an offence, however, the code can be "*relied upon by any party to the proceedings as tending to establish or negative any liability which is in question in those proceedings*" (s38.7 Road Traffic Act 1988), giving it slightly more weight than other advisory codes.

The Expert Group were asked to consider the Highway Code approach, and outline what they thought would be its Strengths, Weaknesses, Opportunities and Threats (SWOT analysis). The outcome of this is set out below:

Strengths

- This type of code provides more weight and therefore more support to enforcement opportunities than the other two codes being considered.
- Everyone is familiar with the Highway Code language: "Must" legal requirements; "Should" providing guidance. This will focus minds as enforcement is a critical component and an authoritative tone can be helpful in providing a clear steer.
- The format and layout of information is clearer and more emphatic.
- The Highway Code is based on shared use – all stakeholders can buy-in according to their self-interest.

Weaknesses

- This type of code is more mandatory than advisory
- Such a code would place an onerous duty on enforcing authorities. At present enforcing legislation would be the responsibility of the police. Such resources would be difficult to fund.
- Enforcement is much more difficult and costly in rural and more remote areas of Wales.
- Access rights are complicated; a single document may not provide sufficient detail for all stakeholders

Opportunities

- This type of code would provide the opportunity to get both legal requirements and other guidance across in one go.
- Self-responsibility is key and the opportunity to educate all stakeholders about what “responsible” means should be taken.
- It would be beneficial to embed such a code into the school curriculum at both primary and secondary levels.
- This approach could ensure that rights and responsibilities are differentiated across all types of public access.

Threats

- Whilst it is critical that all follow signs and directives in the Highway Code, recreationally, it might not work to the same extent.
- There is a fear that this code would advocate a regulated countryside which clearly is not wanted for recreation.
- Currently there are a number of barriers existing in trying to promote such a code into schools, other community groups and to other stakeholders. If resources are not forthcoming, then it will be impossible to implement.

The Scottish Outdoor Access Code approach

In relation to the Access Reform Programme, ‘enforceable statutory code’, or ‘enforceable code’ (for short), are the terms used regularly to describe a code of conduct that defines the behaviour by which those exercising their rights must comply to retain their rights. The closest model to this is the Scotland Outdoor Access Code (SOAC).

There are two drafting principles that are important to highlight in this approach. The first is the way it is underpinned by legislation and the second is the structure. The Land Reform (Scotland) Act 2003 requires people to ‘*act responsibly*’ while exercising their right of access (section 2.1), which includes not ‘*disregarding the guidance on responsible conduct set out in the Access Code*’ (Section 2.b.i). As such, the code provides statutory guidance, albeit that the offence is not a breach of the code but failing to act responsibly in accordance with the Act. The Scottish Outdoor Access Code was ratified by the Scottish Parliament by negative instrument and is used as a ‘material consideration’ in courts of law.

The scope and structure of the code is far broader than the existing approach used by the Countryside Code. For instance, the SOAC also sets out clear advice for landholders and access managers and provides a comprehensive list of all offenses related to public access. The main document is 135 pages split into the following sections:

- Introduction
- Access Rights
- Exercising Access Rights Responsibly
- Managing Land and Water Responsibly for Access
- A Practical Guide to Access Rights and Responsibilities
- Where to Get Help and Information
- Existing Criminal Offences Created by Statute

The Expert Group were asked to consider a Scottish Outdoor Access Code approach and outline what they thought would be its Strengths, Weaknesses, Opportunities and Threats (SWOT analysis). The outcome of this is set out below:

Strengths

- The SOAC is more holistic than the present Countryside Code covering the rights and responsibilities for both users and providers including landowners, land managers, access authorities and all other stakeholders in one place.
- The Land Managers felt strongly that it would provide far greater clarity being written into legislation, i.e. it provides teeth with the ability for it to be clearly enforced.
- It has the ability to focus on the responsible recreation behaviours relating to each particular recreational activity; drilling down into considerable detail.
- Meanwhile, it might importantly better support responsible behaviours by clearly addressing irresponsible ones.
- Such a code would offer reassurance to landowners and managers whilst also raising their expectations.

Weaknesses

- The SOAC is a long and unwieldy code. There would need to be a simplified version with short, succinct messages.
- The ability to amend such a code to quickly adapt to changing circumstances or force majeure is difficult (e.g. Covid-19 amendments) as, being written into legislation, it lacks the flexibility to react without further legislative amendments.
- The code would need considerable resources to back it up especially if enforcement is to be increased.
- Meanwhile, it has the potential to “over-reach”, i.e. prosecuting for breaches of the Code which have no consequence. There is clearly a risk that moving to more enforcement of issues might draw in low-level behavioural issues or differing perceptions between users and other stakeholders.

Opportunities

- Such a statutory code is a good way to get things noticed and shows a clear signal of intent and seriousness.
- There is clear opportunity to properly educate all stakeholders.
- Opportunity to plough in additional resources to support the development of the code in terms of time and involvement of all stakeholders.

Threats

- The biggest threat is seen as the lack of resources to develop and implement such a code
- There is the potential for the code to create tension through cross-border mixed messaging especially for visitors to Wales from England. Whilst Natural England are currently reviewing the Countryside Code with all stakeholders any divergence may prove unwelcome.
- Any interpretation of where responsible access is exceeded should not become a means for frustrating lawful access.

Commentary on the approach to take forward

After considering the three drafting approaches presented above, the Expert Group was asked to indicate their preference. The chart below captures this:

Table 7: Expert Group Option Preferences, Responsible Recreation

| Option | Land Managers | Recreational Users | Public Sector | Total n=9 |
|---------------|---------------|--------------------|---------------|-----------|
| CC Approach | 0 | 0 | 1 | 1 |
| HC Approach | 0 | 0 | 1 | 1 |
| SOAC Approach | 3 | 2 | 1 | 6 |
| Other | 0 | 1 | 0 | 1 |

If Welsh Government decide a new code of conduct is needed, the weighting of the Expert Group preference leaned towards taking a Scottish Outdoor Access Code approach. This would require direct reference to ‘acting responsibly’ being inserted into access legislation, and where acting ‘irresponsibly’, as defined by the code, would result in a loss of access rights for a defined period of time. It would also suggest that the code would need to be ratified by the Senedd and that it is given the status to be a ‘material consideration’ in any court proceedings referring to public access. This would mean a different approach than is undertaken currently with the Countryside Code, where there is no specific link made to the underpinning access legislation and changes to the code does not need full parliamentary ratification.

Recommendation: Welsh Government should explore the implications of inserting a new requirement into section 2.1 of the CRoW Act that requires people to “act responsibly, as defined by the Welsh Access Code”, and look for a similar statutory mechanism in PROW law.

There was a significant plea from the Expert Group to consider best practice from all the approaches discussed, using the strengths of each approach to iron out some of their weaknesses. For instance, including the flexibility of the Countryside Code (short and long versions) and ability to generate supplementary advice. The visual clarity between advice and legal requirements utilised by the Highway Code should also be incorporated. Therefore, the following actions are recommended:

Recommendation: If Welsh Government decide that a new code of conduct is required for outdoor access in Wales, it should further explore the application of a Scottish Outdoor Access Code type approach. This would require responsible recreation to be included in access rights, as defined by an access code ratified by the Senedd. Failure to observe the provisions within this code would incur civil sanctions. Furthermore, it should consider how to incorporate some of the strengths identified in the Countryside Code and Highway Code approaches to enhance the effectiveness of any new code as a communications tool. This should include:

- A strong visual identity and brand that can be used in all forms of communication
- Short and long version of the code to balance high level / high impact messaging with more detailed advice, bilingual approach incorporated from the outset
- A clear visual tool that highlights aspects of the code that are enforceable, developed through behavioural insights and design analysis
- A set of drafting and design principles that can be used to develop additional targeted advice for specific user groups

- Clear support from government, public services and all sectors to give it credibility and authority

Recommendation: Welsh Government should only commence work to develop a new code of conduct once all changes to access law have been finalised.

Common issues

Irrespective of the approach taken to drafting a code of conduct, there are a series of common issues that were raised throughout the ARAG process that WG should consider how to address. These are outlined as follows:

Duty to promote responsible recreation

Natural Resources Wales (NRW) has a statutory duty under the National Parks and Countryside (NP&AC) Act 1949 for the “*preparation and publication of a code of conduct for the guidance of persons visiting the countryside*” (section 86A) and a duty under the CRoW Act to “*issue, and from time to time revise a code of conduct*” (section 20). There is also a duty for NRW to ‘*provide or assist in the provision of publicity and information services relating to the countryside*’ and ‘*informing persons resorting to the countryside of their rights and obligations*’ (Countryside Act 1968 section 8). However, there are no specific duties to promote understanding of the code of conduct outlined in the NP&AC Act and the CRoW Act, and there is no consideration given to the level of public awareness required. Additionally, there is no duty for any other public body in Wales to promote understanding of the code of conduct. It was recommended that NRW and access authorities be given a duty to promote responsible recreation, as defined by a code of conduct. Initial responses to this were:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 3 | 3 | 9 |

This recommendation was welcomed by the Expert Group who felt that all sectors should have a role in promoting, supporting and sharing responsible recreation through a code of conduct. It was also expressed that there should be a means to promote in partnership with all parties, including those across recreational users, education, commercial settings and land managers in order to be effective. There was recognition of the benefits of public bodies (NRW and access authorities) being able to work more closely with landowners to enable more seasonal campaign messages. There was also a suggestion that a duty should also apply to Welsh Government so that the requirement remains relevant to any administration going forward.

There was an element of concern around the size of this task. Responsible recreation communication and promotion should be well enough resourced, reach a wide audience and consider cross-border impact. Without resources there is a risk that promotion will carry on at the insufficiently low level it is now. There was also a strong belief that the national curriculum should serve as a means to deliver and promote responsible behaviours and a code of conduct.

Recommendation: Welsh Government should include a duty for NRW to ‘promote understanding’ of a public access code of conduct in relevant legislation. It should also give access authorities a duty to ‘promote understanding’ of that same code of conduct. This duty should be accompanied by funding and carried out with the support of Visit Wales.

Recommendation: Welsh Government and the Outdoor Learning sector should highlight responsible recreation messages and an associated code of conduct as part of developing the Ethical and Informed Citizens of Wales and the World enabled by the Curriculum for Wales.

An open and transparent process

The option analysis report outlined the level of resource that was put into consultation and engagement during the creation of the Scottish Outdoor Access Code. This included 20,000 copies of the consultation document printed and distributed, 54 public events and 2,900 individual stakeholder conversations. From this NatureScot received 1,362 formal consultation responses and had 12 staff working full time on the consultation.

Taking note of this, it was suggested to the expert Group that if a new code of conduct is to be created in Wales (whichever approach is taken), WG need to consider how to make the drafting process as open and transparent as possible, including the resources it would take to achieve this. Response in support of this recommendation was:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 3 | 3 | 9 |

There was genuine support for all sector involvement which would pave the way in getting to the heart of key issues and open up debate on what the appropriate responses should be. Landowner representatives were keen to have their views reflected in this process and that their experiences should be viewed as an important aspect to build into code development. There are also interdependencies with other reform proposals which have the ability to bring new impacts and consequences that have not yet been addressed through the Access Reform Programme. A number of points were raised around resources and time to develop a new code, ensuring all sectors can engage. There was also concern about how a code would take account of language, which should be easy to understand and accessible with the inclusion of visuals.

Recommendation: if a new code of conduct is to be created in Wales (whichever approach is taken), WG need to make the drafting process as open and transparent as possible, including the commitment of resources it would take to deliver and achieve this. This should include:

- Clarity in the needed changes to access law - before drafting is started
- A paid independent/neutral chair, and drafting group that is representative of the 3 pillars who are also paid for this work
- A formal consultation process, including clear timeframes and agreed digital response system
- Paid expert advice (behavioural insights, language, design and communications)
- Defined process for sign off or ratification

National campaign that utilises behavioural insights

Significant resources were made available to promote and raise awareness during the launch of both the Scottish Outdoor Access Code in 2005 (£2million over 3 years) and the refreshed version of the Countryside Code in 2004 (£451,000 for the rebrand). Although enforcement, promotion and education are raised numerous times in the analysis report and reform options, it is important to note that most approaches to trying to influence people's behaviour assume that people will act in a 'rational' way, based on conscious and considered decision-making which reflects their knowledge, values and preferences.

Evidence has found that this is often not the case, with a substantial gap between attitudes, knowledge and behaviours. These can be better understood and accounted for with the application of behavioural insights techniques. Therefore, it was considered that WG should fund a national Responsible Recreation information and education campaign that utilises behavioural insights. Response to this recommendation was:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 3 | 3 | 9 |

There was agreement that a campaign needs to be sustained, use effective communication methods and be innovative. It was also stated that any campaign should be funded by the Welsh Government and be continuous to remain effective. Landowner representatives remain cautious that a campaign implies a start and a finish, which suggests short-termism in promoting positive behaviour. A campaign would need national reach, be consistent and require ongoing commitment and resources. There remains a concern that responsible recreation messages are not a core requirement for Welsh Government and public bodies which should be addressed. Some worry that a new campaign may follow the path of the effective Aardman campaign (during the 2004 Countryside Code relaunch) that was discontinued due to ongoing licensing costs.

A number of factors were considered to be key components of applying a consistent behavioural insight campaign. These include drawing on the experiences of the private sector in engaging with the right audiences, delivering products, and social media models. If a campaign is taken forward it should link to tourism businesses, apply to those inside and outside Wales and certainly be delivered through the core education curriculum. A sustainable campaign should be invested in to deliver step-changes in behaviours, although questions remain about how Welsh Government could drive this approach forward.

Recommendation: WG should fund a national responsible recreation information and education campaign that utilises behavioural insights. This should include:

- Evaluation of key issues (include assessment process for considering impact against likelihood of being able to address) and associated audiences
- Analysis of the factors that influence behaviour associated with the key issues
- Assessment of the effectiveness of available interventions (e.g. education, information, enforcement, incentivisation) to address each key issue
- Using the above, development of a communication strategy that outlines a high-level approach used to promote responsible recreation
- Provision of resources within Welsh Government, and its key partners, to facilitate the delivery of the communication strategy

Methods of enforcement

Consideration for enforcement emerges across all reform options and are generally supported if sanctions apply consistently to enable responsible use and management of access rights. Methods of enforcement can include civil sanctions (e.g. trespass, Fixed Penalty Notices (FPNs)) and criminal sanctions (e.g. Traffic Regulation Orders (TROs), or Public Space Protection Orders (PSPOs)).

Access authorities are often mentioned in reform key elements as the means to apply enforcement measures to manage irresponsible behaviours on access land or public rights of way (PROW) and to protect against any impacts on conservation, erosion, wildlife, and the health and safety of all users. It is therefore recommended that access authorities

should be given clear and consistent powers to enforce responsible recreation and sufficient resources to do this. Response to this recommendation was:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 3 | 1 | 7 |

The general feeling of the expert group was in support of enforcement measures, although it was evident there was less support from the Public Sector. There was an emphasis from the land managers sector that, if there is an increase in access rights, it should be accompanied by proportional and effective enforcement mechanisms. Recreation users felt that enforcement should be weighted equally between recreational users and non-complying landowners, where a statutory code should be about both 'sides'. There was real concern within the Public Sector about resourcing enforcement (e.g. access authority or police community support officer responsibility), particularly if additional rights are granted. There was concern as to who would be responsible for applying sanctions and that, without adequate resources, those sanctions may become meaningless. It would need to be accepted that some issues are more enforceable than others.

There was acknowledgment that enforcement responsible recreation is something that access authorities have not traditionally carried out. Clarity is needed as to how enforcement works with a recreation audience that are transient and difficult to 'catch'. Again, investment would be required to manage any increase in arising issues. An example given was of 'education wardens' working well in some scenarios, but capacity, capability and consistency would still need to be addressed.

Recommendation: access authorities should be given clear and consistent powers to enforce Responsible Recreation, and sufficient resources and capability to do this. This would include:

- Considering the identity of relevant existing access authority staff as being part of a 'Wales Recreation Wardens Service', recognised across all authorities
- Training and regular engagement with other visitor facing bodies (e.g. Coastguard, mountain rescue teams, police rural crime departments) to build consistency in messaging and approach
- Guidance on the application of enforcement measures, linked to the responsible recreation and education campaign

Consistency across all forms of access

Expert Groups submissions suggested that current inconsistent application of rights and responsibilities across PROW and CRoW land is a barrier to effective communication and compliance. Instances where this might occur include the duty (under the Countryside Act 1968) for cyclists to give way to walkers and horse riders on bridleways, but not on other forms of PROW with higher rights. Another example is where dogs should be kept under 'effective control' or on a short lead around livestock on access land, but no such requirement exists on PROW. It was recommended that responsible recreation 'rules' needs to apply consistently across all types of access. Response to this recommendation was:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 0 | 0 | 0 |

There was a clear division about the clarity of this recommendation across the Expert Group. In principle though it was generally agreed that consistency of rules across all

forms of access would help communicate clear messages for land managers and recreational users. However, there may be limitations to what is achievable where different rights and responsibilities apply across PROW and CRoW. There is potential for reforms to add complexity and, when viewed against the wider highway network, the principle may be confusing.

Although there wasn't a clear consensus on this approach, there was agreement that consistent rules are more easily understood. However, there was a need to balance simplification with the possible unintended consequences of people losing their current right of access (the example of CRoW section 15 land was given as it is not generally subject to provision for temporary exclusions). There was also a question of when trying to achieve consistency, would restrictions need to be reduced on CRoW land or increased on PROW. Clarity is required if trying to achieve simplification whilst retaining rights and responsibilities and that any potential effect on occupiers' liability would need to be carefully considered. Furthermore, the approach to drafting a code of conduct needs to be agreed first to enable rules or agreed behaviour in practice.

Recommendation: Welsh Government should identify where responsible recreation 'rules' could be applied more consistently across all types of access and, where possible, try and harmonise these definitions to simplify the communication of rights and responsibilities. For example, these could include the control of dogs, and a consistent 'hierarchy of users' principle (as proposed for the new Highway Code) and 'share the space' approach

Duty to consider in plans and maps

With a potential change in either legislation or guidance for a recreational code, there would be an impact on integrated plans and information provision. Analysis reports suggest that plan development should include a requirement for local authorities to set out how they (and other partners within plans) will communicate responsible recreation and associated codes. Furthermore, that guidance should state that any potential change in rights and responsibilities across CRoW and PROW be strongly referenced.

Responsible recreation would need to be linked into the mapping of access for users and land managers to help them identify their rights and responsibilities. There is potential for complex information about PROW (e.g. footpaths designated with higher rights matching current bridleway rights but visually different on maps). Through mapping there is a need to consider how a code can provide clear messages. Therefore, it was suggested that access authorities should have a duty to consider responsible recreation in the development of any access plans or maps. The Expert Group response to this was:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 2 | 3 | 2 | 7 |

There was general support for this, although the Expert Group felt that the approach needed more clarity in outlining its objectives and potential outputs. With regard to the duty to consider responsible recreation within the development of plans, this would make sense as long as it sits within specific strategic plans such as ROWIPs or their replacements. There was also recognition that, locally, any duty to include responsible recreation promotion should sit in hierarchy under national codes which should remain an NRW duty. With that, there has always been a role for local authorities in promoting local access rights and if higher rights are introduced, responsible recreation messaging will be essential.

An important point identified by the public sector, and a reminder of duties already existing, is that within the public path order process, local authorities should give consideration to

the content of ROWIPs. It is not known to what extent ROWIPs across Wales provide statements on responsible recreation already, but there is likelihood that these statements vary across local authorities, potentially affecting the outcome of some orders, depending on what due regard is necessary in order to confirm. Mapping to promote responsible recreation is seen as an effective tool, but it is unclear how this could be achieved and applied within mapping duties. Time and resource were raised as the most important factors in enabling this alongside other duties that local authorities already carry out.

Recommendation: access authorities should have a duty to consider responsible recreation in the development of any access plans or maps at a strategic level and provide sufficient resources to achieve this.

General comments

In addition to the specific points raised around the recommendations and approaches, there was concern that the responsible recreation cross cutting-theme will not deal with all the issues that reform proposals bring about. There may be an assumption that certain issues raised are covered through the cross-cutting theme risking clarity in understanding the nature of potential behaviour change due to reform. It is clear that responsible recreation has been identified as fundamental to the change of any access rights across reforms.

If access rights are increased, not addressing associated behavioural issues at the same time will impact negatively. There is also a need for buy-in from land managers to keep rights of way and access land open, usable, and welcoming to ensure a long-term sustaining of approaches. It became clear through the impacts of Covid-19 that there is a renewed need for responsible recreation messaging, and that this should be considered in all aspects of reform. It was also widely recognised that Covid-19 brought a different set of challenges to the management of the countryside as well as a need to be proactive in order to stay ahead with developing relevant code messages.

Theme 2: Equity, Inclusivity and Accessibility

Issues relating to equity, inclusivity and accessibility of access occur in all proposed reforms. Under the [Equality Act 2010](#), there is a duty for public bodies to prevent discrimination in the provision of facilities, goods and services and to make reasonable adjustments to enable access. Therefore, it is logical that all reform options would be subject to this duty.

Clarification of access authority duties

It is unclear what the implications are of giving local authorities powers, for example, in relation to options such as the granting of higher rights when there are duties under the Equality Act 2010. Equality Impact Assessments (EqIA) need to be built into reformed access processes prior to implementation. The public sector equality duty contained in section 149 of the Equality Act 2010 requires public authorities to have due regard to several equality considerations when exercising their functions. To enable this to happen, it was suggested that it should be a duty for all access authorities to carry out an Equality Impact Assessment as part of any new access development. The following weighting of support was shown for this:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 0 | 0 | 1 | 1 |

There was almost unanimous concern about this proposal. Primarily, this was formed around the question of whether access authorities already consider their duties under the Equality Act in any access development, and whether the requirement to carry out an EqIA would add anything to this or just create another layer of unrequired bureaucracy. It was considered that an EqIA process may be desirable on large access infrastructure project (the example given was major developments on the Wales Coast Path), but the same process would not be suitable for smaller works.

However, there was an acknowledgment made by the public sector representatives that currently they have no powers to make 'least restrictive access' improvements to PROW, which does hamper them in fulfilling their duty under the Equality Act. In this, the relationship with the landholder is key to being able to provide a least restrictive access option. There is sometimes conflict between the needs of users and the needs of the land managers.

Recommendation: Welsh Government support the promotion of existing guidance to ensure access authorities adopt a proportional and consistent approach to delivering their existing duties under the Equality Act. This would include encouraging access authorities to consider and consult all relevant protected characteristics user groups before access improvements are implemented.

Suitability assessment for higher rights

The process of devising suitability assessment criteria for inclusion or exclusion of higher rights has the potential to decrease or increase inclusive access depending on the approach. Submissions to the call for evidence suggested that robust criteria need to be embedded in the process of assessing for exclusion and inclusion and unsuitability from the outset. Criteria must also consider users of mobility equipment as this will be used where lower and higher rights are applied and there is the application of guidance such as with the [BS5709 British Standards](#) (Gaps, Gates and Stiles), which need to be referred to particularly in relation to changes to access infrastructure. Therefore, it was suggested to the Expert Group that equality should be incorporated into any suitability assessment process created for the inclusion or exclusion of higher rights. The following weighting of support was shown for this:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 0 | 0 | 2 | 2 |

Some benefit could be seen in aligning the least restrictive access principles with any new suitability assessment process, mainly in terms of making changes to path furniture (gates/stiles) that would assist both higher rights users and those with reduced mobility. However, most of the feedback on this proposal was of concern. Cost of considering, and then upgrading, routes to LRA standards was a major factor in the feedback from the Expert Group. The balance of resourcing upgrades to existing routes verses creation of new access was a concern to recreation user representatives, as well as a fear that LRA would be used as a reason to block the application of higher rights in some areas. Another factor was a fundamental lack of confidence amongst land manager representatives that gates provided adequate stock control, particularly at boundaries between landholdings. There was also a question from public sector representatives as to whether it would be a Welsh Government, and subsequently access authority duty under the Equality Act to ensure that any suitability assessment process was mindful of those with protected characteristics. This is a question that needs to be answered as part of Welsh Government's ongoing work on the Access Reform Programme.

If a suitability assessment is taken forward, it is clear that there is work to be done to assure other recreation user groups of the positive implications of considering those with protected characteristics in the development of new access, even given its requirement under the Equality Act. There is also a significant need to provide evidence to assure land managers that gates used to provide least restrictive or higher rights access are effective in controlling stock. With these points in mind:

Recommendation: Any suitability assessment developed will need to refer to current least restrictive access guidance for access authorities and land managers to ensure a fair and transparent process that is consistent across Wales. This would include a principle that user groups representing those with protected characteristic would be consulted.

Recommendation: Welsh Government should initiate research into the relative effectiveness of available BS5709 standard Gaps, Gates and Stiles designs in the control of stock.

Requirement to provide information on path condition

Information plays an important role in increasing inclusive access and user confidence, in particular those with protected characteristics under the Equality Act 2010. The importance of this in the 'Access Chain' is outlined in the [By All Reasonable Means](#) guidance about least restrictive access. One of the key issues relating to equality identified during the Options Analysis stage was a lack of clear and consistent information about the current state of the public rights of way network. This includes information about the nature of the surface and any structures on the route that may act as a barrier to onward travel (e.g. stiles and gates). It was considered that lack of knowledge about what to expect when visiting a section of path was one of the biggest barriers to use by those with protected characteristics.

To address this issue, it was proposed that it became a requirement for all access authorities to gather and provide information on the nature and condition of public rights of way for least restrictive access.

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 2 | 2 | 2 | 6 |

There was fairly strong support for this proposal, However, it was considered that some access authorities are gathering this data but maybe not in a format that was useful to those who needed it. There was also significant concern raised about the ongoing cost of keeping this information up to date and a question as to whether out of date information was more 'dangerous' than no information at all. Expert Group responses indicated that any proposed solution should require information to be gathered in a way that didn't suggest a judgment of suitability (it would be up to the user to interpret), clearly labelled its limitations (e.g. date of collection), and was consistent across authorities but presented in a single location. There are also links to the options being considered in Reform 3A.

Recommendation: Developments being considered by Welsh Government in Reform 3A should include a requirement for access authorities to share the data that they collect on the condition of the PROW network, including any barriers to onward travel, through the national digital portal. This would include considering the information requirements of those with protected characteristics in the categorisation of the data collected.

Access Authority staff training

Protected characteristics under the Equality Act 2010, such as disability, are impacted by infrastructure and information provision, but it is important to note the other protected characteristics such as ethnicity and gender that are also affected by the form taken by information, for example, the level of inclusivity in marketing and promotion. The provision of training on how to apply least restrictive access principles to the full range of protected characteristics was seen as beneficial. Therefore, it was suggested that it would be a requirement for all relevant access authority officers to undertake training on how to apply least restrictive access principles.

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 0 | 2 | 3 | 5 |

Although the idea of required training was generally well received by recreation users and the public sector, there were concerns raised by land managers. This centred around a fear that the training would focus on helping those with protected characteristics but not consider the needs of the land managers. As has been previously noted, there was significant concern about using BS5709 standard gates. There was an agreement in the Expert Groups that training should not be focused on access authorities alone and representing a balance of the '3 pillars' of access management would be useful in terms of audience reach and delivery. The land managers felt that there should be an opportunity to share experiences about issues caused by gates that cannot hold back stock and the dangers of inappropriately encouraging those with protected characteristics to use public access that is not passable.

There were other issues raised; one was the cost of requiring authorities to carry out training. The other, and one that is linked to elements being discussed in the reform options, is that access authorities currently do not have the power to make changes to footpath infrastructure. This needs to be factored into training as it can limit the options that authorities have for bringing the network up to a standard in keeping with least restrictive access principles. With these considerations in mind:

Recommendation: Welsh Government should support the development of a standardised package of training and guidance on how to apply least restrictive access principles to public access. This should be made available to all relevant access authority staff, LAFs, land managers and interested recreation user groups.

General comments

In addition to the specific points discussed around equity, inclusivity and accessibility there was a general plea from land managers to be more involved in this area as it is developed. There was also a point raised about the idea of 'quality over quantity', if a more duty-based approach is taken it may mean that the resources available to enhance and maintain least restrictive access could be spread so thinly that it becomes useless. A more targeted and proportional approach to providing access for people with protected characteristics was proposed which could be achieved through assessment criteria which includes a consideration of potential users, landscape, conservation and land management issues. Again, concern was raised that the level of detail provided in the draft recommendations was too coarse for Expert Group members to provide feedback with confidence. There was considered a need to consult on the specific legislative changes Welsh Government develops before it is presented to the Senedd.

Theme 3: Roles of Local Access Forums

Local access forums (LAFs) are statutory forums which the local highway authority, or national park authority in a national park (the appointing authority) are required to set up for their area. The role of LAFs is to advise on the improvement of public access to land in their area for the purpose of open-air recreation and the enjoyment of the area.

There are currently up to 22 LAFs operating in Wales. Membership of a LAF is unpaid and as such, LAF members, including their national representatives, dedicate their time and knowledge on a voluntary basis. There are references to LAFs within most of the reform options. The following themes have been pulled out of the evidence submitted during the Options Analysis phase.

Status of LAFs after any reform in access law

Many of the reform options developed by the Expert Groups contained elements that suggested a change in status for the LAFs. The most common was that the LAF would become a decision-making body tasked with delivering changes to public access. However, analysis suggests a series of fundamental issues with these suggestions.

Involving LAFs as decision-makers was felt by a number of respondents not to be consistent with their current statutory advisory role. It would also open them up to legal challenge, which was raised as a concern given their voluntary membership. An example of where this arose included proposed involvement of LAFs in appeals for reform 2A(iii) (applying higher rights to public footpaths). As well as issues about whether decision-making functions are appropriate to the role of LAFs, practical concerns were raised as not all LAF members have the training to undertake such a formal decision-making role, and what would happen if a LAF decision was rejected by the access authority. There was also a query on how to deal with conflicts of interest that some LAF members would have if making statutory-based decisions about specified matters e.g. cases involving compensation of landowners. Also, given capacity constraints, whether a timeframe for dealing with proposed statutory processes could realistically be required of LAFs e.g. as is required of local authorities for PROW processes related to the [Wildlife and Countryside Act 1981](#).

Therefore, the suggestion to the Expert Groups was that LAFs role in ARAG reforms should continue (as now) to be as advisory bodies, notably to their appointing authorities, relevant authorities and Welsh Government. This was the indication of support given:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 3 | 2 | 8 |

There was almost unanimous support for this suggestion. This was mainly down to a lack of confidence in LAFs ability to carry out a decision-making function due to the current inconsistencies in provision. Expert Groups felt that time would be better spent trying to address issues around governance, membership and processes and making them a more useful advisory body for delivering access reform, and possibly other functions such as advising the Public Service Boards.

Recommendation: LAFs' role in ARAG reforms should continue (as now) to be as advisory bodies, notably to appointing authorities, local highway authorities, relevant authorities and Welsh Government.

Role of the LAF in any suitability assessment processes

Another similar suggestion presented to the Expert Groups was that LAFs should have advisory roles specified in a similar way to their current role in legislation e.g., for access improvement plans, CRoW exclusions and restrictions. This received the following support:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 3 | 1 | 7 |

Again, there was good support for this due to concern that LAFs were not suitable for a more formal part of any suitability assessment process developed as part of the Access Reform Programme. The factors again were capacity of volunteer time and lack of specialist knowledge or skills. There was also concern that the LAFs generally took a lot of local authority time to manage and any additional functions would put more pressure on them. There was also significant concern about the size of the areas LAFs now cover and how infrequently they meet, making them particularly ineffective if needing to be part of an efficient local assessment process. However, there was a feeling that LAFs could be valuable in giving a more strategic steer on how any new higher rights access is applied at a regional level.

Recommendation: LAFs should have advisory roles in any suitability assessment process specified in a similar way to their current role in legislation e.g., for access improvement plans, CRoW exclusions and restrictions.

Review of LAF membership

Most LAFs meet on an approximately quarterly basis and they can establish sub-committees. A forum must consist of members who represent users of local access land and local rights of way; owners and occupiers of access land and land with rights of way; other interests, especially relevant to the area.

Regulations require the appointing authority to ensure a reasonable balance between these interests. A number of LAFs responded to the call for evidence indicating that they had a good existing balance of members in relation to the ARAG reforms. However, there were also concerns raised in responses from some LAFs and external stakeholders that there is a lack of balance within the membership of some LAFs, due to the lack of representation for the interests of some recreational users, and ARAG reforms could accentuate this issue. Therefore, it was suggested to the Expert Group that LAF membership would need to be reviewed by appointing authorities, and their LAFs, in the light of access reforms being introduced. This received the following support:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 1 | 3 | 2 | 6 |

There was general agreement that there is inconsistency in the balance of membership across Welsh LAFs. It was also felt that there is sometimes a gap between the regulatory intention of the LAF and the reality. One specific issue that was raised was the current practice of the secretary being an access authority officer. There was concern that this left the LAF open to impact from changes in staff or resourcing and, more importantly, a lack of impartiality as the person driving the agenda is also the person that will be acting on the advice. There was also a question as to whether it would be possible to get a membership that is truly representative of the population of an area as volunteers needed to be able to afford the time to attend.

It was felt that these reforms would give an opportunity to review LAF membership, and to try and attract new members. Specifically referenced was achieving greater representation from higher right users to reflect possible changes in access law. A more substantial role in the access reform process could lead to more interest from these users but, as has been addressed above, this needs to remain in an advisory capacity.

Recommendation: LAF membership be reviewed by appointing authorities and their LAFs in the light of access reforms being introduced.

Developing new guidance for LAFs

A further general point raised during the options analysis phase was that using primary legislation to define the details of reforms involving LAFs would make the requirements more rigid and liable to become dated or generally disregarded. Secondary legislation and guidance were considered more useful and flexible in this respect. INRW has previously developed non-statutory guidance to support LAFs in their statutory functions. Therefore, it was suggested that Welsh Government (advised by NAFW) should develop guidance for LAFs when reforms are introduced to support them in their advisory role. This received the following support:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 3 | 2 | 8 |

This proposal gained almost universal support from the Expert Group. There was agreement that guidance would need to be reviewed if any reforms were made to access law, and that NRW would be the appropriate body to lead on this work. There was also a suggestion that this review process should become a regular cycle to give LAFs confidence that they are working to guidance that is up to date, and that it should be supported by an engagement process hosted by NRW (the example given was the annual LAF chairs conference).

There were numerous suggestions as to what guidance should be provided in relation to ARAG reforms. Some referred to points already addressed in this section, such as 'least restrictive access' principles, how any higher rights selection criteria will be applied and appropriate membership governance. There were also suggestions that guidance should be developed that would help LAFs co-opt expert advice from outside of the forum and initiate subgroups to address task and finish issues. A slightly different point was raised about NRW also providing guidance to (and monitoring) access authorities to standardise how LAFs are administered, supporting them in fulfilling LAFs statutory status and running them in line with other statutory committees e.g. with support from access authority corporate services rather than being reliant on the rights of way officers to facilitate.

Recommendation: NRW/WG should develop guidance for LAFs and access authorities about ARAG reforms when introduced to support LAFs in their advisory role. The guidance should be regularly reviewed and revised as necessary.

Theme 4: Commercial Activities and Events

Within each of the reforms there is reference to commercial activities and/or events, either within options or as part of experts' comments. In the context of this reform, commercial activities and events include 'paid for' one-to-one sessions, guided groups, sportives and mass participation events where the activities undertaken are those that individuals can do by right, such as climbing, walking, cycling and horse riding, etc. The main issues raised around commercial activity are highlighted in the sections below.

Definition of commercial activity in the CRoW Act

Schedule 2 of the Countryside and Rights of Way (CRoW) Act 2000 paragraph (t) lists "any activity which is organised or undertaken for any commercial purpose" as being exempt of CRoW access rights. This has been supplemented by advice from Defra that qualifies 'commercial' as activity where participants:

- "Trade or sell
- Charge other visitors for things they do on your land
- Film, photograph or make maps"

The application of this exemption has been contested since the enactment, particularly where the primary purpose of the activity is education. However, legal advice suggests that the definition used in CRoW is categorical and does not leave open any interpretation around purpose. This was deemed by respondents to the ARAG call for evidence stage as a weakness in the current provision provided by CRoW, as access for commercial educational activities was seen to be a key requirement.

The evidence submitted during the Option Analysis phase references the 'Scottish approach' as a possible solution to this. In Scotland, commercial activity is defined under the Land Reform (Scotland) Act 2003 (1)(3(c) as being acceptable if carried out "for the purposes of carrying on, commercially or for profit, an activity which the person exercising the right could carry on otherwise than commercially or for profit." This is further defined within the Scottish Outdoor Access Code and in guidance developed by the Scottish National Access Forum. The result is a clear steer for educational providers that they have a right to take groups out.

Considering this input, it was proposed that Welsh Government create a clearer definition of commercial activity in Schedule 2 of the CRoW Act, to differentiate between large operations and smaller 'guided' recreation activities. The following weighting of support was shown for this recommendation:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 2 | 3 | 3 | 8 |

The general feeling of the Expert Group was that there could be value in exploring a new definition of commercial activity along the lines of that used in Scotland. The reason for doing this is to exclude guided educational activity from the existing definition of 'commercial activity' due to the benefits it provides in improving environmental and social understanding, awareness and behaviours. It was also felt that a clearer definition may aid establishing where permissions/licenses are needed.

However, there was real concern raised about how this principle would be framed in law, particularly in relation to the original suggestion of group size as a defining factor. One issue is that education groups can vary greatly in size and nature. The example given was an Outdoor Education Centre running a large school group activity. Finding a definition that would enable

commercial education groups to use open access land as of right, whilst retaining the restriction on other commercial activity, was considered to be a ‘potential minefield’. Another question was around how other smaller commercial activities would fit into a Scottish style approach, for instance commercial dog walking where the activity could be carried out recreationally. In this, there was a feeling that the Scottish approach was not clear enough.

The suggested test for talking this forward was drawing up a definitive list of commercial activities that should be allowed on Open Access Land as of right, and those that should not. This would then be presented to Welsh Government lawmakers to consider and test a legal definition. The full list can then be referred to in accompanying guidance and updated as required.

Recommendation: Welsh Government should explore how to redraft Schedule 2 (t) of the CRoW Act to ensure that commercial activities carried out for ‘educational purposes’ are exempt of the current restrictions. How ‘educational purposes’ are defined needs careful consideration, consultation and accompanying guidance.

Permission, Payment and Occupiers’ Liability

A point raised by landowner representatives is the principle that landholders should be able to charge those making money using the open access land that they manage. They highlighted that allowing commercial activities to take place on ‘private’ land as of right would undermine the ability of landowners to meet Welsh Government objectives in terms of diversifying their businesses by charging for commercial events. Currently, as outlined above, there is no right of access for “*any activity which is organised or undertaken for any commercial purpose*” which includes any activity where providers “*charge other visitors for things they do on your land*”. Therefore, landholders are currently able to charge for access to their land for those that fall into those categories. One issue with this current position is that where an occupier charges a commercial group to enter onto access land, they will no longer be entering the land as access land and therefore the reduced liability in Section 13 would no longer apply.

With this position in mind, it would seem that a clearer definition of commercial activity, and ‘as of right’ inclusion of educational activity (as outlined above), could help protect occupiers’ from any liability issues caused by more small scale and transient commercial activity. It may also be possible to enhance the protection currently gifted by CRoW to include all ‘physical features’ by applying the MACA approach to liability being considered in reforms 1A and 1B. Therefore, it was proposed to the Expert Groups that legislative changes ensure that occupier’s liability for commercial activity is reduced in line with other proposals under ARAG. The following weighting of support was shown for this:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 3 | 2 | 2 | 7 |

Although support for the principal of this proposal was relatively high, there was a major caveat in that the detail needs to be fleshed out before sector representatives would feel confident giving full support. There are also interdependencies with other recommendations within this section. For instance, reduced liability would only apply to activity carried out ‘as of right’ so it would require a definition of commercial activity to allow for certain types of activity to be undertaken (e.g. education). Further to this, if any payment was taken for the activity liability would defer to general occupiers’ liability and duty of care (as required by the Occupiers Liability Act 1984).

Another point raised was the need for clarity around the liabilities attributed to access authorities when giving permission for events. There was concern that this was not currently clear, and the principle of reduced liability should also extend to public bodies that would potentially be involved

in facilitating permission or payment. Taking these points into account, the recommendation to Welsh Government is as follows:

Recommendation: Welsh Government should develop guidance outlining how ‘commercial activity’ is to be defined once any reforms to access law have been made, including if/how proposals to further reduce occupier’s liability for ‘by right’ activities would apply. This should give a clear indication to landholders and access authorities of their liabilities for those activities, and how this is affected by requirement of permission or payment.

Discrepancy of rights between types of access

Whereas ‘commercial activity’ is specifically outlined in the CRoW Act, under public rights of way (PROW) legislation, there is no exclusion of commercial activities under the statute itself. One issue that was raised with this current position is that there is no mechanism to require permission for ‘larger’ commercial activities on PROW, for instance sporting challenges and events in areas where there may be concern about conflict with other users or impact on the environment. There was also a concern that the varying way rights apply make it difficult to communicate to users.

To address these two issues, it was proposed that PROW and CRoW rights for commercial activity are harmonized by referring both to a definition outlined in an access code. Legal advice suggests that it could be possible that an access code could apply uniformly to all land covered by access rights by referencing the applicable legislation under which the rights are granted. This would require the production of a code that is more firmly connected to rights of access. The following weighting of support was shown for this:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 1 | 1 | 1 | 3 |

There was significant concern from the Expert Group about this suggested approach. The primary concern centres around the unintended consequences of making changes that will affect PROW rights, particularly where these could influence rights on the wider highway network. Whereas the reason for suggesting these changes is to enable more effective management of certain commercial activities (e.g. organised events), the impact of restricting commercial activity across the network could create more problems than it solves. There was also concern raised about the nature of PROW in urban areas and possible effects it would have to businesses that have traditionally used those routes, the example given was peddlers (e.g. ice-cream sellers) using bridleways.

Although the mechanism was deemed unsuitable, there was an acknowledgment that uncoordinated commercial sporting and challenge events can have a significant impact on landholders and public bodies. In reflecting these points, we consider this proposal need to be reframed to focus more on the specific issue that needs to be addressed.

Management of sporting and challenge events

The Option Analysis phase registered concern that there was not currently a mechanism to restrict sporting and challenge events on PROW (as outlined above). This was an issue as event organisers were choosing to use a more limited number of PROW routes where they did not need to ask permission, causing additional damage to the sites and making managing events harder for landholders and access authorities. Concern was also raised that PROW management mechanisms do not provide for the effective management of sporting and challenge events. It was noted that there are currently limited powers to install event signage, to provide checkpoints, to facilitate for vehicle recovery, no ability to manage other public rights

users without formal closure, and that events need to adhere to definitive routes although the route on the ground may differ. In considering this concern, a suggestion was made to the Expert Group that PROW legislation could be changed to require access authority approval for any 'large organised event'. The following weighting of support was shown for this:

| Land Managers | Recreational Users | Public Sector | Total (n=9) |
|---------------|--------------------|---------------|-------------|
| 2 | 2 | 1 | 5 |

The Expert Group had mixed feelings about this proposal. There was an acknowledgment that there is an issue to be addressed, with concern about the size and frequency of events happening at honey pot sites in the summer months. There was also concern about the impact these events have on the environment and the safety and enjoyment of other users. Landowner representatives voiced welcome for a system to be put in place to manage organized events on PROW. However, significant questions were raised about how this would be accomplished, particularly considering the possible 'knock on effect' on other PROW use as outlined in the section above.

Two other issues were raised, one was the complexities of trying to define a 'large organised event', and the administrative burden that a general duty to approve would put on access authorities. Setting a fixed figure to define a 'large organised event' was deemed problematic as it could be accidentally exceeded. The example given was an informal ramblers group meeting where no caps are put on numbers but where rights and liabilities may be affected if the group size goes over the given number. There was also a question here about how a fixed figure would account for the nature of the activity (foot, bike, horse) or any spectators. The issue about access authorities' role in providing permission is centred on the requirements of the process. It was felt that there would be an assumption that access authorities would have undertaken full view of associated issues (e.g., risk), consulted with relevant landholders and provided a suitable appeals mechanism.

In considering the points raised it became clear that a blanket duty on access authorities, facilitated by a general adaptation of rights on PROW, would be both problematic and disproportionate to the localised nature of the issue. Therefore, a more targeted approach to addressing these issues is required. The central issue remains that there is currently not a mechanism that can require event organisers to seek permission to use public rights of way to host events (except for cycle races on bridleways, which are entirely prohibited).

Recommendation: Welsh Government should explore what powers it can give local highway authorities to identify specific high use / high impact PROW sections and require permission to be sought for hosting sporting and challenged events.

General comments

A note was raised that recommendations only considered areas on PROW or open access land, whereas commercial activity also happened in other areas (such as on/in water bodies). This was in recognition that the scope of ARAG was for these forms of public access but that a wider discussion may be initiated at some time. There was also a plea that careful consideration is given to the consequences of making changes to the status quo when there could be significant unintended consequences on livelihoods. A more general point about the process flagged concern that the draft recommendations presented to the Expert Group were too unspecific to give them confidence in providing support. The fear was that the indication of support would be applied to an alternative recommendation that would not be favoured by of the Expert Group.

Appendix A - Tables of Revised Option Key Elements

Reform 1A(i) Key Elements Table

| Ref No. | Revised 1A(i) required key element for outline option selection proposal | Considerations with key element |
|---------|--|--|
| 001. | <p>Amend Countryside and Rights of Way Act 2000 (CRoW) Schedule 2 legislation for non-coastal access land to allow for additional recreational activities on current access land as per Policy Intent:</p> <ul style="list-style-type: none"> cycling, horse riding, hang gliding and paragliding; <p>and on CRoW waters (excluding reservoirs):</p> <ul style="list-style-type: none"> non-mechanically propelled vessels; bathing / swimming | <p>Assumes that the Senedd holds the power referred to in section 44(3) of the CRoW Act.</p> <p>Legal advice required on if this change can be enacted on land dedicated under CRoW section 16.</p> <p>Legal advice required on how this interacts with Forestry Commission (FC) Bylaw 648 which precludes the use of watercraft on FC land.</p> <p>Reform could be implemented by removing the requirement for relevant authorities (RAs) to have the consent of landowners for the relaxation of restrictions from Schedule 2, paragraph 7(1).</p> |
| 002. | <p>Existing CRoW mapping would apply [i.e. no requirement to re-map CRoW access, as access land mapping was only according to defined types of land – mountain, moor etc].</p> | <p>This option does not apply to land covered by CRoW section 15 land as the rights of access are provided under other legislation.</p> |
| 003. | <p>CRoW legislation would apply, including:</p> <ul style="list-style-type: none"> Rights of access [including mapping - see above] Exclusions and restrictions (E&Rs) regime Means of access (Chapter III) | <p>CRoW section 33 guidance would need to be reviewed to ensure it covered higher rights (and any applicable 1B reform).</p> <p>Welsh Government (WG) would need to seek legal advice over whether CRoW Part I Chapter III (Means of Access) gives the power for an access authority (AA) to improve access to access land within access land (for example across internal fences). If not, legislative reform should provide for this.</p> |
| 004. | <p>Apply an access code to define rights and responsibilities.</p> | <p>Whilst there is broad support for a code and education/promotion of it, no broad consensus has been reached on the form it should take – non-statutory, statutory without sanctions (as is currently the case under</p> |

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| | | <p>section 20 of the CRoW Act) or statutory with sanctions.</p> <p>It should be noted that Reform 1A could proceed using current legislation for responsible recreation guidance and codes, with suitable revisions to text.</p> |
| 005 | [Key element omitted for option selection stage] | |
| 006. | Legislation to allow accessibility improvements of access furniture, such as gates and stiles. All furniture to meet accessibility standards, such as BS5709 standard, when replaced. | Any changes could be incorporated into legislation clarifying CRoW Part 1 Chapter III (see above). |
| 007. | New Open Access symbol for on the ground signage (e.g. waymarking). The new design needs to incorporate all users. | <p>A symbol doesn't need to be incorporated into legislation but does need to be standardised.</p> <p>Ordnance Survey and other cartography companies to be informed that different CRoW rights apply in Wales.</p> |
| 008. | Agri-environment funding to be made available for access enhancements and supporting infrastructure. | A post-Brexit reformed agricultural funding scheme could support enhancement of practical access to, and within, access land. |
| 009. | [Key element omitted for option selection stage] | |
| 010. | Changes are communicated in Wales - and England, especially in relation to cross-border impact. | A communication plan will be important when implementing any reform to raise awareness and understanding of the new access (this will include revising CRoW related access guidance and information). |
| 011. | Reduced occupiers' liability to recreational users would apply to higher rights by virtue of existing CRoW access legislation. | <p>This is currently the case as CRoW section 13, paragraph 4(a) reduces liability of all entering land under CRoW.</p> <p>WG may wish to reduce liability further, such as to the level provided for on coastal access land in England by section 306 of the [England] Marine and Coastal Access Act 2009 (MACA) and/or by reducing the liability owed by the keeper of animals, for example, by an amendment to CRoW section 13.</p> <p>It would be preferable to apply the same level of occupiers' liability in both reforms 1A and 1B.</p> |

Reform 1A(ii) Key Elements Table

| Ref No. | Revised 1A(ii) key element for outline option selection proposal | Considerations with key element |
|---------|---|---|
| 001. | <p>Access authorities (AAs) to have powers to:</p> <ul style="list-style-type: none"> Carry out an assessment of the suitability for higher rights of defined Countryside and Rights of Way Act 2000 (CRoW) access land within their areas Relax CRoW Schedule 2 restrictions of higher rights for areas of defined CRoW access land assessed as suitable | <p>AAs could be required to assess areas of CRoW access land in their areas (so the power becomes a duty) to better ensure wider application of rights.</p> <p>There is a significant resource issue for this work to be undertaken.</p> <p>Enactment could be made by altering CRoW Schedule 2, paragraph 7(1).</p> |
| 002. | <p>Powers to define in regulations:</p> <ul style="list-style-type: none"> Suitability assessment criteria for higher rights access to apply to access land Assessment processes and how it is applied (including defining an 'area of access land' for assessment purposes) Process requirements for determining the relaxation of Schedule 2 for higher rights | <p>Regulations or methodology could determine suitability and assessment process also responsible bodies.</p> <p>Determination process would require provision for: consultations, representations, determination and appeals.</p> <p>Statutory consultees to be specified in the regulations. Local access forums would have discretion to advise on any aspect of the process as part of their existing role and functions.</p> |
| 003. | [Key element omitted for option selection stage] | |
| 004. | [Key element omitted for option selection stage] | |
| 005. | [Key element omitted for option selection stage] | |
| 006. | CRoW exclusions and restrictions (E&R) regime would continue to apply. | <p>Guidance to NPAs issued under CRoW section 33 would need to be reviewed to ensure it covered higher rights (and any applicable 1B reform).</p> <p>Restrictions of higher rights could start at the point of enactment or once the affect has been seen.</p> |

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| 007. | Landowner/management resources. | <p>There would need to be AA resources for assessment and potential other costs such as wardening, practical management and monitoring of impact.</p> <p>WG would need to seek legal advice over whether CRoW Part I Chapter III (Means of Access) gives the power for the access authority (AA) to improve access to access land within access land (for example across internal fences). If not, legislative reform should be implemented to allow for this.</p> <p>Welsh Government (WG) would need to take legal advice about the implications of selectively defining areas of CRoW access land for higher rights, notably any compensation requirements.</p> |
| 008. | CRoW mapping duty and associated processes continue to apply. Mapping depiction should differentiate between rights associated with different CRoW areas | Would also require liaison with Ordnance Survey and other mapping companies. |
| 009. | CRoW section 19 powers to provide associated signage; new higher rights open access symbol/logo for waymarks and signage; unaffected areas to continue with existing signage and waymarks | Standardise design for new waymark disks, access point signs and directional signage for access land with higher rights. Guidance about use by AAs. |
| 010. | Change CRoW Schedule 2 for higher rights as per policy intent for any assessed access land areas | WG could consider a flexible approach to assessing and determining suitability allowing variations of higher rights applied to areas e.g. only cyclists and/or horse riders. |
| 011. | [Key element omitted for option selection stage] | |
| 012. | [Key element omitted for option selection stage] | |
| 013. | Revise CRoW powers to allow enhancement of means access to and within access land for higher rights so as to be applicable to CRoW access land generally. Would be applied at discretion of AA. | WG would need to seek legal advice over whether CRoW Part I Chapter III gives the power for the AAs to improve access to access land within access land (for example across internal fences). If not, legislative reform should be implemented to allow for this. |
| 014. | 'Enhanced' access by suitability, considerations could include <ul style="list-style-type: none"> - Impacts of recreational pressure - Accessibility of land | NB: powers for regulations to define matters such as assessment criteria and methodology is provided in 002 |

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| | - Demand for access | |
| 015. | Reduce further the CRoW section 13 level of occupiers' liability for legitimate users of CRoW access land. | Options include: – reduced liability stays during E&R; – further reduce occupiers' liability on par with that afforded by section 306 of MACA for coastal access land in England. – reduce further the occupiers' liability due to injury caused by livestock? It would be preferable to apply the same level of occupiers' liability in both reforms 1A and 1B. |

Reform 1A(iii) Key Elements Table

| Ref No. | Revised 1A(iii) key element for outline option selection proposal | Considerations with key element |
|---------|---|--|
| 001. | Amend Countryside and Rights of Way Act (CRoW) to provide powers for access authorities (AAs) to define linear routes/corridors of CRoW access land to which higher rights for equestrian and cyclists apply. | Welsh Government (WG) would need to seek legal advice about the implications of selectively defining corridors of CRoW access land for higher rights, notably any compensation requirements This is a high resource option for both access authorities (AAs) and potentially compensation costs. Reform could be made by altering CRoW Schedule 2, paragraph 7(1). |
| 002. | Powers for AAs to define CRoW higher rights routes would be applicable to all existing access land designated or dedicated under CRoW. Higher rights to be applied to identified corridors would be part of defining process and subject to the AA to determine. Include presumption for Least Restrictive Access (LRA). Powers for regulations to set process of defining new higher rights corridors including AA discretionary consideration, application, assessment of proposed route, determination of proposed route. | Requiring AAs (so the power becomes a duty) to assess areas for higher rights could ensure wider application of reform. Consider using route definition process used for England Coast Path under Marine and Coastal Access Act 2009 [but not apply National Trail designation]. Discretion could be given to AAs to apply rights only for cyclists or only for equestrians' rights. Local access forums would have discretion to advise on any aspect of the process as part of their existing role and functions. Further detailed developed of option processes, assessment criteria and methodology (etc) would be needed. |

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| | <p>Proposal/assessment process to define areas to which new higher rights could be applied including:</p> <ul style="list-style-type: none"> - Proposal by application [e.g. by an individual, LAF]; or - Proposal by and at discretion of AA - Assessment of proposal against set criteria - Consultation requirements - Recommendation - Determination by CRoW AA - Implementation of route [including means of access to and within land] <p>Criteria to be defined in regulations could include demand/need, route characteristics [including dimensions of corridor] existing access rights, physical characteristics, nature/heritage conservation.</p> | |
| 003. | <p>Exclusions and restrictions (E&Rs) restrictions to CRoW routes to include presumption of onward travel and to allow variation of route or provision of alternative route for such onward journeys.</p> | <p>CRoW section 33 guidance would need to be reviewed to ensure it covered higher rights (and any applicable 1B reform).</p> <p>The process for varying a route on CRoW access land for an E&R would also need to be developed and may need to follow similar processes to the original definition of the route.</p> <p>Not all routes will be through routes e.g. they may be to a viewpoint.</p> <p>Implementation of alternative route could be by amending CRoW Schedule 2 Paragraph 7(2)(b) so that the Relevant Authority (RA) or AA could specify a period of time (assuming Schedule 2, paragraph 7(1) is amended as per key element 001).</p> |
| 004. | <p>Review and amend CRoW Part I Chapter III if necessary, to provide powers for AA to facilitate the means of access to and within access land for higher rights users [and for people with mobility problems] where necessary</p> | <p>Retain CRoW Part I Chapter III as it is if legal interpretation is they are already suitable; amend if powers are not currently available. WG may wish to consider if it should be a duty to provide such guidance.</p> |



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| | <p>Powers for Natural Resources Wales (NRW) to provide guidance and advice about the type of provision for facilitating higher rights and for considering Least Restrictive Access.</p> | |
| 005. | <p>Apply access code to define rights and responsibilities. Provision of resources to develop and support code, including information, education and promotion for people in Wales and visitors.</p> <p>Welsh Government, Natural Resources Wales, and all Access Authorities to have a duty to promote the code.</p> | <p>Whilst there is broad support for a code and education/promotion of it, no broad consensus has been reached on the form it should take – non-statutory, statutory without sanctions (as is currently the case under S20 of the CRow Act) or statutory with sanctions. It should be noted that Reform 1A can proceed without this being resolved.</p> |

Reform 1B(i) Key Elements Table

| Ref No. | Revised 1B (i) key element for outline option selection proposal | Considerations with key element |
|---------|--|---|
| 001. | Amend CRoW to introduce a duty for the Senedd and NRW to secure a coastal margin for spreading room associated with a coastal route | <ul style="list-style-type: none"> This element is equivalent to the duty in section 296 of MACA. |
| 002. | Duty for NRW to produce a coastal access scheme for implementing provisions, including defining of coastal margin and 'coastal route'; in preparing or revising a scheme NRW must consult relevant interests | <ul style="list-style-type: none"> This element emulates sections 298-299 of MACA. The coastal access scheme in England provides the detailed methodology for defining, designating and recording the coastal margin and coastal route |
| 003. | A coastal route defined as a long-distance walking route (LDR) using amended the National Parks and Access to the Countryside Act, 1949 (NPACA)) legislation. Allow for the Wales Coast Path (WCP) to be incorporated as 'coastal route' | <ul style="list-style-type: none"> MACA section 302 'Long-distance routes' (applicable in England only) inserted section 55A's 'Proposals relating to the English coastal route' into NPACA. This requires Natural England to prepare a report proposing the designation of the England Coast Path as a long-distance route as set out in the 1949 Act, as amended |
| 004. | Apply MACA section 306 to reduce occupiers' liability for users of coastal access rights | <ul style="list-style-type: none"> MACA section 306 'Occupier's liability', which applies in England only, introduced to the Occupier's Liability Act 1984' section 6AA, adding reduced liability for physical features (whether of the landscape or otherwise) on coastal access land It would be clearer to have the same level of occupiers' liability applied to all CRoW access land (at the coast and elsewhere). |
| 005. | Provision for roll back of coastal route specified | <ul style="list-style-type: none"> This is provided for by MACA's section 302 'Long-distance routes' inserting into the 1949 Act s55B 'Route subject to erosion' |
| 006. | Provision for management of coastal margin and coastal route | <ul style="list-style-type: none"> Statutory provisions for managing coastal access are within MACA, notably Schedule 20, and apply to [CRoW] 'access authorities' and the 'appropriate countryside body' [NRW if translated to Wales]; also allows for provision of funding by the countryside body to implement coastal access. MACA provisions (see Schedule 20) would supplement existing powers in |

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| | | CRoW to allow for the management of coastal access |
| 007. | Duty for 'access authorities' to ensure least restrictive access (LRA) wherever possible. Associated powers for improvement and management of accessible infrastructure to and within coastal margin and for coastal route | <ul style="list-style-type: none"> This duty could be included in legislation and could be extended to others with access responsibilities, such as NRW CRoW sections 34-38 should be reviewed for adequacy to provide for accessibility improvements to and within coastal access land and amended if needed A new least restrictive access duty would be additional to Equalities Act requirements and has resource implications |
| 009. | Procedures set out for defining and mapping the coastal margin (spreading room and coastal route) including methods, processes and consultation requirements. | <ul style="list-style-type: none"> The 'coastal access scheme' provisions (in CRoW section 3A introduced by MACA) provides the means to set out detailed methods and processes for defining the coastal margin (see key element 002) – including consultation requirements 'Coastal margin' is made up of 'spreading room' and the 'coastal route'. The coastal route is mapped. Spreading room is defined as seaward of the coastal route rather than being mapped, CRoW sections 4-11 'Maps', and 1949 Act section 51 'General provisions as to long-distance routes', amended where required, should adequately provide for mapping of the coastal route. |
| 010. | CRoW exclusions and restrictions (E&Rs) regime – modified to ensure continuity of access to the coastal margin, including the coastal route | <ul style="list-style-type: none"> Amendment to E&Rs provisions would remove the right of owners and others to use <u>CRoW section 22</u> '28-day discretionary exclusions and restrictions'. Exclusions and restrictions by <u>application</u> would be available to occupiers Where WCP/coastal route is on a defined PROW it is 'excepted land' and could not be subject to CRoW exclusions and restrictions |
| 011. | Review and amend definitions of 'excepted land' in CRoW Schedule 1 as they apply to coastal access land | <ul style="list-style-type: none"> MACA 2009 amended excepted land definitions in CRoW Schedule 1 e.g. to ensure continuity of coastal route and coastal access land. |
| 012. | Recreational code –modification of Countryside Code and other responsible recreation guidance to include coastal access | <ul style="list-style-type: none"> Subject to selected approach to recreation codes across access reforms as a whole. |

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| 013. | Rights apply only to those on foot | <ul style="list-style-type: none"> Subject to approach taken with reform 1B and reform 1A |
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N.B. <https://www.legislation.gov.uk/ukpga/2000/37/section/3A>

Reform 1B(ii) Key Elements Table

| Ref No. | Revised 1B(ii) key element for outline option selection proposal | Considerations with key element |
|---------|--|--|
| 001. | Use section 3 of the Countryside and Rights of Way Act 2000 (CRoW) to allow defined coastal land to be mapped as access land for open air recreation on foot | <ul style="list-style-type: none"> CRoW section 3 gives Senedd Cymru a power to extend open access to include 'coastal land' by order and to make any necessary consequential amendments |
| 002. | Develop definitions of coastal land to which CRoW rights (on foot) would apply. Include foreshore, coastal cliff, dunes, flats, beaches, coastal heath | <ul style="list-style-type: none"> The named coastal land types in this 002 key element are already included in wording of CRoW section 3. However, there are section 3 powers to include coastal land of any description Section 3 coastal access land types should be reviewed, and detailed requirements defined within new regulations (see also 003) |
| 003. | CRoW mapping regulations amended to reflect change – including defining land parcels and inland boundary of coastal access land | <ul style="list-style-type: none"> Mapping regulations in CRoW would need to be reviewed and amended as appropriate to enable coastal land to be mapped as CRoW open access e.g. determining the inland boundary of coastal access land CRoW sections 4-11 'Maps' (and associated regulations) reviewed and amended as needed should adequately provide for this |
| 005. | Reduce liability owed by landholders to users of coastal access rights in line with that provided in England's Marine and Coastal Access Act 2009 (MACA) | <ul style="list-style-type: none"> See section 306 of MACA For clarity and consistency, it is preferable to make occupiers' liability provisions the same on all CRoW access land |
| 006. | CRoW exclusions and restrictions regime amended to account for coastal access specific requirements | <ul style="list-style-type: none"> CRoW sections 21-33 'Exclusion or Restriction of Access' (E&Rs) reviewed Retain E&Rs by application; do not provide for section 22 closures by notification on coastal access land |
| 007. | Review and redefine CROW Schedule 1 'excepted land' to ensure applicability to coastal context | <ul style="list-style-type: none"> MACA included amendments to CRoW Schedule 1 'Excepted Land for Purposes of Part I' in relation to implementing coastal access in England that can generally inform a review and amendments for the 1B reform. |
| 008. | Extend powers in CRoW to allow for management of access within | <ul style="list-style-type: none"> CRoW sections 34-39 'Means of access' already makes provision for the |

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| | coastal access land including boundary crossings - for recreational and land management purposes & applying a least restrictive access (LRA) approach | <p>management of access to CRoW land, including boundary crossings. However, the applicability of the powers to provide crossings across internal boundaries (such as walls and fences) is unclear</p> <ul style="list-style-type: none"> • Reform should include a specific requirement to apply a least restrictive access approach to access management. • The reform should provide for facilitation of improved coastal access and onward journeys |
| 009. | Introduce a statutory access code covering rights and responsibilities, to include specific provisions for coastal access; appropriate public bodies to have duty to promote the code | <ul style="list-style-type: none"> • Widen duty to promote access code to include other public bodies, as appropriate |
| 010. | Rights to coastal access land apply only to those on foot [CRoW as now] | <ul style="list-style-type: none"> • Subject to a decision about whether or not to apply higher rights to coastal access land • Application of higher rights could be implemented as part of Reform 1A or separately via Reform 1B (see option 1B(iii)) |
| 011. | CRoW coastal access land shown on NRW's website as part of NRW's CRoW mapping and on Ordnance Survey (OS) mapping | <ul style="list-style-type: none"> • NRW is required to show CRoW access land on its website. CRoW coastal access would therefore have to be included • CRoW mapping is provided to OS and the mapping data to the Welsh Government's Lle portal |
| 013. | CRoW definitions of 'commercial activity' and 'events'. Redefine what falls in or outside CRoW rights following review. Starting with consideration of definitions used in Scottish Land Reform Act. Use regulatory powers to allow easier futureproofing. | <ul style="list-style-type: none"> • An ARAG cross-cutting issue. • Any revised definitions should also be considered within other ARAG reforms, most importantly Reform 1A |

Reform 2A(i) Key Elements Table

| Ref No. | Revised 2A(i) required key element for option selection proposal | Considerations with key element |
|---------|--|--|
| 001. | Legislation amended to apply by statute rights for cycling and horse-riding on public footpaths across | <ul style="list-style-type: none"> • Consider further how rights for commercial activities apply to public rights of way (PROW) and |

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| | Wales [using a Countryside Act 1968 section 30-type provision] | can better align with how they apply to CRoW access land |
| 002. | Legislation [along lines of Countryside Act section 30(3)] to specify local highway authority and other's maintenance obligations on public footpaths is not changed by the reform | <ul style="list-style-type: none"> Therefore, applying cycling and horse-riding rights to public footpaths does not increase the duty to maintain public footpaths beyond those that currently apply |
| 003. | Mapping regulations for Definitive Map & Statement of PROW amended to reflect change of rights. | <ul style="list-style-type: none"> Depiction through other mapping sources would also need to reflect changes (e.g. Ordnance survey) |
| 005. | Reduced occupiers' liability to be applied to public rights of way and better harmonised with the level of occupiers' liability applied for CRoW access land | <ul style="list-style-type: none"> Legal advice needed on if and how occupiers' liability owed to recreational rights users on PROW can be reduced A cross-cutting matter in ARAG reforms as whole is if and how to better harmonise occupiers' liability for those exercising PROW & CRoW rights |
| 006. | A duty and associated powers given to local highway authorities (LHAs) to consider modifying legal limitations (infrastructure) to allow use by all applicable rights (including cycling and horse riding) when making new authorisations for or replacing existing infrastructure on public footpaths and other PROW. Local highway authorities would have to have regard to the need to limit illegal access when facilitating accessibility improvements. | <ul style="list-style-type: none"> The least restrictive access principle should be applied in making authorisations and changes to infrastructure on footpaths. Existing requirements when authorising structures, such as to have regard to land management needs should remain The duty should not require local highway authorities to systematically review all existing legal limitations on their PROW networks. |

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| | | <ul style="list-style-type: none"> Improving the accessibility of existing legal limitations on footpaths should be eligible for sustainable land use payment schemes. |
| 007. | <p>Legislation should provide powers for LHAs to restrict or exclude access to manage or prevent impacts of use on public footpaths for specified reasons (including for land management, nature and heritage conservation, health and safety). A least restrictive approach to the application of restrictions should be required. The restrictions should be open to application, consultation and have an appeals process.</p> | <ul style="list-style-type: none"> Legislative mechanism will need to be determined (could include revised traffic regulation order (TRO) process or new approach) and have flexibility to apply to different classes of users where justifiable Consider interaction with ARAG reform 2B |
| 008. | <p>Provide LHAs with powers to upgrade signage and waymarking of footpaths with cycling and horse-riding rights, including the power to place signage for reasons other than direction finding.</p> | <ul style="list-style-type: none"> Legal advice should consider the adequacy of existing powers and duties and thus what reforms may be required |
| 009. | <p>Embed clause or caveat for regulations to specifically outline responsible horse riding and cycling rights use, in guidance or other mechanism. This would include a “hierarchy of users” on paths and defined “formal agreements” on sections of path that were deemed to be problematic. Failure to comply could trigger exclusion of user.</p> | <ul style="list-style-type: none"> Develop a statutory mechanism (e.g. similar to way Scottish Outdoor Access Code is laid out or CRoW section 2 (4)) that deals with individual users’ misuse, resulting in their personal loss of rights and parallel enforcement mechanism See also Key Element 010 |
| 010. | <p>Place duty on Natural Resources Wales/Welsh Government (NRW/WG) to issue a code of conduct for shared used PROW, and a duty on WG/NRW and all Access Authorities to promote understanding of it.</p> | <ul style="list-style-type: none"> Ensure consistent with associated responsible recreation reforms |

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| 011. | Communication of access rights (including in mapping, a communications campaign and within [revised] countryside code, responsible recreation information and guidance work) | <ul style="list-style-type: none"> • A matter for implementation stages of reform |
| 012. | Rules around commercial activity on PROW and CRoW reviewed and better aligned in relation to cycling and horse-riding rights. Clearer definitions of commercial activity in relation to access rights developed and communicated. | <ul style="list-style-type: none"> • Ensure consistent with related matters in other access reforms • Specific provision for 2A reform legislation |

Reform 2A(ii) Key Elements Table

| Ref No. | Revised 2A(ii) required key element for option selection proposal | Considerations with key element |
|---------|---|---|
| 001. | Legislation to apply rights to cycle and horse-ride on public footpaths across Wales using a Countryside Act 1968 section 30-type approach [see Reform option 2A(i) for those required key elements] | [See footnote 3 above re. section 30 approach] |
| 002. | Local highway authorities (LHAs) to have powers to assess public footpaths for unsuitability for higher rights use [with flexibility to exclude different types of user rights] – no new or additional powers to restrict or exclude footpath rights. | <ul style="list-style-type: none"> • Discretionary power to assess unsuitability • Legislation should allow for LHAs to assess public footpaths in advance of new rights coming into effect |
| 003. | Powers for Welsh Government (WG) to make regulations setting out unsuitability assessment process including to provide guidance from WG to LHAs as to process and criteria for assessment and | Process to include rights making of representations to LHA about unsuitability assessment |

| Ref No. | Revised 2A(ii) required key element for option selection proposal | Considerations with key element |
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| | associated requirements (e.g. for consultations) | |
| 004. | Powers to set framework for unsuitability assessment criteria | <ul style="list-style-type: none"> • Unsuitability assessments need to provide fair processes. Legal advice will need to inform specific key elements required (e.g. provision for appeals) • Criteria could include infrastructure; widths of current paths; public safety; volume of use – current and expected |
| 005. | Local highway authorities to have duty to consult specified organisations when carrying out unsuitability assessments. | <ul style="list-style-type: none"> • Local highway authorities' approach to dealing with representations about assessing the unsuitability of routes should be defined • Local highway authorities should set out their approach to implementing this reform in ROWIPs [subject to 3B reform] <p>Local access forums' (LAFs) have scope and discretion within their existing role and functions to advise on a LHA's approach (here and elsewhere in the process) e.g. to advise on the LHA's approach to the appraisal of the network, or on specific cases</p> |
| 006. | Discretionary powers for LHAs in making decisions: LHAs should be able to rule out certain routes for cycling and/or horse-riding rights | Local access forums (LAFs) – see comment with 005 above |
| 007. | <p>Inclusion of appeals as part of appraisal process – this should initially be decided by the LHA.</p> <p>Provision made for appeals for complex or unresolved issues would move to the Planning Inspectorate for decision</p> | |
| 008. | Discretionary powers for LHAs to review the unsuitability of public footpaths for cycling and horse-riding | <ul style="list-style-type: none"> • Re-appraisals should generally be undertaken if there are material changes to circumstances rather than based on fixed periods |

| Ref No. | Revised 2A(ii) required key element for option selection proposal | Considerations with key element |
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| | rights – for those routes excluded permanently or allow for review [see right] | |
| 009. | Powers for the local highway authorities to consider and amend structures on public footpaths – would be needed to appraise routes designated as unsuitable (i.e. unsuitable path furniture (e.g. gates or stiles) cannot be sole reason for determination of unsuitability) | <ul style="list-style-type: none"> Where proposing changes to path furniture, include requirement that local highway authorities' consult with owner of structures, including consideration of subsequent upkeep Resource implications, including costs, will be proportionate to the use of powers and need to be considered |
| 010. | Define commencement time – e.g. how and when new rights come into force | <ul style="list-style-type: none"> Potential phasing of enabling legislation, such as making of unsuitability assessments, before rights generally applied Put in place resources and supporting work e.g. for unsuitability assessments and to provide for practical works Delay to the implementation of rights should be a time-bounded period |
| 011. | LHAs to receive more powers to sign along routes where complexity of access provision is increased, e.g. <ul style="list-style-type: none"> Advisory signs where access rights have changed and/ or are restricted (through designation as unsuitable) Type and placement of sign would be LHA decision | |

Reform 2A(iii) Key Elements Table

| Ref No. | Revised 2A(iii) required key element for option selection proposal | Considerations with key element |
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| 001. | Legislation to provide powers for local highway authorities (LHAs) to designate individual public footpaths | |

| Ref No. | Revised 2A(iii) required key element for option selection proposal | Considerations with key element |
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| | for horse-riding and cycling rights to be applied. | |
| 002. | Powers for regulations to set out process of designation, including: <ul style="list-style-type: none"> - criteria to assess footpaths - provision for assessment of impacts (e.g. to land management, nature conservation/ wildlife, health and safety (H&S) considerations etc) | <ul style="list-style-type: none"> • Legal advice needed to determine if compensation payments for designated footpaths are required as part of processes • Further work will be required to define criteria and assessments needed at legislative preparation stage • However, note assessment criteria should include check of path's legal status using available LHA records e.g. definitive map and statement (DM&S) and any to be determined processes |
| 003. | Legislation should provide for simple and time limited processes | <ul style="list-style-type: none"> • To deliver benefits, processes would need to be relatively easier and quicker than existing public path orders for creation of paths |
| 004. | Make legislative provision for consultation and appeals process | <ul style="list-style-type: none"> • LAFs can input within terms of existing advisory role both to the strategic approach and with specific cases |
| 005. | Definitive map (DM) regulations amended to reflect change | <ul style="list-style-type: none"> • Develop details at drafting of legislation |
| 007. | Additional powers for LHAs to modify limitations on paths (infrastructure) to facilitate access for higher rights and for accessibility reasons | <ul style="list-style-type: none"> • Additional powers for LHAs/ national park authorities to modify limitations to use, such as infrastructure and surfacing |
| 009. | Powers for LHAs to restrict or exclude different rights through a legislative mechanism for mitigation or | <ul style="list-style-type: none"> • Powers applicable to all damaging impacts (not just higher rights use) |

| Ref No. | Revised 2A(iii) required key element for option selection proposal | Considerations with key element |
|---------|---|--|
| | <p>prevention of damaging impacts on the public footpath or other rights of way.</p> <p>Landholders to be able to apply to LHA for a restriction or exclusion for impacts on specified land management (e.g. agriculture and forestry, nature conservation, wildlife, health and safety considerations etc)</p> | <ul style="list-style-type: none"> • A statutory code mechanism to take enforcement actions against irresponsible behaviour (links to responsible recreation section of Cross-cutting Theme Analysis Report) • Potential for Traffic Regulation Order (TRO) provisions to be developed for this element (e.g. consider Road Traffic Regulation Act 1984 sections 22-22A provisions) • 2B provisions could provide sufficient scope to address this need |
| 010. | <p>Consider new term /definition for the footpaths designated with higher rights; also, provision of revised statutory signage</p> | <ul style="list-style-type: none"> • Consider: <ul style="list-style-type: none"> ○ Amending footpath terminology; or ○ rename designated footpaths as 'public paths' <p>Legislative provisions should retain DM&S and public mapping record as footpath while depicting additional rights that apply</p> |
| 011. | <p>Recreational code – modification of Countryside Code, therefore advisory guidance only</p> | <ul style="list-style-type: none"> • Provision of statutory code is being considered separately (see Considerations for KE 009 above) • Amendment of Countryside Code • Note need for other relevant information & guidance to reflect changes |

Reform 2B(i) Key Elements Table

| Ref No. | Revised 2B(i) required key element for option selection proposal | Considerations with key element |
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| 002. | <p>New legislation provisions:</p> <ul style="list-style-type: none"> power for registered landholders to notify of short-term temporary diversions of footpaths and bridleways powers for the Senedd to issue regulations to govern process and associated requirements | <ul style="list-style-type: none"> Closures would not be provided for – they would require use of existing provisions such as traffic regulation orders (TROs) Regulations for all relevant matters in following key elements e.g. accepted reasons for diversions; templates for notifications and requirements for providing alternative diversion routes |
| 003. | <p>Local high authorities (LHAs) should receive all relevant information packaged within notification from landowners:</p> <ul style="list-style-type: none"> Checklist (reasons for diversion, of what and why) Map/plan of route diversion Alternative route available LHA ability to check frequency of diversions and question need | <ul style="list-style-type: none"> Regulatory powers provided by key element 002 (see above) |
| 004. | <p>Registration by landholders of land for which notifications for temporary diversions can be made.</p> <p>Associated requirement for LHAs to keep a register of landholders and manage the register:</p> <p>Registration/ signup required to use the simpler temporary diversion process</p> <p>Provides landownership/ plans</p> <p>LHAs can identify land parcels and ownership and have on record details of previous diversions and reasons</p> | |
| 005. | <p>Option for temporary diversion of specified users:</p> <p>Exclusion from defined PROW for certain types of user (but still allowing other types access) if deemed an</p> | <p>Provision of permissive alternative routes remains an option [not needing legislative reform]</p> |

| Ref No. | Revised 2B(i) required key element for option selection proposal | Considerations with key element |
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| | <p>issue at certain periods. E.g. restriction of dogs during lambing periods/ wildlife protection</p> <p>Requirement for provision of an alternative route</p> | |
| 006. | <p>Grievance process allowing a more transparent [challengeable] process.</p> <p>Available to users/public</p> | |
| 007. | <p>Regulations to set out requirements for notices including:</p> <p>to be date stamped [start and end dates]</p> <p>Onus on landholder to ensure notices are in place and removed on date stated</p> <p>LHA enforcement procedure to prompt this, ensuring diversions are not in place longer than necessary</p> | To be covered by regulatory powers in key element 002 |
| 008. | <p>Communicating notifications:</p> <p>Duty for landholders to notify LHA - online</p> <p>LHA duty to notify by electronic notice and communication to [e.g.]:</p> <p>User groups</p> <p>Public</p> <p>Others (as specified)</p> <p>Landholders:</p> <p>On-site notice and plan required regardless of closure length and duration</p> | To be included in regulatory powers in key element 002 |

| Ref No. | Revised 2B(i) required key element for option selection proposal | Considerations with key element |
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| 009. | Outdoor responsible recreation and access code[s] revised as appropriate | <p>All relevant responsible recreation and access codes and guidance to be revised as part of implementing option</p> <p>Associated information campaign raising awareness of users, land managers and others about the provisions and potential for route changes at ground level</p> |

Reform 2B(ii) Key Elements Table

| Ref No. | Revised 2B(ii) required key element for option selection proposal | Considerations with key element |
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| 001. | Legislation for an enforceable statutory access code to enable this option (which would have both mandatory and advisory elements) | |
| 002. | <p>Define (in guidance within code) circumstances of short-term, temporary diversion(s).</p> <p>Clearly defined circumstances in code for users/landowners/ managers to make diversions and limits to use and agricultural land management reasons</p> | <ul style="list-style-type: none"> • Qualifying criteria for using the statutory code- based temporary diversion (e.g. purposes, duration, suitable alternative route provision, extent of PROW affected etc) • Guidance would require landholder and stakeholder input (e.g. National Access Forum Wales) • Option is not to replace provisions for longer term or permanent diversions or for certain types of work affecting a public path (e.g. not works changing route) |
| 003. | <p>Define reasonable alternative route</p> <ul style="list-style-type: none"> - Safe and reasonable provision - Equivalent access to existing route - Notices, signage - Liabilities that apply | <ul style="list-style-type: none"> • Liability around diversions and related needs further legal consideration at drafting stage |
| 004. | Communication of within Code | |

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| | <ul style="list-style-type: none"> - What to expect included in the code - Cascading the code to all - Providing information about all aspects to the public, access managers and landholders | |
| 005. | Development of an overall Statutory Code – for all CRoW/PROW Access | <ul style="list-style-type: none"> • Consider also the merits of improved framework for permissive alternative routes using elements of this approach although permissive routes don't meet concerns of land managers about liability of alternative routes • Other PROW processes would be used for any temporary diversions where qualifying criteria for this process are not met |
| 006. | Code to define details about limits to the extent and duration of temporary diversions | <ul style="list-style-type: none"> • Details such as duration, frequency of use, reasons for use [etc] would need to be defined in the Code. • Existing powers would have to be used for closures (e.g. traffic regulation orders (TROs)) • Existing powers (e.g. TROs) would have to be used for diversions not provided for by this option |
| 007. | Communication of temporary diversion: <ul style="list-style-type: none"> - Signage template and notices (to be part of code) - Dedicated social media presence about diversions | <ul style="list-style-type: none"> • Include standardised templates for notices and directional signage • Social Media accounts for public to 'go to' for all statutory code information. |
| 008. | Grievance process through local highway authority <ul style="list-style-type: none"> - For users who have a grievance or complaint over short-term diversions using this procedure - Penalties or an order to be provided for in the statutory code process or directly linked to it | <ul style="list-style-type: none"> • Likely to increase burden on stakeholders |

Reform 2B(iii) Key Elements Table

| Ref No. | Revised 2B(iii) required key element for option selection proposal | Considerations with key element |
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| 001. | <p>Define [drawing on draft legislative proposals in England] a new section 135A of the Highways Act 1980:</p> <ul style="list-style-type: none"> - Local highway authorities (LHAs) to have new powers to create temporary diversions for specified land management reasons: [agricultural and forestry related] works and agricultural management of livestock. - Determination and making of temporary diversions by LHA; - Diversions duly made to have status of temporary PROW with associated powers [for LHAs], rights and responsibilities - Limitations to use - Regulations for process | <ul style="list-style-type: none"> • Closures are not provided for. These would require use of existing provisions such as traffic regulation orders (TROs) • 2B development will need to consider the decision taken with 2A reform • Powers for LHA to divert onto neighbouring land with agreement • Some limitations could be set in primary or secondary legislation and could include limited number, duration and extent of such diversions/ closures within any land holding or neighbouring land holding at any one time and within a fixed period • Discretionary powers for LHA would provide greater flexibility • Current TROs use is low – scale of use of this provision is difficult to assess |
| 002. | <p>Regulatory powers to define process and criteria, including:</p> <ul style="list-style-type: none"> - form and making of applications, - assessment criteria and processing of applications; - decision criteria [including assessment of alternative routes e.g. impact on network/onward journeys; health & safety; least restrictive access (LRA) etc]; - online applications [and notices – see below] to LHA; - standards for provision of alternative routes [including connectivity; form of notices/signage | <ul style="list-style-type: none"> • Regulatory approach would provide greater flexibility in setting detailed requirements (see consideration above about limitations in terms of duration, extent etc) • A centralised application [and notification] portal for Wales could be developed in future, potentially linked to Reform 3A, but is not essential to progressing the reform as proposed. [Potentially used for range of public access processes - with links to Reform 3A, integrated access map] |
| 003. | <p>Provision of 14-day notice period before any work is carried out.</p> | <ul style="list-style-type: none"> • Exact notice period required could be consulted on. |

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| | <p>Notice required to be given online through the LHA's website</p> <p>LHAs to provide start/end date stamped standard notices/signage for landowners / managers to put up on site.</p> | |
| 005. | <p>Online application process to reduce the administration time for the LHA, including templates/forms to create all required legal paperwork online.</p> <p>Online notification of diversions – reducing costs of advertising.</p> | <ul style="list-style-type: none"> • Provision of 2 step outline and confirmation stages could provide greater flexibility for land managers to use provisions • Alternatives to online processes will be needed to meet equality duties |
| 006. | <p>The temporarily diverted PROW would have same liabilities for LHA and landholders.</p> | <ul style="list-style-type: none"> • Further legal consideration of liability implications needed to confirm this is reasonably achievable • LHAs could accept liability if inspect diversion routes prior to coming into force but has resource implications for LHAs and possible charges to landholders • Liability of diversion route could be set as the same as for permissive ones - would decrease attraction of process for landowners and make similar to permissive alternative routes • Further reduction in liabilities for PROW in line with CRoW Act [or as per MACA England] and these provisions requires further legal advice |
| 007. | <p>Duty of the landholder to provide suitable alternative route including infrastructure and to put up notices, signs / temporary fencing (in the instances of stock control) to mark out the diversion.</p> <p>Duty of the LHA to provide date stamped, authorised standard notices and signage for the landholder to use and post notices with map of affected route on LHA website.</p> | <ul style="list-style-type: none"> • KE 002 refers to the powers to provide regulations to set out requirements, such as the provision of acceptable alternative routes and standardised templates for notices and signages |
| 008. | <p>Provisions will need to take account of potential cycling and horse-riding rights applied to footpaths (subject to outcome of Reform 2A proposals). Enabling legislation with details provided through regulations would be</p> | <ul style="list-style-type: none"> • Alternatively, a review process of the powers could be included to ensure they can be altered, if necessary. |

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| | more flexible and readily revised in future. | |
| [New] 009. | Information and guidance about the new provisions provided for the public, land managers and other interests; information included within responsible recreation codes | <ul style="list-style-type: none"> • Element necessary to support implementation of the option • Ensure link to 3A reforms as far as relevant to approach taken |

Reform 3A(i) Key Elements Table

| Ref No. | Revised 3A(i) required key element for outline option selection proposal | Considerations with key element |
|---------|--|---------------------------------|
| 001. | <p>Legislation introduced:</p> <p>Defines responsibility for a single body to produce and publish online data and map[s] of specified public access in Wales.</p> <p>Each public body [as now] to have responsibility for their own public access records i.e. local authorities, national park authorities, Natural Resources Wales [others could be specified]</p> <p>Public bodies required to produce their records in suitable digital spatial format and provide to single body</p> <p>Use mechanism to aggregate data in one data portal online (e.g. Welsh Government's Data Map Wales) and allow people and organisations to freely use, subject to license for appropriate use.</p> <p>Resources identified to meet cost of producing digital spatial data to specified schema and consistent standard</p> <p>Data layers to include on single map and data portal: PROW, CRoW access land, National Trails, Wales Coastal Path and accessible Common Land.</p> <p>Powers to include other recreational access data within map and enter into agreements for data provision [e.g. National Cycle Network; promoted</p> | |

| Ref No. | Revised 3A(i) required key element for outline option selection proposal | Considerations with key element |
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| | recreational routes [PRRs]; access furniture data] | |
| 002. | <p>Legislation to specify relevant spatial data to be open-source and free to use by the public, also for commercial and non-commercial purposes [within basic Terms & Conditions].</p> <p>Putting data together as a single source.</p> | <p>Retain the following alternative (subject to further expert input and understanding of copyright and licensing issues and input from Ordnance Survey):</p> <p>No free use if constrained by mapping copyright issues</p> <p>Major commercial data re-use to be chargeable – with the potential of some income subsidising the costs</p> <p>Data subject to licensed terms and conditions</p> |
| 003. | <p>Regulatory powers for setting Wales' access data standards and other necessary processes</p> <p>This must include what, how, when [etc] each data layer provider supplies their data (e.g. via Web Feature Services) to the single body for sharing through a data portal and for online integrated map</p> | |
| 004. | Legislation will not specify that the integrated map is a legally conclusive map (i.e. definitive in law) | |
| 005. | Liability for the data to stay with the data provider | |
| 006. | <p>Requirement for single body to publish online and promote data/map.</p> <p>Legislation will define 'promote' to include promotion of use to other organisations as well as to the public</p> <p>Power for data providers to promote the Wales online mapping/ data</p> | |

| Ref No. | Revised 3A(i) required key element for outline option selection proposal | Considerations with key element |
|---------|--|---|
| 007. | Accompanying information with data and mapping to ensure clarity as to rights and responsibilities that apply | Subject to other Access Reform Advisory Group reforms regulations amended for how PROW and access land are represented on maps. |
| 008. | Legislation to specify that all organisations and public bodies involved in the provision of data and publication of the map to have formalised mechanism for communications Powers to include technical solutions for reporting of issues and crowd sourcing information | |
| 009. | Powers to include other data layers meeting specified data and quality standards | |
| 010. | Duty for highways authority to digitally record and map all newly authorised s147 structures Incremental duty for existing access infrastructure on public access [on definitive map and statement and via s147 authorisations] to be digitally recorded and mapped | |

Reform 3A(ii) Key Elements Table

| Ref No. | Revised 3A(ii) required key element for outline option selection proposal | Considerations with key element |
|---------|--|---------------------------------|
| 001. | Duty for specified public bodies (local authorities, national park authorities and Natural Resources Wales (NRW)) to produce their definitive records of PROW/ CROW mapping in suitable digital format and provide this data to single body Duty for single body to collate and integrate definitive digital spatial data | |



| Ref No. | Revised 3A(ii) required key element for outline option selection proposal | Considerations with key element |
|---------|--|---------------------------------|
| | <p>from specified public bodies into one conclusive map</p> <p>Use mechanism to aggregate data in one data portal online (e.g. Welsh Government's Data Map Wales) and allow people and organisations to freely use, subject to license for appropriate use.</p> <p>Resources identified to meet cost of producing digital data to specified format and consistent standard</p> | |
| 002. | Single body with duty to publish integrated mapping online | |
| 003. | Legislation provides that resulting map would be legally conclusive as to the information it contains | |
| 004. | Regulations to specify technical data requirements for data layers | |
| 008. | <p>Incremental duties and outputs in relation to 001. To allow for progress depending on local authority readiness.</p> <p>Responsibility to survey, record, publish and maintain definitive map and statement is retained by local authority</p> <p>Local authorities to publish own definitive maps online (to common standards)</p> <p>A mapping hub directing people to local authorities or NRW online pages provides Wales's single point of access</p> <p>Publication of an integrated map (using the same definitive data)</p> | |
| 009. | Use technical solutions available to provide 'real time' update of the integrated map from local authorities/NRW data | |

Reform 3A(iii) Key Elements Table

| Ref No. | Revised 3A(iii) required key element for outline option selection proposal | Considerations with key element |
|---------|---|--|
| 001. | <p>Legislate for a not-for profit ‘<i>access promotion organisation/trust</i>’ with purpose of providing information for and to promote enjoyment of the outdoors.</p> <p>Statutory duty for access promotion organisation to promote specified access information to people of and visitors to Wales.</p> <p>Powers to promote access information to people outside Wales in accordance with organisation’s aims</p> <p>Legislation to specify relationship of organisation/trust to existing organisations with role in provision of information and promotion</p> <p>Legislation to set out accountability of organisation</p> | <p>New alternative option from Analysis report commentary: Legislation relating to the existing public sector data providers amended to give them a specific responsibility for promotion of enjoyment of the outdoors, together with statutory guidance, to clarify how they should integrate. Similar to the national park authorities’ purpose to: <i>Promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public.</i></p> |
| 002. | <p>Duty on NRW/Local Authorities to provide specified public access data to access promotion organisation Data to include:</p> <p>Defined PROW</p> <p>Defined CRoW access land (including Exclusions & Restrictions)</p> <p>Designated National Trails & Wales Coastal Path</p> <p>Others to be specified in regulations</p> <p>Discretion to include others as meet organisation’s overall purpose</p> <p>Powers to include other recreational access data within map and enter into agreements for data provision with other bodies that provide long term public access to the outdoors (e.g. National Trust, Canal and Rivers Trust, etc)</p> | |

| Ref No. | Revised 3A(iii) required key element for outline option selection proposal | Considerations with key element |
|---------|--|---------------------------------|
| 003. | Regulatory powers to define how the specified public access data [see above] should be recorded, spatially represented and provided to the access promotion organisation and in turn to the public [and others where required] | |
| 004. | Specified duty to provide the mapping information and data for the public online for free; free data use and re-use subject to licence Require fee for commercial re-use of data and mapping above a certain value. | |
| 005. | Legislation to provide ability for organisation to generate income, secure grants etc in support of statutory purposes Ability to charge/derive income for additional services outside statutory requirement | |
| 006. | Legislation would allow for inclusion of other public access layers to be included on the mapping or as data | |
| 007. | Respective liabilities for data maintainer and data publisher need to be defined. | |
| 008. | A uniformed way to publish and promotion of the information service; campaign of providing the information (publicising) | |
| 009. | Others also promoting (duty to) as voluntary organisation. | |

Reform 3B(i) Key Elements Table

| Ref No. | Revised 3B(i) required key element for outline option selection proposal | Considerations with key element |
|---------|--|--|
| 001. | <p>Duty for local authorities to produce an integrated recreational access plan (IRAP) – the core to be modelled on current Rights of Way Improvement Plan (ROWIP) requirements [see below]</p> <p>Powers for national park authorities to produce a plan in agreement with constituent local authorities.</p> | |
| 002. | <p>Legislation to specify the elements new integrated access plans must include:</p> <ul style="list-style-type: none"> - assessment of public needs - assessment of specified public access - the actions to be taken to improve access - period to produce plan and for subsequent reviews (current 10-year cycle) - plan consultation and publication requirements - delivery plan requirements (currently in guidance 1-3 years) - monitoring and evaluation requirements | |
| 003. | <p>Specify public access covered by Plan: local PROW, CRoW access land, cycle paths, promoted recreational routes, National Trails, Wales Coast Path; plus, others subject to guidance [see below]</p> | |
| 004. | <p>Amend/repeal Rights of Way Improvement Plan (ROWIP) Local Authority duties – provide transitional provisions for move from ROWIPs to IRAP</p> | |
| 005. | <p>Powers for the Senedd to issue statutory guidance for IRAP production</p> <ul style="list-style-type: none"> - guidance modelled on current ROWIP guidance. [Identify which parts | <p>To consider the balance between defining processes in guidance or</p> |

| | | |
|------|--|--|
| | of ROWIP to be retained for integrated plan guidance.] | legislation e.g. plan stages, published plan format, sections and content |
| 006. | <p>Guidance [see ROWIP guidance] would need to include further details about:</p> <ul style="list-style-type: none"> - timetable - stages/processes - assessments required - additional consultation requirements - Local Access Forums (LAFs) role - topics/content to be included Plan - optional model/template for required outputs – Plan itself plus assessments; map of access [see also Reform 3A] action plan/map; - Ability for local authorities to include additional relevant content e.g. relating to community identified needs, priorities and actions [relates also to Area Statements, Place Plans processes]. - Detailed interpretations of provisions e.g. for assessing public needs | Specify role of LAFs in light of Welsh Government Group 1 Reform 27 'Role of LAFs' |
| 007. | Guidance to specify authorities to consult relevant bodies and cross-reference other plans as appropriate e.g. local authorities in relation to relevant traffic management issues as part of plan production and include as appropriate. | |
| 008. | Funding support or scheme for improvements. | |

Reform 3B(ii) Key Elements Table

| Ref No. | Revised 3B(ii) required key element for outline option selection proposal | Considerations with key element |
|---------|---|---|
| 001. | Duty for local authorities (LA) to produce revised and extended Rights of Way Improvement Plan (ROWIP) Powers for national park authorities (NPAs) to produce Plan for their areas in agreement with constituent LA. In such cases, the area in the NPA would be excluded from the local authority plan(s). | Consider whether there is a better name for the plan to reflect wider scope |

| Ref No. | Revised 3B(ii) required key element for outline option selection proposal | Considerations with key element |
|---------|---|--|
| 002. | Amend/repeal of the duty for ROWIPs – with transitional arrangements included | |
| 003. | <p>Legislation to specify access to be included in Plans, which would include:</p> <ul style="list-style-type: none"> - local rights of way - cycle routes, including NCN in area - access to and within designated CROW access land [including Reforms if implemented] - Unclassified Roads (UCRs) important for recreation and enjoyment of outdoors - Publicly accessible National Trust land - Active Travel Routes of importance to recreation and enjoyment of the outdoors - managed publicly accessible green and blue space | <p>More focused: Specified content could be more narrowly focussed by giving more discretion/flexibility about including important recreational assets</p> <p>To define relationship between access included as part of Integrated Access Map (see Report 3A) and that included in the plan</p> <p>Outputs from National Access Forum Wales ‘Access to Water Sub-group’ to be considered regarding inclusion of any blue space</p> |
| 005. | <p>Legislation to specify organisations required to be consulted in the planning process (based on current requirement in section 61(1) of CRoW).</p> <p>Duty on specified public sector partners to contribute to the process. Legislation to define meaning of ‘contribute’.</p> <p>Discretionary power for (Non-governmental organisations) NGOs to contribute as appropriate to the process</p> <p>Guidance to set out specific role and requirements for duty to consult local access forums (LAFs) in producing Plan, or all relevant LAFs for joint-Plans</p> | <p>Consider expanding on current list to include other relevant organisations including non-governmental organisations (NGOs) and health organisations, public service boards (PSBs), community councils.</p> <p>Specify role of LAFs in light of Welsh Government’s Proposal 27 ‘Role of LAFs’ reform.</p> |
| 006. | <p>Duty for Plan to include:</p> <ul style="list-style-type: none"> • an assessment of the current and future needs of the public for outdoor recreational access; • a strategic statement of how the access will be improved; | <p>Consideration of use of mapping and Integrated Access Map (3A) in relation to assessments and planned improvement projects.</p> <p>Consideration of duties in relation to other reform areas. Duty to assess</p> |

| Ref No. | Revised 3B(ii) required key element for outline option selection proposal | Considerations with key element |
|---------|---|--|
| | <ul style="list-style-type: none"> • a 10-year action plan with specific actions for the improvement of access for the public • delivery plan requirements (currently in guidance 1-3 years) • an interim review of the Plans would be required at the end of 5 years. A reviewed and revised plan would have to be produced at the end of 10 years. • Responsibility for leading the actions specified within the Plan stages. | <p>and propose priorities for improvements for higher rights users' needs linked to changes due to ARAG reforms 1A, 1B and 2A in particular</p> |
| 007. | <p>Powers for the Senedd to issue guidance about Plan processes, format and content</p> <ul style="list-style-type: none"> • Timetable • Stages/processes • Assessments required • Additional consultation requirements • Local Access Forums role • Topics/content to be included Plan • Model/template for required outputs – Plan itself plus assessments; map of access [see also Reform 3A] action plan/map • Requirements for how to address Wellbeing of Future Generations Act and support for Area Statements to be included in Plan topics/content; similarly, the other plans to be considered | <p>To consider whether there should be a duty to refer to other plans such as Wellbeing Plans to support integration with other policy areas beyond recreational access.</p> |
| 008. | <p>Guidance to identify parts of Local Authorities (LAs) to be involved: such as Highway Authority, Surveying Authority, Traffic Authority, other departments managing other publicly accessible green space/ access within the plan. (Specified according to how they are constituted in law).</p> <p>Duty for LAs to respond to reasonable requests for information from National</p> | |

| Ref No. | Revised 3B(ii) required key element for outline option selection proposal | Considerations with key element |
|---------|--|---------------------------------|
| | Park Authorities (NPAs) for them to get relevant input to their Plans | |
| 009. | Plan duty would apply to all specified access within LA/NPA area. Powers/flexibility to combine with other LAs to produce a joint plan (including with NPAs). NB: Requirement also to consult neighbouring local authorities and NPAs, i.e. those producing Plans. | |
| 010. | Guidance to specify inclusion of work related to maintenance of Definitive Map of PROW; CRoW related mapping [including CRoW Exclusions & Restrictions (E&Rs)]; strategic policies, aims | |
| 011. | No duty to implement but a responsibility to produce an action plan, monitor and report on progress. | |
| 012. | Funding provision for implementation of Plan's access improvements, including linking to future Agri-environment/land management schemes | |

Reform 3B(iii) Key Elements Table

| Ref No. | Revised 3B(iii) required key element for outline option selection proposal | Considerations with key element |
|---------|--|--|
| 001. | Duty for Welsh Government (WG) to produce a strategic plan for improvement, development and strategic promotion of national recreational assets providing a framework for enhancing their support/delivery of Wellbeing of Future Generations objectives. | <ul style="list-style-type: none"> Clarify whether legislation will refer to the Wellbeing Goals or Welsh Government Wellbeing objectives |
| 002. | Powers to specify routes or recreational assets duty applies to and to set standards for the management, quality, improvement of nationally significant recreational routes or areas; enhance linkage between such assets Consideration of inclusion of mapping representation of such routes and areas | |
| 003. | Powers for Welsh Government to determine how they produce the | |



| Ref No. | Revised 3B(iii) required key element for outline option selection proposal | Considerations with key element |
|---------|--|---------------------------------|
| | national plan and/or elements of it including: <ul style="list-style-type: none"> - consulting others, - the plan's governance, - reporting, - plan duration, - timetable to be followed - links to other plans | |
| 004. | Duty would specify assets for inclusion should be regionally significant or national recreational assets/routes. For Welsh Government to determine the assets for inclusion. Such as National Trails; Wales Coast Path (WCP); with discretion as to other recreational routes or areas (see also following bullet), include Welsh Government owned recreational assets | |
| 005. | Plan would be required to include an 'action plan' for improvements and maintaining of standards of specified assets | |
| 006. | Monitoring and reporting requirement as to Plan's implementation and progress Legislation to specify reporting requirement e.g. Welsh Ministers required to issue reports and frequency of reporting e.g. annually (see example of Active Travel Act section 8) | |
| 007. | Resource provided to carry out the duty. | |
| 008. | Synchronise and integrate the national plan with local integrated access plans and specific programmes plans [such as for NTs and WCP]. | |
| 009. | Link between this requirement and reform 3A: specified access for national plan to be included in Integrated Access Map. | |
| 010. | Integrating existing national trail plans with a strategic overview. | |

Appendix B - Recommendations

Recommendations for Reform 1A – Extending the rights to use existing CRoW access land

Potential to deliver 1A reform options within existing provisions in the CRoW Act

Recommendation: Welsh Government should consider the potential to use existing powers within CRoW as the means of delivering their policy intent for reform 1A.

As a minimum the rights of access on CRoW land would be increased for horse riders and cyclists

Recommendation: Welsh Government to decide if it requires all the higher rights outlined in the policy intent to be relaxed as part of the 1A reform. Currently option 1A(iii) only realistically applies to cyclists and horse riders.

The current reasons for applying for, or notifying NRW of, an exclusion or restriction would not change

Recommendation: the reasons for exclusions and restriction are not amended as part of reform 1A. CRoW section 33 guidance should be reviewed in the light of reform 1A being introduced to account for higher rights access to CRoW access land.

The Welsh Government would need to seek legal advice over whether CRoW Part I Chapter III gives powers in relation to improving access within access land

Recommendation: adequate powers should be provided in CRoW for facilitating ‘access within’ access land (as well as ‘access to’ access land) including for higher rights access introduced as part of reform 1A. Government should take legal advice on whether Part 1, Chapter 3 of CRoW already provides the necessary powers for access authorities.

Welsh Government to seek legal advice on other various matters, as detailed in the considerations

Recommendation: legal advice on particular elements as listed in the option tables is sought if that element is to be considered to be taken forward.

Specific differences in the 1A(i), 1A(ii) and 1A(iii) option approaches

Recommendation: Welsh Government should decide if it prefers a blanket or selective approach to the application of higher rights to CRoW open access land.

Recommendation: Welsh Government would need to decide if it wishes for all higher rights users in the policy intent to be covered in any potential reform. If so, option 1A(iii) would need to formally be discounted.

Recommendation: Welsh Government should review and, where necessary, amend how the Forestry Commission Byelaws apply to the Welsh Government Woodland Estate, to avoid contradictions with the 1A reforms introduced.

Cost of the Options

Recommendation: Welsh Government should decide on their preferred option/elements before a more accurate estimate of costs is undertaken. This includes concluding, if either option 1A(ii) or 1A(iii) is chosen, whether compensation costs would need to be included in these estimates.

Option 1A(iii) Exclusion and Restrictions Regime

Recommendation: if option 1A(iii) is progressed, Welsh Government will need to change the regulations for exclusions and restrictions applying on higher rights corridors. This will include amending the statutory time limits to decide applications and providing for onward travel for higher right users.

Reduced liability

Recommendation: a consistent approach to reduced occupiers' liability should be considered for all CRoW access land (including newly defined coastal access land). If option 1A(i) or 1A(ii) is progressed, then discussion about user responsibility versus landowner duty of care needs to be undertaken. As 1A(iii) is, in effect, a pre-assessed corridor the level of reduced liability afforded under section 13 is likely to be adequate.

Equity of access

Recommendation: if 1A(iii) is taken forward a hierarchy of users principle needs to be taken forward. (This is covered in more depth in the [Cross-cutting Themes section](#) below.)

Ecosystem resilience

Recommendation: that the impact on ecosystems in relaxing higher rights is part of any consideration in taking forward reform 1A. This is particularly relevant to option 1A(iii) where higher rights on a corridor is likely to concentrate negative impacts.

CRoW section 15 land

Recommendation: There is no widening of the policy intent for reform 1A to include section 15 land that is not accessible under CRoW.

CRoW section 16 land

Recommendation: To ensure that no preference is given to one category of CRoW access land over another, s16 land should be treated the same as any other access land in regard to the application of higher rights.

Equality, Inclusivity and Accessibility

Recommendation: Welsh Government to consider if all new or replacement access furniture on CRoW access land should be required to meet a stated accessibility standard such as BS5709.

Reservoirs

Recommendation: Welsh Government will need to define what constitutes a ‘reservoir’ (as there is no definition in legislation) and, if they wish to allow access to them, what constitutes a ‘naturalised reservoir’.

Recommendations for Reform 1B – Extension of legislation to include coastal land as CRoW access land

NRW would be required to define coastal access land

Recommendations:

- For the 1B option approach taken forward, review and revise as appropriate for Wales the definitions of ‘coastal land’ as currently defined in legislation (CRoW section 3A for option 1B(i) or section 3 for Option 1B(ii))
- The Development of methodologies and processes should include consultations with key interests
- NRW should be responsible for identifying the land to have coastal access rights

Review the CRoW excepted land categories to ensure they are suitable in a coastal context

Recommendation: In the light of the approach in the MACA Act, CRoW Schedule 1 excepted land should be reviewed to ensure any Reform 1B coastal access provisions for excepted land are fit for purpose in a Welsh coastal context.

Introduce an enforceable statutory access code covering rights and responsibilities, to include specific provisions for coastal access

Recommendation: Inclusion of coastal access within responsible recreation codes is essential and should be consistent with the approach taken in Wales. A programme of information and communications should support the development and implementation of coastal access.

Review CRoW exclusions & restrictions (E&Rs) provisions to ensure they are fit for purpose in a coastal context

Recommendation: Whatever coastal access option is taken forward CRoW exclusions and restrictions provisions should be reviewed in detail to ensure they are fit for purpose in the Wales coastal access context; they will need to support the aim of providing continuity of access and onward journeys.

Means of access legislative provisions

Recommendation: The Part I, Chapter III ‘Means of Access’ (sections 34-39) in CRow legislation should be reviewed to ensure it will enable and facilitate the use and management of coastal access land, including providing for access for onward journeys across internal boundaries and obstacles (including higher rights if applied). The need for the powers for managing coastal access provided by MACA Schedule 20 should also be decided.

Rights and liabilities of owners and occupiers to be reviewed

Recommendation: a consistent approach to reduced occupiers’ liability approach should be applied to CRow access land including newly defined coastal access land. It is preferable that a further reduction in occupiers’ liability is applied following the model of the MACA Act.

Commercial activities and larger scale events

Recommendation: any new definitions of ‘commercial activities’ and ‘larger organised events’ should be drafted and applied to coastal access land – these could be included, for example, either in a revised CRow Schedule 2, or in a new statutory access code, if brought forward.

Specific Differences in the MACA 1B(i) and CRow section 3 1B(ii) option approaches

Recommendation: for the 1B option approach taken forward, review and revise if and as appropriate for Wales the definitions of ‘coastal land’ as currently defined in legislation (CRow section 3A for option 1B(i) or section 3 for Option 1B(ii)).

Define a coastal route

Recommendation: Consideration would also need to be given as to whether the coastal route/WCP would also be branded and promoted as a National Trail.

Costs of the options

Recommendation: Further detailed assessment of the costs of the options should be undertaken to inform decision making. (It should be noted that accurate costings will depend on developing the details of option provisions and also how they are to be implemented).

Provide for roll back of coastal route

Recommendation: if a 1B(i) option approach is taken forward, the provisions in the Marine and Coastal Access Act for the roll back of the coastal route should be adapted and applied to Wales.

Option 1B(iii): defining of higher rights within coastal access land/margin

Recommendation: Government should consider the extension of higher rights to all or any specified ‘CRow access land’, which could include or exclude coastal access land/margin.

If a 1B(i) MACA-type option is taken forward, the higher rights could be selectively applied to the coastal margin: to coastal spreading room, the coastal route or both.

Recommendations for Reform 2A – Application of Higher Rights to Public Footpaths

Extent of resulting rights from 2A options

Recommendation: Option 2A(i) is not a suitable way to implement Reform 2A.

Recommendation: the broad approach to Reform 2A, notably between a selective or network application of rights will need to be decided by Welsh Government. Similarly, Government will need to decide if certain provisions (e.g. assessments of suitability/unsuitability) should be duties applying to the whole network or discretionary powers. The approaches taken will determine the extent of rights that can be expected and resulting implications, including in terms of administrative requirements, benefits, impacts and costs.

Defining legislative provisions as powers or duties?

Recommendation: There should be flexibility within the 2A reform for higher rights to be restricted and also not to be applied to all public footpaths. Sufficient resources will have to be dedicated for the introduced reform powers or duties to be implemented if there is to be extensive assessment of footpaths and making of determinations to apply or disapply rights.

Recommendation: A realistic estimate of the costs of 2A option provisions and required processes should be made once the broad approach has been decided and further details developed (such as whether and in what form compensation and appeals will be part of the provisions).

Recommendation: greater speed and efficiency of proposed reform processes will be needed - compared with existing PROW legal processes – while providing a balance between different interests. Legal advice will be needed to develop such detailed provisions.

Administrative process requirements for 2A options

Recommendation: Welsh Government will need to take legal advice about the adequacy of the core processes proposed as part of the reform option to be taken forward, including those for the assessment process, consultations, appeals and the need for compensation.

Assessment of public footpaths for higher rights

Recommendation: a range of stakeholders should be consulted in developing assessment criteria and processes.

Managing and mitigating impacts

Recommendation: the 2A reform should include provision to:

- Influence and secure responsible use

- Prevent or enforce against irresponsible use; and
- Effectively and efficiently regulate use to mitigate or prevent damaging impacts (e.g. by amendment of traffic regulation order (TRO) powers on PROW)
- Be consistent with measures introduced across ARAG reforms

Costs arising from the 2A options

Recommendation: provision of sufficient funding will be needed to support the administration and implementation of powers and duties provided by Reform 2A and to therefore create and manage new higher rights for cycling and horse riding.

The Status and recording of changes to rights on public footpaths

Recommendation: ‘higher rights footpaths’ will need to be clearly defined and recorded on definitive maps and statements (DM&S). The process for doing so can be considered when drafting the reform legislation.

Accessibility improvements

Recommendation: reform provisions and implementation should ensure there are suitable mechanisms for improvement and subsequent management of public footpaths to make them usable by higher rights.

Recommendation: information and guidance about implementing the reform should emphasise access authorities’ existing Equality Act duties and least restrictive access principles and good practice.

Information and planning for ‘public footpaths with higher rights’

Recommendation: footpaths with higher rights should be clearly shown on access mapping, including any integrated access map produced through reform 3A, preferably linked to information about the path infrastructure on PROW (such as gates, stiles, steps etc).

Recommendation: as part of reform 2A provision should be made for information, guidance and recreational codes to provide clarity about people’s responsibilities. Enhanced means to take enforce measures against irresponsible use should be provided in a way that is consistent with the wider approach within ARAG.

Recommendation: A local highway authority’s approach to implementing the 2A reform should be included in their statutory plan for improving access [linking to integrated access plans, as outlined in Reform 3B].

Recommendations for Reform 2B – Temporary closures and stock control on public rights of way

The Scope of Reform 2B

Recommendation: the policy intent for Reform 2B needs to clarify the balance wanted between flexible and efficient processes to help landholders better manage their land, and increasing the burdens on the public sector and impacting the public’s use of existing rights of way.

Recommendation: a least restrictive access approach should be applied as part of the 2B reform, as with Countryside and Rights of Way Act exclusions and restrictions.

Recommendation: in developing the 2B reform, limitations for the use of temporary diversion powers should be set. The reform should only provide for temporary closures with provision of an alternative/diversion routes.

Recommendation: to progress with option 2B(ii) a suitable enforceable statutory access code would also have to be progressed, underpinned by legislation and consultation with stakeholders.

Provision of notifications or applications for temporary diversions

Recommendation: detailed provisions about notice requirements and related information will need to be developed for the reform option taken forward, balancing the needs of different interests.

Provision of alternative routes

Recommendation: reform 2B should include regulations for setting standards for the provision of alternative routes, associated notices and signs, taking account of equalities legislation and guidance.

Costs and resources

Recommendation: further assessment of the resource and cost implications should be undertaken once the details of the reform are developed.

Provision of information about temporary diversions

Recommendation: The 2B Reform should allow for provision for digital, online procedures – including adverts, notices/applications and mapping as appropriate. Some off-line procedures would still need to be available for those that cannot use ICT for whatever reason.

Recommendation: Provision should be made in reform 2B for the issuing of information and guidance to raise awareness and understanding about the legislation and its implementation.

Liability for provided alternative routes

Recommendation: Further legal advice about liabilities on provided alternative routes should be sought. Subject to that legal advice and discussion with stakeholders, liabilities arising from the provision of alternative provided routes should rest with landholders.

Monitoring and enforcement of Reform 2B options

Recommendation: Any reform 2B option must provide for and be realistically enforceable by local highway authorities to be workable. There should be a grievance process available to the public and managed by local authorities.

Potential legislative approaches that could be followed

Recommendation: legal advice should be taken about the potential to deliver the 2B reform by adapting and improving existing legislative powers for restricting PROW.

Preferences of the ARAG Expert Group 2 for Revised Reform 2B Options

Recommendation: include further consultation with a cross-section of stakeholders as part of developing further details of the 2B reform.

Recommendations for Reform 3A – Communicating access rights

Purpose of the map

Recommendation: Welsh Government should confirm their intention that the integrated system will be an all-Wales digital map for the collation of records of statutory public access and publicly accessible areas, with the purpose of national record management and as a promotion/information tool for the public.

Recommendation: To enable the greatest level of integration, Welsh Government should explore the potential and value of the map as a national tool for management of physical resources on the ground.

Robustness of legal record

Recommendation: The legal status of the all-Wales digital map will need to be made clear. Further advice will need to be sought so that appropriate systems are used to ensure robustness of digital record as legal record for PROW if progressing option 3A(ii).

Equality and digital accessibility

Recommendation: Incorporate Equality Act 2010 requirements for digital mapping in the reform development to ensure that the final map, and the public access shown on it, is accessible to as many people as possible.

Further legal analysis requirements

Recommendation: it will be necessary for Welsh Government to carry out further legislative analysis of competencies in relation to data under the Government of Wales Act and to take account of copyright, licensing and data protection issues in developing reform 3A.

Existing mechanisms

Recommendation: Welsh Government should carry out a further scoping exercise to identify existing best practice in digital mapping that can inform reform 3A development and technological solutions.

Role and involvement of the Ordnance Survey

Recommendation: Welsh Government should involve the Ordnance Survey Ltd in reform 3A to consider existing copyright and licensing issues and their potential role in reform development and solutions.

Component parts

Recommendations:

- It will be necessary to develop the component parts of the all-Wales integrated access map on a progressive basis. Welsh Government should:
- Develop consistent national standards for digital definitive maps of public access.
- Carry out further analysis to understand the time and resources needed for each authority to be able to deliver the requirement of local digital map to the national standard.
- Carry out further technical analysis of benefits of developing central dataset for public access.

Organisations roles and interdependencies

Recommendation: the duty to produce the map should be allocated to the appropriate public sector authorities and organisations.

Ability to adapt to rapid changes in technology and future enhancements

Recommendation: mechanisms for bringing forward reform 3A should be selected on the basis that they enable ease of updating and flexibility to respond to rapid changes in digital technology, such as including requirements in statutory guidance rather than regulation.

Promoting use of the published map

Recommendation: in bringing forward reform 3A, Welsh Government should set out its intentions for coordinated promotion of the online all-Wales map for public access and for organisations' roles associated with this.

Links to other reforms

Recommendation: recognise opportunities for and maximise the use of the digital map as a tool to support communication of and planning for other reform areas.

Costs and resources

Recommendation: further assessment of the resource and cost implications of reform 3A should be undertaken once the details of the reform are developed; to assess cost of producing digital spatial data to specified schema and consistent standard, the cost associated with role of single body.

Recommendations for Reform 3B – Integrated planning of public access in Wales

Feasibility of local plan reforms

Recommendation: bring forward the reform 3B for local access plans by amending the Countryside and Rights of Way Act 2000 as necessary.

National Park Authorities

Recommendation: the 3B reform should amend the current requirement so that the duty for production of integrated access plan applies to local authorities. National park authorities should be given a power to produce the plan where agreed with their constituent local authorities. Interpretation of the duty should be included in statutory guidance.

Local Access Forums (LAFs)

Recommendation: define the role of LAFs in the production of integrated access plans, in light of any changes occurring as a result of Welsh Government reforms to the role of LAFs.

Statutory Guidance

Recommendation: Develop statutory guidance for integrated access plans to accompany the reform and replace existing statutory guidance.

Integration of access resource

Recommendation: consider opportunities to embed and strengthen integration as part of reform and delivering the policy intent.

Compliance and enforcement of duty

Recommendation: consider how compliance of the new duty can be incentivised and enforced. Ensure transitional arrangements take account of number of authorities that are out of sync with the current statutory timetable.

Related reform areas

Recommendation: In bringing forward reform for integrated access plans, take account of connections with other reform areas to ensure they are integrated.

Recommendations: Cross-cutting Themes

Recommendations for Responsible Recreation

Approaches to drafting a responsible recreation code of conduct

Recommendation: Welsh Government should explore the implications of inserting a new requirement into section 2(1) of the CRoW Act that requires people to “act responsibly, as defined by the Welsh Access Code”, and look for a similar statutory mechanism in PROW law.

Recommendation: If Welsh Government decide that a new code of conduct is required for outdoor access in Wales, it should further explore the application of a Scottish Outdoor Access Code type approach. This would require responsible recreation to be included in access rights, as defined by an access code ratified by the Senedd. Failure to observe the provisions within this code would incur civil sanctions. Furthermore, it should consider how to incorporate some of the strengths identified in the Countryside Code and Highway Code approaches to enhance the effectiveness of any new code as a communications tool. This should include:

- A strong visual identity and brand that can be used in all forms of communication
- Short and long version of the code to balance high level / high impact messaging with more detailed advice, bilingual approach incorporated from the outset
- A clear visual tool that highlights aspects of the code that are enforceable, developed through behavioural insights and design analysis
- A set of drafting and design principles that can be used to develop additional targeted advice for specific user groups
- Clear support from government, public services and all sectors to give it credibility and authority

Recommendation: Welsh Government should only commence work to develop a new code of conduct once all changes to access law have been finalised.

Duty to promote responsible recreation

Recommendation: Welsh Government should include a duty for NRW to ‘promote understanding’ of a public access code of conduct in relevant legislation. It should also give access authorities a duty to ‘promote understanding’ of that same code of conduct. This duty should be accompanied by funding and carried out with the support of Visit Wales.

Recommendation: Welsh Government and the Outdoor Learning sector should highlight responsible recreation messages and an associated code of conduct as part of developing the Ethical and Informed Citizens of Wales and the World enabled by the Curriculum for Wales.

An open and transparent process

Recommendation: if a new code of conduct is to be created in Wales (whichever approach is taken), WG need to make the drafting process as open and transparent as possible, including the commitment of resources it would take to deliver and achieve this. This should include:

- Clarity in the needed changes to access law - before drafting is started
- A paid independent/neutral chair, and drafting group that is representative of the 3 pillars who are also paid for this work
- A formal consultation process, including clear timeframes and agreed digital response system
- Paid expert advice (behavioural insights, language, design and communications)
- Defined process for sign off or ratification

National campaign that utilises behavioural insights

Recommendation: WG should fund a national responsible recreation information and education campaign that utilises behavioural insights. This should include:

- Evaluation of key issues (include assessment process for considering impact against likelihood of being able to address) and associated audiences
- Analysis of the factors that influence behaviour associated with the key issues
- Assessment of the effectiveness of available interventions (e.g. education, information, enforcement, incentivisation) to address each key issue
- Using the above, development of a communication strategy that outlines a high-level approach used to promote responsible recreation
- Provision of resources within Welsh Government, and its key partners, to facilitate the delivery of the communication strategy

Methods of enforcement

Recommendation: access authorities should be given clear and consistent powers to enforce Responsible Recreation, and sufficient resources and capability to do this. This would include:

- Considering the identity of relevant existing access authority staff as being part of a ‘Wales Recreation Wardens Service’, recognised across all authorities

- Training and regular engagement with other visitor facing bodies (e.g. Coastguard, mountain rescue teams, police rural crime departments) to build consistency in messaging and approach
- Guidance on the application of enforcement measures, linked to the responsible recreation and education campaign

Consistency across all forms of access

Recommendation: Welsh Government should identify where responsible recreation ‘rules’ could be applied more consistently across all types of access and, where possible, try and harmonise these definitions to simplify the communication of rights and responsibilities. For example, these could include the control of dogs, and a consistent ‘hierarchy of users’ principle (as proposed for the new Highway Code) and ‘share the space’ approach

Duty to consider in plans and maps

Recommendation: access authorities should have a duty to consider responsible recreation in the development of any access plans or maps at a strategic level and provide sufficient resources to achieve this.

Recommendations for Equity, Inclusivity and Accessibility

Clarification of access authority duties

Recommendation: Welsh Government support the promotion of existing guidance to ensure access authorities adopt a proportional and consistent approach to delivering their existing duties under the Equality Act. This would include encouraging access authorities to consider and consult all relevant protected characteristics user groups before access improvements are implemented.

Suitability assessment for higher rights

Recommendation: Any suitability assessment developed will need to refer to current least restrictive access guidance for access authorities and land managers to ensure a fair and transparent process that is consistent across Wales. This would include a principle that user groups representing those with protected characteristic would be consulted.

Recommendation: Welsh Government should initiate research into the relative effectiveness of available BS5709 standard Gaps, Gates and Stiles designs in the control of stock.

Requirement to provide information on path condition

Recommendation: Developments being considered by Welsh Government in Reform 3A should include a requirement for access authorities to share the data that they collect on the condition of the PROW network, including any barriers to onward travel, through the national digital portal. This would include considering the information requirements of those with protected characteristics in the categorisation of the data collected.

Access Authority staff training

Recommendation: Welsh Government should support the development of a standardised package of training and guidance on how to apply least restrictive access principles to public access. This should be made available to all relevant access authority staff, LAFs, land managers and interested recreation user groups.

Recommendations for: Roles of Local Access Forums in ARAG Reforms

Status of LAFs after any reform in access law

Recommendation: LAFs' role in ARAG reforms should continue (as now) to be as advisory bodies, notably to appointing authorities, local highway authorities, relevant authorities and Welsh Government.

Role of the LAF in any suitability assessment processes

Recommendation: LAFs should have advisory roles in any suitability assessment process specified in a similar way to their current role in legislation e.g., for access improvement plans, CRoW exclusions and restrictions.

Review of LAF membership

Recommendation: LAF membership be reviewed by appointing authorities and their LAFs in the light of access reforms being introduced.

Developing new guidance for LAFs

Recommendation: NRW/WG should develop guidance for LAFs and access authorities about ARAG reforms when introduced to support LAFs in their advisory role. The guidance should be regularly reviewed and revised as necessary.

Recommendations for Commercial Activities and Events

Definition of commercial activity in the CRow Act

Recommendation: Welsh Government should explore how to redraft Schedule 2 (t) of the CRow Act to ensure that commercial activities carried out for 'educational purposes' are exempt of the current restrictions. How 'educational purposes' are defined needs careful consideration, consultation and accompanying guidance.

Permission, Payment and Occupiers' Liability

Recommendation: Welsh Government should develop guidance outlining how 'commercial activity' is to be defined once any reforms to access law have been made, including if/how proposals to further reduce occupier's liability for 'by right' activities would apply. This should give a clear indication to landholders and access authorities of their liabilities for those activities, and how this is affected by requirement of permission or payment.

Management of sporting and challenge events

Recommendation: Welsh Government should explore what powers it can give local highway authorities to identify specific high use / high impact PROW sections, and require permission to be sought for hosting sporting and challenged events.

Appendix C - Access Reform Advisory Group Members

ARAG Expert Group 1 members:

| Name | Organisation |
|--|--|
| Arwel Evans | Isle of Anglesey County Council |
| Elfyn Jones | British Mountaineering Council |
| Hugh Craddock | Open Spaces Society |
| James Nevitt | Ministry of Defence |
| Jonathan Hughes | National Trust |
| Kieran Foster | Cycling UK |
| Mark Weston | British Horse Society |
| Pete Rutherford | Snowdonia National Park Authority |
| Rachel Lewis-Davies | National Farmers' Union Wales |
| Rhian Nowell Phillips [Rachel Evans from August 2020] | Countryside Alliance |
| Richard Ball | Brecon Beacons National Park Authority |
| Sophie Dwerryhouse | County Land and Business Association |

ARAG Expert Group 2 members:

| Name | Organisation |
|--|--|
| Angela Charlton | Ramblers Cymru |
| Anthony Richards | Pembrokeshire Coast National Park Authority |
| Chris Dale | Swansea Council |
| David Shiel | Clywydian Range Area of Outstanding Natural Beauty |
| Duncan Dollimore | Cycling UK |
| Gareth Owen | Ceredigion County Council |
| Kate Ashbrook | Open Spaces Society |
| Mark Weston | British Horse Society |
| Nick Fenwick | Farmers Union Wales |
| Rachel Lewis-Davies | National Farmers' Union Wales |
| Rhian Nowell Phillips [Rachel Evans from August 2020] | Countryside Alliance |
| Sophie Dwerryhouse | Country Land and Business Association |

ARAG Expert Group 3 members:

| Name | Organisation |
|-------------------|---------------------------------------|
| Beverley Penney | Open Spaces Society |
| Charles de Winton | Country Land and Business Association |
| Tom Hutton | Cycling UK |

| | |
|--|--|
| Bernard Griffiths | Farmers Union of Wales |
| Rachel Lewis-Davies | National Farmers' Union Wales |
| Rhian Nowell Phillips [Rachel Evans from August 2020] | Countryside Alliance |
| Rebecca Brough | Ramblers Cymru |
| Lisa Lloyd | Brecon Beacons National Park Authority |
| Mark Weston | British Horse Society |
| Gwyn Teague | Vale of Glamorgan County Borough Council |
| Caroline Ferguson | Carmarthenshire County Council |
| [No representative attended] | Data Cymru |

ARAG Steering Group Members

| Name | Organisation |
|-----------------|---|
| Adrian Walls | Wales Rights of Way and Access Management Working Group / Denbighshire County Council |
| Ben Seers | Welsh Local Government Association |
| Eifion Jones | Welsh National Park Authorities / Brecon Beacons National Park Authority |
| Helen Lewis | Welsh Government |
| Jayne Carter | Natural Resources Wales |
| Jont Bulbeck | Natural Resources Wales |
| Joe Roberts | Natural Resources Wales |
| Sarah Smith | Welsh Government |
| Simon Pickering | Welsh Government |

Observers and facilitators for 1 or more ARAG workshop sessions

| Name | Organisation |
|-----------------|-------------------------|
| Alison Roberts | Natural Resources Wales |
| Carys Drew | Natural Resources Wales |
| Chris Heaps | Natural Resources Wales |
| Dafydd Thomas | The Wellbeing Planner |
| Helen Lewis | Welsh Government |
| Jayne Carter | Natural Resources Wales |
| Jont Bulbeck | Natural Resources Wales |
| Joseph Roberts | Natural Resources Wales |
| Rachel Parry | Natural Resources Wales |
| Rob Owen | Bro |
| Sarah Smith | Welsh Government |
| Simon Pickering | Welsh Government |
| Sue Rice | Bro |

Appendix D - List of outputs for programme

The output documents from each of the stages, and information such as the Steering Group meeting minutes, can be found at: <https://gov.wales/access-reform-advisory-group>

Produced documents:

- 3 Policy Intent documents – completed December 2019
- 3 Problem Identifications Papers – completed February 2020
- 3 Option Identification Papers – completed March 2020
- 3 Option Selection Papers – completed August 2020
- 7 Option Analysis Reports – completed January 2021 (including a separate cross-cutting theme report)
- 1 Final Advice Report – completed May 2021
- Glossary of Terms – completed May 2021

Steering Group Meetings:

December 2019 – April 2021 *Due to Covid meetings went to virtual in April 2020 [March 2020 was missed]*

Expert Group Meetings:

Joint Meeting held in January 2020.

This meeting was attended by **27** representatives from recreation users, public sector and land manager organisations.

x3 Problem Definition Expert Group meetings in February 2020 – facilitated by BRO Facilitation Services.

Attendees: Group 1 = **12**, Group 2 = **12**, Group 3 = **11**

x3 Option Identification Expert Group meetings in March 2020 – Reforms 1 and 2 were held face-to-face but Reform 3 was the first of the expert groups to be held virtually due to Covid-19.

Attendees: Group 1 = **12**, Group 2 = **10**, Group 3 = **8**

x6 Analysis Options Expert Group meetings in September/October 2020 – a meeting held virtually with an external facilitator [Wellbeing Planner Facilitation Services] for each of the reform sub-areas, e.g. 1A, 1B, 2A etc.

Attendees: Group 1A = **9B**, Group 1B = **9**, Group 2A = **12**, Group 2B = **12**, Group 3A = **10**, Group 3B = **11**.

x6 Option Selection Expert Group meetings in January/February 2021 – a meeting held virtually with an external facilitator [Wellbeing Planner Facilitation Services] for each of the reform sub-areas, e.g. 1A, 1B, 2A etc.

Attendees: Group 1A = **9**, Group 1B = **9**, Group 2A = **11**, Group 2B = **11**, Group 3A = **9**, Group 3B = **9**

x2 Cross-cutting Theme Workshops (February 2021) – volunteers were asked from the already established Expert Group members to attend these two workshops. There were **9**

at each of the two workshops, 3 from each of the sectors; land managers, public sector and recreation user for balance.

Internal meetings (NRW Staff/Team)

Face-to-face Team meeting (Shrewsbury) on 24th February 2020 to discuss facilitation of Problem Definition Expert Group meetings.

Various facilitator meetings within the OA&R Team to discuss how Expert Groups will run; **17** meetings/sessions to prep for all virtual meetings.

NRW Stakeholder/colleague briefings; 16th April 2020, 13th, 14th and 15th May [*Call for Evidence stage*]. Plus, 2 = **6** in total.

OA&R Team meetings/briefings: **24** with all specialists within the team.

OA&R Team cross-cutting meetings: **7** with only members of the team with interest in the cross-cutting theme work.

Legal Questions [Browne-Jacobson]: 19th August 2020, 19th August 2020, 25th September 2020. **3** in total.

Copy editor meetings [Working Word]: 10th August 2020, 7th September 2020, 9th September 2020, 22nd October 2020. **4** in total.

Local access forum meetings: 24th September 2020 [*to discuss LAF involvement with ARAG reform work*]. **1** meeting outside of the ARAG work.

Natural England = meetings to discuss MACA.

Welsh Government meetings [*initiated by NRW*]: **8** in total. 2 were held after Expert Group meetings in Builth Wells.

Appendix E - Glossary of terms

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|--------------|--|--|---|
| 1949 Act s51 | 1949 Act section 51 | National Parks and Access to the Countryside Act 1949 section 51 | General provisions as to long-distance routes. National Parks and Access to the Countryside Act 1949 (legislation.gov.uk) |
| ABCP | Anti-social Behaviour, Crime and Policing Act 2014 | | Dog Fouling Anti-social Behaviour, Crime and Policing Act 2014 (legislation.gov.uk) |
| AE | Alternative [key] element | | Suggested additional or 'other' component from the main one to help develop the ARAG reform option further. |
| AL | Access land | Also: CRoW access land or CRoW land | Open access land, under the CRoW Act, consists of open country (mountain, moor, heath and downland) and 'registered common land', which consists of land that is recorded on the official registers held by the commons registration authorities. It also includes areas of 'dedicated land' where owners, such as Natural Resources Wales, have dedicated land as access land. |
| ARAG | | Access Reform Advisory Group | What we do: Access Reform Advisory Group GOV.WALES |
| AS | Agri-environment scheme | Provide funding to farmers and land managers to farm in a way that supports biodiversity, enhances the landscape, and improves the quality of water, air and soil. | e.g. Glastir Sub-topic GOV.WALES |
| AS | Area Statement | Viewed together, the seven Area Statements can be seen as a collaborative response to what is known as the Natural Resources Policy, published by the Welsh | Natural Resources Wales / Area Statements |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|--------------|---|---|--|
| | | Government in 2017, which sets out the key challenges and opportunities for the sustainable management of Wales' natural resources into the future. | |
| ATA | Active Travel Act | Active Travel Act (Wales) 2013 | Active Travel (Wales) Act 2013 (legislation.gov.uk) |
| ATA 2013 s10 | | Active Travel Act (Wales) 2013 section 10 | Duty to exercise functions to promote active travel Active Travel (Wales) Act 2013 (legislation.gov.uk) |
| ATA s8 | Active Travel Act section 8 | Active Travel Act (Wales) 2013 section 8 | Reports by Welsh Ministers on active travel Active Travel (Wales) Act 2013 (legislation.gov.uk) |
| BMC | British Mountaineering Council (BMC) Green Guide to the Uplands. | | Green Guide to the uplands (thebmc.co.uk) |
| BS 7666 | | British Standard 7666 | Guidelines intended for use with BS 7666: 2006 Spatial datasets for geographical referencing Location, location, location – AGI Interview - AGI - The Association For Geographic Information |
| BS5709 | | British Standard 5709 | Quality standard that all organisations are recommended to adhere to for public access structures. The Standard covers gaps, pedestrian gates, bridle gates, kissing gates, dog gates, horse stiles of two kinds, carriage gaps, and step over and flat top pedestrian stiles. |
| BW | Bridleway | | A path or track along which horse riders, cyclist and people on foot have a right of way. |
| C | Call for evidence | | ARAG process that asks stakeholders to comment on elements within each option and supply written evidence to back up these comments. |
| CA 68 s8 | Countryside Act 1968 section 8 | | Countryside Functions of Natural Resources Body for Wales Countryside Act 1968 (legislation.gov.uk) |
| CC | Countryside Code | | Natural Resources Wales / The Countryside Code Family |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|--------------|--|--|--|
| CCMO | | The Access to the Countryside (Coastal Margin) (England) Order 2010 | The Access to the Countryside (Coastal Margin) (England) Order 2010 (legislation.gov.uk) |
| Ch3 Part 1 | Chapter 3 of Part 1 of the Act (sections 34 to 39) | Countryside and Rights of Way Act 2000 Chapter 3, sections 34 through to 39 | Means of access Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CNE | Clean Neighbourhoods and Environment Act 2005 | | Graffiti and other defacement Clean Neighbourhoods and Environment Act 2005 (legislation.gov.uk) |
| CNE | Clean Neighbourhoods and Environment Act 2005 | | Nuisance parking offences Clean Neighbourhoods and Environment Act 2005 (legislation.gov.uk) |
| CR | Coastal route | Linear route at the [English] coast defined by provisions introduced by the MACA in England. | Linear route at the (English coast) to which CRoW access rights apply. The route is defined under the Marine and Countryside Act (2009) and forms part of the coastal margin, is a national trail and referred to as the England Coast Path. |
| CR-19 | Covid-19 Regulations | Legislation under Covid-19 access restrictions. | Coronavirus (COVID-19) Topic GOV.WALES |
| CRoW | Trespass as result of failure to comply with exclusion/restriction. CRoW Act s.2(4). | | CRoW Schedule 2 Restrictions to be observed by persons exercising right of access Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW | | Countryside and Rights of Way Act 2000 | Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW s20 | CRoW section 20 | Countryside and Rights of Way Act 2000 Section 20 | Codes of conduct and other information. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|----------------|---|---|--|
| CRoW s22 | CRoW section 22 | Countryside and Rights of Way Act 2000 section 22 | Exclusion or restriction at discretion of owner and others Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW s23 | CRoW section 23 | Countryside and Rights of Way Act 2000 section 23 | Restrictions on dogs at discretion of owner. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW s24 | CRoW section 24 | Countryside and Rights of Way Act 2000 section 24 | Land management Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW s25 | CRoW section 25 | Countryside and Rights of Way Act 2000 section 25 | Avoidance of risk of fire or of danger to the public. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW s26 | CRoW section 26 | Countryside and Rights of Way Act 2000 section 26 | Nature conservation and heritage preservation. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW s28 | CRoW section 28 | Countryside and Rights of Way Act 2000 section 28 | Defence or national security Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW s4-11 | CRoW sections 4-11 | Countryside and Rights of Way Act 2000 sections 4-11 | Maps Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW s64 | Obstruction of highway (PROW) CRoW Act s.64. | CRoW section 64 introduced new section 137ZA to the Highways Act 1980 | Power to order offender to remove obstruction Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CROW ss34 - 39 | CROW sections 34 - 39 | Countryside and Rights of Way Act 2000 sections 34-39 | Means of access Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| CRoW ss34-38 | CRoW sections 34-38 | Countryside and Rights of Way Act 2000 sections 34-38 | Means of access Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| D | Duty | Legal duty | Expected or required to do by legal obligation. |
| DLR | Definitive legal record | | A right of way is recorded on the 'definitive' map and becomes a conclusive legal record of its existence at that point. |
| DM | Definitive map | | A definitive map is a legal record of PROW which must be produced and kept up to date by every unitary authority in Wales. It should show every right of way in an authority's area and the nature of the rights over the paths shown i.e. whether there's a right of way on foot, on horseback or in a vehicle. |
| DM&S | | Definitive map and statement | See above |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|----------------------|----------------------|---|---|
| DMMO | | Definitive map modification orders | A legal order which changes the definitive map and statement (DMS). |
| DS | Definitive statement | Often referred to collectively with the definitive map (as the definitive map and statement) | Accompanies the definitive map and records additional details, for example, the legal width (if known) of a right of way, and any limitations on the public's use of it such as stiles or gates. |
| E&R | | Exclusions & restrictions | Under ARAG, this refers to the restrictions placed on access to the public for a number of reasons. More information on this can be found through Natural Resources Wales website: https://naturalresources.wales/guidance-and-advice/environmental-topics/land-management/exclusions-and-restrictions-1/?lang=en |
| EL | Excepted land | Land that is exempt from CRoW rights under the CRoW legislation. | Excepted land for purposes of CRoW Part I e.g. cultivated agricultural land, formal parks, gardens or buildings. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| Elgin one.network | | One platform to plan, monitor, communicate and analyse traffic disruptions. From road closures and diversion routes, to public events and incidents: our platform allows real-time monitoring of all the UK's roadworks and diversions. | one.network The home of one.network (eljintech.com) |
| Environment Act 1995 | Environment Act 1995 | Environment Act 1995 | Environment Act 1995 (legislation.gov.uk) |
| Equality Act 2010 | Equality Act 2010 | Equality Act 2010 | Equality Act 2010 (legislation.gov.uk) |
| F | Furniture | Access furniture | With reference to access these are structures facilitating, managing or limiting access in some way e.g. bridges, fences, steps, gates, stiles and kissing gates. |
| FP | Footpath | Public footpath | A public right of way on foot only [and not for other forms of traffic such as motorised vehicles, pedal cycles, and horses]. Rights include use of |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|----------------------|---|---|---|
| | | | mobility vehicles [etc]. (NB: without prejudice to higher rights that may be proven) |
| FPN | Fixed penalty notice | | Fixed penalty notices for environmental offences in Wales Guidance on the use of Fixed Penalty Notices for Environmental Offences (gov.wales) |
| G | 'gap-gate-stile' principle | | [See also BS5709] The selection of a gap, gate or stile for path furniture, such as at the crossing of a field boundary such as a hedge, fence or stone wall, to result in as little restriction as possible for potential users, including users of mobility vehicles, while meeting the actual agricultural needs of the landowners |
| G1 | Group 1 reforms | Welsh Government Group 1 access reform proposal 27 'Role of LAFs' | Access Reform Programme GOV.WALES |
| GCS | Geospatial Commission Strategy | | Geospatial Commission - GOV.UK (www.gov.uk) |
| GIS | | Geographic information systems | In this context, a digitally based mapping system used by local authorities and Natural Resources Wales to map public rights of way and access. |
| Guidance section 5.8 | Welsh Government ROWIP Guidance section 5.8 | Welsh Government ROWIP Guidance section 5.8 | Guidance for local authorities on rights of way improvement plans (gov.wales) |
| HA 1980 s147 | | Section 147 of the Highways Act 1980 | Power to authorise erection of stiles etc. on footpath or bridleway Highways Act 1980 (legislation.gov.uk) |
| HA 1980 s66 | | Highways Act 1980 section 66 | Footways and guard-rails etc. for publicly maintainable highways Highways Act 1980 (legislation.gov.uk) |
| HC | Highway Code | | The Highway Code - Guidance - GOV.UK (www.gov.uk) |
| HR | | Higher rights | A demographic of person that uses something other than feet to access a route, e.g. a cyclist or horse rider. |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|--------------|---|---|---|
| IRAP | Integrated Recreational Access Plans | | Within ARAG reform 3B, a plan that includes access to the countryside, as well as other areas of work that impacts this, such as Active Travel and highways, for each local authority. |
| KE | Key element | | Main component to build up an ARAG reform option in order to deliver the stated policy intent. |
| LA | | Local authority | |
| LAFs | | Local access forums | Local access forums are statutory advisory forums established under the Countryside and Rights of Way Act 2000 whose members are volunteers. LAFs advise as to the improvement of public access to land in that area for the purposes of open-air recreation and the enjoyment of the area. |
| LHA | | Local highway authority | A function of local government (unitary authorities in Wales). The function includes responsibilities to record and keep public rights of way open. Unitary authorities may agree arrangements for a national park authority to carry out some or all of its PROW duties within the NPA's area. |
| Lle Portal | Welsh Government's Geo-Portal for Wales | The Lle Geo-Portal has been developed as a partnership between Welsh Government and Natural Resources Wales. Lle serves as a hub for data and information covering a wide spectrum of topics, but primarily around the environment. | Lle - Home (gov.wales) |
| LR | Land Reform (Scotland) Act 2003 | | Land Reform (Scotland) Act 2003 (legislation.gov.uk) |
| LRA | Least restrictive access principle | The principle of 'least restrictive access' (LRA) requires that all work, whether planned work or ad hoc maintenance, maximises accessibility. It is an | For more information see 'By All Reasonable Means' - NRW publication gn004-by-all-reasonable-means-least-restrictive-access-to-the-outdoors.pdf (naturalresources.wales) |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|--------------|--------------------------------|---|--|
| | | approach that helps raise the overall standard of accessibility of a site, route or facility over time. | |
| MACA | | Marine and Coastal Access Act 2009 | <u>Includes legislation for coastal access in England [only] see: Marine and Coastal Access Act 2009 (legislation.gov.uk)</u> |
| MACA s298 | MACA section 298 | Marine and Coastal Access Act section 298 | The Coastal Access Scheme <u>Marine and Coastal Access Act 2009 (legislation.gov.uk)</u> |
| MACA s302 | MACA section 302 | Marine and Coastal Access Act section 302 | Long-distance routes <u>Marine and Coastal Access Act 2009 (legislation.gov.uk)</u> |
| MACA s303 | MACA section 303 | Marine and Coastal Access Act section 303 | Route subject to erosion <u>National Parks and Access to the Countryside Act 1949 (legislation.gov.uk)</u> |
| MACA s304 | MACA section 304 | Marine and Coastal Access Act section 304 | Creation of footpath [F1, bridleway or restricted byway] by agreement. <u>Highways Act 1980 (legislation.gov.uk)</u> |
| MACA s305 | MACA section 305 | Marine and Coastal Access Act section 305 | Compulsory powers for creation of footpaths [F1, bridleways and restricted byways]. <u>Highways Act 1980 (legislation.gov.uk)</u> |
| NAFW | | National Access Forum Wales | The National Access Forum for Wales' (NAFW) primary purposes are to help Natural Resources Wales and the Welsh Government to: - improve the quality and extent of access to the countryside and coasts of Wales - extend the opportunities for enjoyment and responsible outdoor recreation to all |
| NDF | National Development Framework | | <u>Future Wales: the national plan 2040 GOV.WALES</u> |
| NE | Natural England | | <u>Natural England - GOV.UK (www.gov.uk)</u> |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
|--------------|--|---|---|
| NP | National representatives (LAFs) | | Welsh local access forums (LAFs) chairs vote for a representative and deputy to represent them nationally on issues of interest to all LAFs. |
| NPA | | National park authority | |
| NPAC | | National Parks & Access to the Countryside Act 1949 | National Parks and Access to the Countryside Act 1949 (legislation.gov.uk) |
| NPV | Non-mechanically propelled vehicles or craft | | Modes of transport (e.g. pedal cycles, horse drawn carriages, canoes) that moves without a powered engine. |
| NRW | | Natural Resources Wales | |
| NS | NatureScot | | NatureScot |
| OCC | Open country classification | Open Country 2014 is digitised to Ordnance Survey (OS) MasterMap. This data was produced under the Countryside and Rights of Way Act 2000 (CRoW Act). | Open Access - Open Country (CRoW Act) - data.gov.uk |
| OGC | Open Geospatial Consortium | | The Home of Location Technology Innovation and Collaboration OGC |
| PCNPA | | Pembrokeshire Coast National Park Authority | Pembrokeshire Coast National Park - A Wonder Filled Coast |
| PeR | Permissive routes | | Permissive access means a route or area on private land that the landowner has given permission for people to use. Permissive access routes are not generally shown on maps because they are not permanent and there may or may not be a formal agreement in place. |
| PMC | Pembrokeshire Marine Code | | Pembrokeshire Marine Code |
| Pol | Policy intent | | The overall policy intent for the access reform programme is to improve access for outdoor recreation through reform of the public rights of way network and CRoW open access land in order to support the Welsh |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
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| | | | Government's policies in areas such as public health and tourism. The Policy Intent was also set out for each Reform (1A, 1B, 2A, 2B, 3A, 3B) and the report includes the relevant policy intent summary |
| Power | Power | Legal power | The right and power to interpret and apply the law (compare with duty) |
| PPO | | Public path order | A legal order affecting public rights of way over land e.g. to legally create, divert or extinguish (close) a public rights of way. The most common orders are made using highways or planning legislation. |
| Pr | Protected characteristics | Equality Act 2010 | The protected characteristics Equality Act 2010 (legislation.gov.uk) |
| PROW | | Public rights of way | A legally protected right of the public to pass and re-pass on specific paths. |
| PSB | Public Service Board | Public Services Boards (PSBs) improve joint working across all public services in each local authority area in Wales. | Public Services Boards GOV.WALES |
| PSED | Public Sector Equality Duty | | Public Sector Equality Duty Equality and Human Rights Commission (equalityhumanrights.com) |
| PSPO | Public space protection order | | PSPO 's are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. In Wales a PSPO is made by county councils or county borough councils. |
| RKE | Revised Key Elements | | As amended for the Option Selection Stage. |
| ROWIP | Welsh Government ROWIP Guidance section 5.8 | | Guidance for local authorities on rights of way improvement plans (gov.wales) |
| ROWIP | | Rights of Way Improvement Plan | The CRoW Act 2000 places a duty on each highway authority in England and Wales to publish a ROWIP. These are 10-year plans for the improvement of the local rights of way network and are intended to benefit |

| Abbreviation | Technical Term | Meaning | Definition/Further Information |
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| | | | the public, securing an improved network, for walking, cycling, horse riding and off-road users. People with sight and mobility problems are specifically mentioned by the CRoW Act and the additional requirements of the Equality Act 2010 also apply. |
| ROWIP | | Rights of Way Improvement Plan | These are 10-year prioritised plans for the improvement of the local rights of way network and are intended to benefit the public. Securing an improved network, for walking, cycling, horse riding and off-road users. People with sight and mobility problems are specifically mentioned by the CRoW Act and the additional requirements of the Equality Act 2010 also apply. |
| RTA s31 | Road Traffic Act 1988, s31 | Road Traffic Act 1988, section 31 | Regulation of cycle racing on public ways Road Traffic Act 1988 (legislation.gov.uk) |
| RTO | Road Traffic Offenders Act 1988 | | Fixed Penalty Notices - speeding Road Traffic Offenders Act 1988 (legislation.gov.uk) |
| RTRA | | Road Traffic Regulation Act 1984 | The Road Traffic Regulation Act 1984 provides powers to regulate or restrict traffic on UK roads (including PROW) including through TROs. Road Traffic Regulation Act 1984 (legislation.gov.uk) |
| RTRA s14 | | Road Traffic Regulation Act s14 | Temporary prohibition or restriction on roads (which includes PROW) Road Traffic Regulation Act 1984 (legislation.gov.uk) |
| s118 | HA section 118 (see part 6A) | Highways Act 1980 section 118 | Stopping up of footpaths [F1, bridleways and restricted byways]. Highways Act 1980 (legislation.gov.uk) |
| s119 | HA section 119 (see part 6A) | Highways Act 1980 section 119 | Diversion of footpaths [F1, bridleways and restricted byways]. Highways Act 1980 (legislation.gov.uk) |
| s13 | Section 13 | Countryside and Rights of Way Act section 13 | Occupiers' liability Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s135(7) | Section 135A (7) of HA 1980 | Highways Act 1980 section 135A (7) | Temporary diversion for dangerous works, (7) Highways Act 1980 (legislation.gov.uk) |
| s135A | Section 135A | Highways Act 1980, section 135A | Title in Act: Temporary diversions for dangerous works Highways Act 1980 (legislation.gov.uk) |

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| s147 | | Highways Act 1980 section 147 | Power to authorise erection of stiles etc. on footpath or bridleway. Highways Act 1980 (legislation.gov.uk) |
| s149(1)(a) | section 149(1)(a) | Equality Act 2010 section 149(1)(a) | Public sector equality duty Equality Act 2010 (legislation.gov.uk) |
| S15 | | Countryside and Rights of Way Act section 15 | Rights of access under other enactments Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s15 of CRoW | Section 15 of CRoW | Countryside and Rights of Way Act 2000 section 15 | Rights of access under other enactments. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s16 | Section 16 | Countryside and Rights of Way Act section 16 | Dedication of land as access land Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s193 | Section 193 | Law of Property Act 1925 | Rights of the public over commons and waste lands Law of Property Act 1925 (legislation.gov.uk) |
| s20 | | Countryside and Rights of Way Act section 20 | Codes of conduct and other information Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s21 | Part I, Chapter II (exclusion or restriction of access – s21-s33) | Countryside and Rights of Way Act Part 1 Chapter II sections 21 to 33 | Exclusion or restriction of access Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s3 | CRoW section 3 | Countryside and Rights of Way Act 2000 section 3 | Power to extend to coastal land (Wales) Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s30 approach | section 30 type approach | Approach based on Countryside Act (1968) section 30 | Legislation in section 30 of the Countryside Act 1968 allowed riding of pedal bicycles on bridleways by right with certain caveats Countryside Act 1968 (legislation.gov.uk) |
| s306 | Section 306 of MACA | Introduced new section 6AA to Occupiers' Liability Act 1984 | Duty of occupier to persons other than his visitors. Occupiers Liability Act 1984 (legislation.gov.uk) |
| s34 | Part I, Chapter III (Mean of Access - s34-38) | Countryside and Rights of Way Act Part 1 Chapter III sections 34 to 38 | Means of access Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s3A of CRoW | Section 3A of CRoW | Countryside and Rights of Way Act 2000 section 3A | Power to extend to coastal land etc: England Countryside and Rights of Way Act 2000 (legislation.gov.uk) |

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| s60 CRoW | Section 60 CRoW | Countryside and Rights of Way Act 2000 section 60 | Rights of way improvement plans. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| s86A NPAC | Section 86A NPAC | National Parks and Access to the Countryside Act 1949 section 86A | Information services to be provided by Natural Resources Wales. Section 86A refers to NRW [s86 to Natural England] National Parks and Access to the Countryside Act 1949 (legislation.gov.uk) |
| SAM | | Scheduled ancient monument | An historic building or site that is included in the Schedule of Monuments kept in Wales by Cadw (the historic environment agency of Welsh Government). The regime is set out in the Ancient Monuments and Archaeological Areas Act 1979 (s1). |
| SC | Statutory Code | Also, [enforceable] statutory access code | The term used to describe a code of conduct that defines the behaviour by which those exercising their rights should comply. An enforceable code is one by which people must comply to retain their rights. Breaking an enforceable statutory access code can lead to imposition of a penalty e.g. the forfeiting of an individual's right of access. |
| Sch 1 | CRoW Schedule 1 | Countryside and Rights of Way Act 2000 Schedule 1 | Excepted land Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| Sch 2 | CRoW Schedule 2 | Countryside and Rights of Way Act 2000 Schedule 2 | Restrictions to be observed by persons exercising right of access under CRoW Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| Sch 2 (7)(1) | Paragraph 7(1) of Schedule 2 | Countryside and Rights of Way Act paragraph 7(1) Schedule 2 | The relevant authority may by direction, with the consent of the owner of any land, remove or relax any of the restrictions imposed by paragraphs 1, 4 and 5 in relation to that land, either indefinitely or during a specified period. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| Sch 20 | MACA Schedule 20 | Marine and Coastal Access Act (2009) Schedule 20 | Establishment and maintenance of the English coastal route etc Marine and Coastal Access Act 2009 (legislation.gov.uk) |
| Sch14 | Schedule 14 order | Definitive map modification order under Schedule 14 of the Wildlife and Countryside Act 1981 | 'Applications for Certain Orders Under Part III - for modifying the legal record (DM&S) of PROW' Wildlife and Countryside Act 1981 (legislation.gov.uk) |

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| Section 14 | | Countryside and Rights of Way Act section 14 | Offence of displaying on access land notices deterring public use Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| Section 2(4) | CRoW s2(4) | Countryside and Rights of Way Act section 2(4) | If a person becomes a trespasser on any access land by failing to comply with— (a) subsection (1)(a), (b) the general restrictions in Schedule 2, or (c) any other restrictions imposed in relation to the land under Chapter II, he may not, within 72 hours after leaving that land, exercise his right under subsection (1) to enter that land again or to enter other land in the same ownership. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| Section 61 CRoW | Section 61 CRoW | Countryside and Rights of Way Act 2000 section 61 | Rights of way improvement plans: supplemental. Countryside and Rights of Way Act 2000 (legislation.gov.uk) |
| SOAC | Scottish Outdoor Access Code | | NatureScot (outdooraccess-scotland.scot) |
| Sp | Sportives | | Sportives are long distance organised events such as long-distance cycling events in which a large number of cyclists ride a marked route. |
| Structures | Structures | | Stiles, gates and other obstacles on public paths or access. |
| SVCA | Snowdon Voluntary Cycling Agreement | | Eryri - Snowdonia (gov.wales) |
| the Order | Environmental Civil Sanctions (Wales) Order 2010 | | The Environmental Civil Sanctions (Wales) Order 2010 (legislation.gov.uk) |
| the RES Act | Regulatory Enforcement and Sanctions Act 2008 | | Regulatory Enforcement and Sanctions Act 2008 (legislation.gov.uk) |

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| TRO | | Traffic regulation order | A permanent or temporary legal provision prohibiting, restricting or regulating the use of a road [including PROW], or of any part of the width of a road, by traffic, or by vehicular traffic of any class [also can apply to PROW users] specified in the order. See The Road Traffic Regulation Act 1984 for further details. |
| WBG | | Wellbeing and Future Generations Act 2015 | Well-being of Future Generations (Wales) Act 2015 – The Future Generations Commissioner for Wales |
| WG | | Welsh Government | Landscape and Outdoor Recreation Team and Minister for Environment, Energy and Rural Affairs. |
| WV | Water vessel | | Watercraft, also known as water vessels or waterborne vessels, are vehicles used in water (boats, kayaks, sailboards etc). In the context of reform 1A the reference is to non-mechanically propelled craft |