

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION(S)

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Access Authority: Cumbria County Council, Durham County Council and Northumberland County Council

Relevant Authority: Natural England

Local Access Forum: Cumbria, Durham and Northumberland

The relevant authority, Natural England, is about to review the following directions:

Land Parcel Name:	Access Authority	Direction Ref.
Flinty Fell	Cumbria	2008080091
Red Carle Allotment		2005100020
Rotherhope (North and South)		2005100015
Teesdale Allotments	Durham	2010075582
Teesdale Allotments		2010075583
Widdybank Fell		2005090267
Widdybank Fell – Hole Head & Guys Moss		2005090326
West Allotment, Langdon		2009085039
South Crossthwaite Common		2009030090
Atkinsons Peat Allotment		2009020012
North of Coanwood Common	Northumberland	2008100116

This is in line with the relevant authority's statutory duties (see Annex 1).

Your views on the **current directions** are sought to assist the relevant authority in deciding whether the restrictions are still necessary for their original purpose; and if so, whether the extent and nature of the restrictions are still appropriate for the original purpose.

The relevant authority may decide that no change is necessary to the current terms of the directions, in which case a Consultation Outcome Report will be published on the [Consultation Pages](#) of the Government's Website¹.

If the relevant authority decides to vary or revoke the direction, a further round of public consultation may be necessary (see Annex 1) in which case a second Consultation Summary Report will be published.

2. SUMMARY OF EXISTING DIRECTION(S)

Cumbria			
Land Parcel Name	Direction Reference	Details of Current Restriction	Reason for Exclusion
Flinty Fell	2008080091	Dog exclusion between 1st October to 31st March (until 2016)	CROW s26: Nature Conservation
Red Carle Allotment	2005100020		CROW s26: Nature Conservation
Rotherhope (North and South)	2005100015		CROW s26: Nature Conservation
Durham			
Land Parcel Name	Direction Reference	Details of Current Restriction	Reason for Exclusion
Teesdale Allotments	2010075582	Keep dogs to a short lead from August 1st to 31st each year (until 2016)	CROW s26: Nature Conservation
Teesdale Allotments	2010075583	Public Exclusion - Keep to Public Rights of Ways from 1 st October to 31 st March each year (until 2016)	CROW s26: Nature Conservation
Widdybank Fell	2005090267	Public Exclusion all year (until 2016)	CROW s26: Nature Conservation
Widdybank Fell – Hole Head & Guys Moss	2005090326	Public Exclusion all year (until 2016)	CROW s26: Nature Conservation
West Allotment, Langdon	2009085039	Public Exclusion from March 1st to May 31st (until 2016)	CROW s26: Nature Conservation
South Crossthwaite Common	2009030090	Public Exclusion from October 1st to March 31st (until 2016)	CROW s26: Nature Conservation
Atkinsons Peat Allotment	2009020012	Public Exclusion from October 1st to March 31st (until 2017)	CROW s26: Nature Conservation

¹ https://www.gov.uk/government/publications?publication_filter_option=consultations. To access the consultation enter "Open Access" into the free text box titled "Contains" and then filter by "Natural England" in the Department drop down.

Northumberland			
Land Parcel Name	Direction Reference	Details of Current Restriction	Reason for Exclusion
North of Coanwood Common	2008100116	Keep dogs to a short lead from August 1st to 31st each year (until 2016)	CROW s26: Nature Conservation

A short summary is provided below giving the background to the directions. This should be read in conjunction with the outcomes reports following the last round of reviews (See Annex 2). Further information is available from Chris Pope on christine.pope@naturalengland.org.uk.

Flinty Fell, Red Carle Allotment and Rotherhope (North and South).

Based on the feedback gathered during the previous review, Natural England concluded that:

- There are decreased numbers of black grouse on the 3 sites;
- The decline in numbers is attributed to climatic factors;
- Black grouse are particularly sensitive to disturbance from dogs; and
- Monitoring indicates that there are low levels of access by people.

Based on these conclusions, Natural England decided that the original restriction (total exclusion of the public October to March each year) no longer represented the “least restrictive” option and needed to be varied. However, as the relevant authority we did accept that it was still important to take appropriate measures to protect black grouse at these sites. Therefore Natural England:

- Varied the restriction on all three sites to exclude CRoW rights to people with dogs from October to March each year; and.
- Made changes to land parcel boundary at Red Carle Allotment.

In addition, Cumbria County Council and the Game and Wildlife Conservation Trust (GWCT) agreed to and have undertaken monitoring since the last review to establish the numbers of wintering black grouse (so that we can ascertain whether they are still important wintering sites) and the numbers of CROW users. We have recently received the data from the GWCT and the information from Cumbria County Council will be available in the New Year. We will consider the findings as part of this review.

Teesdale Allotments

Based on the information gathered during the previous review, Natural England did not believe that there was a need to restrict access to Marked Routes & Public Rights of Ways from 1st October to 31st August each year (until 2099) across the entirety of the site because:

- The whole site was not considered to be a wintering site; and
- The use of Open Access land is low.

However, as the relevant authority we did accept that it was still important to take appropriate measures to protect black grouse at these sites. Therefore, Natural England, as relevant authority, decided that the restrictions should be varied:

- To exclude the public, on a reduced area, between October 1st and March 31st each year, until 2016, as indicated on the attached map (Case Number 2010075583) - to prevent disturbance and protect the integrity of the vulnerable species during the winter period; and
- To keep dogs to a short lead from August 1st to 31st each year (until 2016), thereby extending the national dogs on leads restriction (1st March to 31st July) by one month, to cover the breeding period (Case Number 2010075582).

Widdybank Fell, Guys Moss and Hole Head

Taking into account all the information and evidence provided during the last review, Natural England, as relevant authority, decided that the current restrictions (Public Exclusion) should remain but the end date should be varied from 2099 to 2016. Therefore a new direction was put in place to exclude the public, all year across all three areas - to protect the integrity of the vulnerable features of these sites, until 2016, because:

- Research indicates it only takes a small number of people to cause damage to the sugar limestone; and
- The total exclusion for the sugar limestone habitat also served to protect black grouse from disturbance during the breeding season (1st April to 31st August) and the wintering season (1st October to 31st March).

West Allotment

During the reassessment in 2010, Natural England sought confirmation that the information received at the time of granting the original direction was still accurate. The matter was discussed with GWCT as this site is unusual, in that it is a well-known leking site and prone to a higher level of visitors, compared to other areas of Open Access land. A majority of these visitors tend to be bird watchers early in the morning, not average general public, therefore there is a risk that they would like to access the allotment to view and photograph the Black Grouse closely.

Following the outcomes from these discussions Natural England, as the relevant authority, concluded that a variation to the current direction; total exclusion from 1st March to 31st August each year to a total exclusion from 1st March to 31st May each year, until 2016, to cover the leking period was the least restrictive option. This decision was based on the following information:

- Due to the sensitive nature of this particular area, informal management measures are not sufficient to protect the vulnerable features;
- The presence of Black Grouse results in these areas being much more susceptible to disturbance from the new CRoW access right;
- Black grouse are extremely vulnerable to disturbance by people and dogs;
- The site is readily accessible from a minor road where visitors can view the Black Grouse without accessing the site; and
- Dogs are excluded from the site due to the presence of an s23 discretionary dog exclusion, therefore a restriction, under s26, for the breeding period would not be necessary.

South Crossthwaite Common

At the last review Natural England concluded that the current restriction (Public Exclusion - Keep to Public Rights of Ways from October 1st to March 31st each year) should remain and subsequently varied the end date from 2011 to 2016 for the following reasons:

- Due to the sensitive nature of this particular area, informal management measures are not sufficient to protect the vulnerable features;
- The presence of Black Grouse in the winter results in this area being much more susceptible to disturbance from CRoW access rights;
- Black grouse are extremely vulnerable to disturbance by people and dogs; and
- As the area has a PRoW running through there is a potential for people to stray from the path.

Atkinsons Peat Allotment

Following the research undertaken at the last review Natural England concluded that the current direction (Public Exclusion - Keep to Public Rights of Ways from 1st October to 31st August each year) should remain but the dates varied to cover the winter period only (1st October to 31st March each year) until 2017. The decision was based on the following information:

- Due to the sensitive nature of this particular area, informal management measures are not sufficient to protect the vulnerable features.
- The presence of Black Grouse in the winter results in this area being much more susceptible to disturbance from the new CRoW access rights.
- As the area has a Public Highway and a PRoW abutting the Northern and Southern boundaries respectively there is a potential for people to stray into the area of concern.
- The presence of the CRoW s23 discretionary dog exclusion negates the need for a “dogs on short leads” restriction under S26 to cover the breeding period.

North of Coanwood Common

Following the research undertaken at the last review Natural England, as the relevant authority, did not believe that there was a need to continue with the current restriction (Keep to Marked Routes & Public Rights of Ways from 1st October to 31st August each year) and varied the restriction type and area accordingly; restricting dogs to be on a short lead between August 1st and 31st each year (until 2016), thereby extending the national dogs on leads restriction (1st March to 31st July) by one month, to cover the breeding period, on a reduced area.

3. SUBMITTING COMMENTS ON THE REVIEW

If you wish to comment on the review of this direction then you must do so **before January 30th 2015** directly to Kevin Vigers on kevin.vigers@naturalengland.org.uk.

A map accompanies this notice and can be seen on the [Consultation Pages](#) of the Government's Website².

² https://www.gov.uk/government/publications?publication_filter_option=consultations. To access the consultation enter “Open Access” into the free text box titled “Contains” and then filter by “Natural England” in the Department drop down.

Annex 1

In accordance with statutory guidance, the relevant authority has a duty to:

- review directions of a long-term character no later than their fifth anniversary; and
- revoke or vary directions where necessary.

Under CROW section 27(3) the relevant authority must review, at least every five years, any direction it has given that restricts access indefinitely; for part of every year; for part of each of six or more consecutive calendar years; or for a specified period of more than five years.

During the review the relevant authority must, having regard to the interest of the public in having access to the land, consider whether the restriction is still necessary for its original purpose; and if so, whether the extent and nature of the restriction is still appropriate for the original purpose.

Before reviewing a long-term direction the relevant authority must consult:

- the local access forum;
- the applicant or his successor in title, where reasonably practicable – for directions under section 24 or 25 made on application; or
- the relevant advisory body – for a direction made under section 26.

The authority must also publish a notice on a website (and send a copy to statutory consultees) that must explain that the authority proposes to review the direction in question; where documents relating to the review may be inspected and copies obtained; and that representations in writing with regard to the review may be made by any person to the authority by a date specified in the notice.

Once consultation is complete the relevant authority should have regard to any representations it receives before making a decision.

If following the consultation, the Relevant Authority decides to:

- leave the original direction unchanged, the relevant authority should record the date that the decision was made and should schedule a subsequent review where necessary.

If following the consultation, the Relevant Authority decides to:

- vary a direction in any way (type, extent or date); the relevant authority must give a new direction under the same section that was used to give the original direction. If the new direction is long-term, it must be reviewed within five years of the date it is given;
- revoke a direction, the relevant authority must give a new direction under the same section to revoke it. There is no requirement to review the new direction.

Before varying or revoking a direction the relevant authority must: consult the original applicant or his successor in title, where reasonably practicable – for directions given under section 24 or 25 on an application; or consult the relevant advisory body – for directions given under section 26. In either case, follow the consultation procedures set out in the Relevant Authority Guidance but only if it proposes to give a new direction that would restrict access indefinitely or for more than six months continuously.

Annex 2

Countryside and Rights of Way (CROW) Act 2000

SUMMARY OF RELEVANT AUTHORITY DECISION FOLLOWING REVIEW OF LONG TERM DIRECTIONS TO RESTRICT CROW ACCESS

Prepared by Natural England

Access Authority: Cumbria County Council
Relevant Authority: Natural England (North West Region)
Local Access Forum: Cumbria Local Access Forum
Second Consultation Start/End Date: 23.07.10 /10.09.10

Land Parcel Name:	Direction Case Number	Original Direction
Flinty Fell	2008080091	Total Exclusion of the public between October and March each year
Red Carle Allotment	2005100020	As above
Rotherhope North and South	2005100015	As above

a) Background:

The Relevant Authority, Natural England, has now decided how to proceed following its review of the above directions to restrict CROW access at these sites. The final decision is to change the directions to exclude dogs from the sites between October and March each year for nature conservation purposes.

In April 2010, Natural England arranged a meeting in St. Johns Chapel with a range of organisations including RSPB, GWCT, CLA, Cumbria County Council, the Local Access Forums, BMC, North Pennines AONB that sought views and information on the existing directions.

Following this meeting, two separate consultations were held with statutory consultees and the general public. The first consultation was held between 30th April 2010 and 11th June 2010 with statutory consultees and the general public. We received feedback from the following consultees:

- Cumbria County Council;
- Cumbria Local Access Forum;
- The Ramblers;
- RSPB; and
- The Game Wildlife and Conservancy Trust

Comments from these organisations were considered and various changes to the original direction were proposed. A second consultation was held between 23rd July 2010 and 10th September 2010 also with statutory consultees and the general public. We received feedback from the following:

- Cumbria County Council;
- Cumbria Local Access Forum; and
- RSPB.

b) Summary of feedback from second consultation:

Cumbria County Council and the Cumbria LAF (Joint Response): Supported the proposal to change all 3 directions from total exclusion of the public to excluding access to dogs on these 3 sensitive sites from October to March each year, and also supported the amendment to the existing restriction area at Red Carle by altering alignment in the NE corner to coincide with boundary walls. Support was also given for the introduction of the proposed package of complimentary on-site management measures that consisted of revised signage and information and additional monitoring (of bird numbers of CROW useage) at all 3 sites.

The RSPB: Maintained the view that the existing directions (i.e. total exclusion of the public) provides the greatest confidence that adverse effects on black grouse from increased access can be avoided. They did however accept that the proposed exclusion of dogs from October to March would provide a reasonable level of protection for black grouse, particularly coupled with the proposed access management measures.

The RSPB did request further clarification regarding how the results of the monitoring will be used and whether the proposed restrictions can be revised in advance of 2016, should negative trends be identified (*see Future Reviews section below for response*)

c) Summary of changes to the existing directions (see Annex One for further details):

Based on the feedback gathered during the initial meeting, the subsequent public consultation and other research, the Relevant Authority concludes that:

- There are decreased numbers of black grouse on the 3 sites.
- The decline in numbers is attributed to climatic factors.
- Black grouse are particularly sensitive to disturbance from dogs.
- Monitoring indicates that there are low levels of access by people.

Based on these conclusions, the Relevant Authority has decided that the original restrictions (total exclusion of the public October–March each year) no longer represent the ‘least restrictive’ option and need to be changed. However the Relevant Authority does accept that it is still important to take appropriate measures to protect black grouse at these sites.

1. Change to existing directions: The predicted levels and patterns of CROW access use on these sites made in 2004/2005 have not materialised. However we do accept that small numbers visiting these sites, particularly with dogs could cause a significant effect on the wintering black grouse and therefore we have changed the directions to exclude CROW access to dogs on these 3 sensitive sites from October to March each year.

2. Change to land parcel at Red Carle Allotment: During the consultation process, it came to our attention that the restricted land parcel at Red Carle did not follow identifiable features on the ground. Given that we must ensure any restriction is effective, CROW users must be able to understand the nature of the restriction, their responsibilities, and where the restriction applies to in a geographical sense. As wintering black grouse populations have been identified across the whole of the Red Carle site then we have amended the original restricted area so that the restriction is now clearly defined by the wall on the North Eastern boundary side.

3. Implementation of supporting Access Management measures:

- i. Revised signage and information will be provided at key locations at all these sites to help inform the general public about the important nature conservation features and to remind users of the rights and responsibilities.
- ii. Additional monitoring will take place at all 3 sites – to establish the numbers of wintering black grouse (so that we can ascertain whether they are still important wintering sites) and the numbers of CROW users. Long term visitor monitoring will involve the installation of automatic counters at key entry/exit locations (gates and stiles in existing field boundaries) on each site so that we can establish the numbers of people who have passed across CROW access land. Although this will not tell us what people were doing or where people were going on each site, it will give us more accurate data on how many people are visiting each site.

Cumbria CC and GWCT have both agreed to assist in the future monitoring at this site and close contact will be maintained with both so that we can establish better data and evidence to understand levels and patterns of the site by both black grouse and CROW users which we can use in subsequent reviews.

SUMMARY TABLE OF CHANGES TO EXISTING DIRECTIONS:

Land Parcel	Original restriction dates	Extent of original restriction	New restriction dates	Extent of new restriction
Flinty Fell	1st October – 31st March	Total Exclusion of the public	1st October – 31st March (each year)	Dog Exclusion Only
Red Carle Allotment	1st October – 31st March	Total Exclusion of the public	1st October – 31st March (each year)	Dog Exclusion Only and amended land parcel area
Rotherhope North and South	1st October – 31st March	Total Exclusion of the public	1st October – 31st March (each year)	Dog Exclusion Only

Future Reviews

Natural England’s policy for long term directions is that they should not be given for a period of more than 6 years. Therefore the new directions will have an end date of 31st March 2016. Details of the restriction will appear on the relevant map of access land on the Open Access website - www.naturalengland.org.uk/openaccess.

Where a direction restricts access indefinitely, for more than five years, for part of every year, or for part of at least six consecutive years, we have a statutory duty to review it within five years of the date of its issue.

Prior to the next scheduled statutory review, the Relevant Authority will continue to take a close interest in these sites and will undertake an informal review of the monitoring results from the sites with Cumbria CC and GWCT each year.

Should the results indicate that there is a significant increase in use of the site by CROW visitors alongside a corresponding decline in numbers of black grouse then the Relevant Authority is able to reassess any direction at any time so that it can consider alternative ways of protecting the nature conservation interest on the sites. Should any statutory consultee or other interested body have any further evidence, information or concerns regarding these sites in the intervening period then the Relevant Authority would be pleased to receive any representation.

Date review completed: 1st October 2010.

Annex One:

Summary of evidence used by the Relevant Authority in proposing a change to the original directions:

The original decisions (2005) to exclude access at these sites between October and August each year was based on three different criteria:

- Location of black grouse winter feeding areas in the North Pennines;
 - Levels and patterns of use of CROW access land following commencement of rights in 2004/5;
 - Impact and disturbance on black grouse – during winter and feeding periods.
- Location of black grouse winter feeding areas:

Research by GWCT identified that in the winter months black grouse congregate on patches of heather moorland which tend to be at lower altitude than adjacent moorland which are often enclosed. In winter 2004/05, GWCT were commissioned to identify black grouse winter feeding areas in the North Pennines.

Thirty enclosed allotments were identified which supported 28% of the estimated winter population of black grouse in the North Pennines. A number of these enclosed allotments are contained within the 3 sites under review. Although the 2004/5 survey is now 5 years old, the 3 sites still possess all the right features and correct habitat type to attract black grouse in the winter months.

During the winter months a large proportion of black grouse from surrounding areas tend to congregate at favoured localised feeding points. Given high concentrations of black grouse and their tendency to flush at considerable distances, the small patches of traditionally favoured habitat during winter months may be the occasion when the potential for disturbance is highest.

Walking, particularly with dogs during the lekking, breeding and wintering periods could have a detrimental effect on the black grouse population of a site and therefore we conclude that there is a potential issue with CROW access and nature conservation concerns at these sites that needs to be considered.

- Levels and patterns of use of CROW access land following commencement of rights:
- i. Predictions made prior to commencement - a detailed assessment process was agreed by the Countryside Agency (CA) and English Nature (EN) in order to avoid unnecessary restrictions while enabling the relevant authority to identify where a legal restriction on CROW access rights was necessary for the purpose of nature conservation.

The aim of the assessments was to identify existing pre-CROW access and then predict any likely changes in the levels and patterns of access as a result of CROW for each identified 'concern' site.

Access prior to commencement of CROW rights in these areas was mainly limited to linear routes. In many areas there were (and still are) no defined routes across certain expanses of moorland so the nature conservation assessment concluded that the vulnerable features at the main ground-nesting breeding and feeding sites (both summer and winter) may be affected by changes in both levels and patterns of use.

At that time it was felt that a predicted significant increase in numbers of people visiting these areas during the winter may negatively impact on black grouse at these winter feeding areas, and that a statutory restriction was necessary to exclude people from these areas.

- ii. Reassessment of directions held in 2007 - The general view of those involved in the Cumbria re-assessment of the directions and management measures introduced across the North Pennines was that the predicted levels of use of access land following CROW had not materialised and that in general terms, the commencement of CROW has not caused any significant changes in the levels and patterns of public access across the North Pennines.

There was general agreement that the combination of statutory restrictions and positive management had had the desired effect in preventing undue disturbance to the sensitive nature conservation features across the North Pennines although it was also acknowledged that it is difficult to definitively argue that the statutory restrictions and management measures have had a direct impact. The outcome of the reassessment was that there should be no change in the directions (other than to bring Flinty Fell in

line with the other sites) and there was general agreement that we should wait a further 2/3 years until the statutory review to reconsider the approach taken.

- iii. Least restrictive option v. Precautionary approach: When the 3 restrictions were originally made in 2004/5, the decision was made based on a prediction of the anticipated levels and patterns of use following comment of the CROW rights. In this respect, the Relevant Authority took a 'precautionary' approach to managing CROW access use.

However, Government's policy to restrictions as clearly set out in the CROW Act and relevant statutory guidance is to seek the least restrictive option when seeking to address any conflicts or issues arising from the introduction of CROW rights. The results from the 3 year CROW monitoring survey (see below), and the specific on-site monitoring undertaken at the sites all indicate that CROW use on these and other CROW access land across the North Pennines has not changed significantly since the rights were introduced.

- iv. The national CROW Monitoring Report (3 yr monitoring surveys 2006-8): In May 2009, Natural England published the results of its monitoring programme that was designed to identify the uptake and impacts from commencement of the CROW rights.

Over the 3 years, more than 75 separate sites have been surveyed across the country. The headline findings from the report were that:

- Little evidence to suggest any significant change in pattern of use of OA land over the 3 year survey
- Average distance walked on open access sites is 2km
- Almost 50% is on PROW, 20% on 'other' paths, 30% on OA land (mainly to access 'other' paths)
- Very few wander 'off' path (mainly due to unsuitability of terrain)
- Impacts of CROW re: biodiversity protection are low and had little/nil impact
- The most challenging type of CROW user from an access management perspective were 'dog walkers' (*quote p104 from report*)

Nineteen separate locations were surveyed in the North Pennines AONB including Flinty Fell, Rotherhope North and South, and Red Carle Allotment. The results indicated no residual concerns at any of these sites in terms of impact of CROW with a low level of use at all sites and with most users remaining on PROW or tracks.

- Impact and disturbance on black grouse:

- i) Disturbance during Spring and Summer: In 2004/5, GWCT confirmed that during the breeding period (May-August) hens are very secretive and will only flush reluctantly (on average 22m), and that issues of disturbance could be managed by ensuring that dogs are kept on leads.

The national restrictions on CROW rights (CROW Schedule 2) does not entitle anyone to be on CROW access land during the period 1st March to 31st July each year if he takes, or allows to enter or remain, any dog which is not on a short lead. In 2004/5 it was believed that for these sites then disturbance to black grouse at these sites during the spring/summer period would be managed by this national restriction and no evidence has been presented to date to suggest that this has changed.

(NB Both the Flinty Fell and Rotherhope North/South sites currently have s23 discretionary dog exclusions in place (case ref no's; 2009060048 and 2010055488 respectively). These also cover adjacent CROW access land parcels. However the Red Carle Allotment site has no s23 restrictions in place).

- ii) Disturbance during winter months: During the winter, black grouse can flush at much greater distances (on average 71m) and research has demonstrated that flushing distances increase with higher disturbance (60% increase) (Baines & Richardson 2007).

The directions were first granted on the basis that a predicted increase in public access to these winter feeding areas would have a negative impact on black grouse. As CROW rights were introduced over 5 years ago, we now have better data and information based on actual rather than predictions about levels and patterns of use of CROW rights.

Based on the monitoring results from the on-site surveys at all 3 sites, and the overall national CROW monitoring results there is little evidence to indicate that the predicted levels of access have occurred. At all 3 sites, there are existing PROW or tracks that allow users to traverse the sites. Evidence suggests that the overwhelming of CROW access users do not stray far, if at all from paths and therefore the likely disturbance on black grouse would be minimal/nil.

The potential disturbance that dogs could cause is still a concern, particularly for dogs not kept to the lead. They can create more noise and cover more ground and difficult terrain and therefore do not tend to stick to paths or tracks.

The national CROW monitoring report suggests that dog walking is one of the most common activities undertaken on CROW access land. The report also suggests that dog walkers visit open access land specifically because they can let the dog off the lead, and that they also have a higher tendency to walk off-PROW than other types. In order to reduce the potential for disturbance to black grouse, we propose that a restriction to exclude dogs throughout the wintering period (October – March) is given.

- iii) Current numbers of Black Grouse: We received information from various parties that current numbers of black grouse in the North Pennines are very low. However, there has been no evidence to suggest that the numbers have declined due to access rights, and there is widespread acceptance that numbers have decreased significantly due to two poor breeding seasons in 2008 and 2009, and a harsh winter in 2010. (NB In 2007 there were an estimated 12,000 male black grouse, although early estimates for 2010 suggest there are now just 400 males).
- iv) Wildlife and Access Advisory Group Guidance (WAAG): In June 2009, the Access and Nature Conservation Reconciliation: Supplementary Guidance for England note was published. This report was a supplement to the *Wildlife and Access Advisory Group Guidance (WAAG) 2001* (Penny Anderson Associates, 2001). This new report included all research undertaken between 2001 and 2008 and is to be used in tandem with the 2001 report. The report represents a collation of all available scientific research relating to the effects of access on foot on habitats and species up to 2008.

It is a document that a wide range of bodies and organisations, including Relevant Authorities, should use when identifying the impacts of access to enable measures to be put in place to secure the reconciliation of both access and nature conservation objectives. In summary the document concluded that:

- Black grouse was identified as one of a key group of bird species that may be affected by the implementation of open access as the species inhabits moorland and its fringes, habitats integral to the new access regime.
- In an experiment in the Pennines, various levels of disturbance did not appear to impact fecundity although disturbed females tended to lay five days earlier—presumably because birds were able to compensate for the impacts of disturbance by moving to less disturbed areas or perhaps by increasing their food intake rate (Richardson and Baines, 2004; Baines and Richardson, 2007).
- Investigations into the actual impact of disturbance frequency on radio tagged grouse revealed that birds that were disturbed more regularly flushed at greater distances. This was particularly the case in spring and winter, when birds flock together and feed on heather at favoured locations, when birds subject to ‘high’ levels of disturbance (disturbed twice per week) flushed at 32% greater distances. However, the level of disturbance did not appear to impact on survival rates.
- Existing research indicates that there is thus no clear evidence that increased human access to the North Pennine uplands will impact negatively on black grouse. (NB the study was limited in that the levels of experimental disturbance were very low and limited in type (for example no dogs off leads)
- Work in the European Alps has found reduced numbers of black grouse in areas where winter sports and outdoor activities take place (Patthey et al., 2008), but there is no clear evidence that increased human access will impact negatively on black grouse in the UK (Baines and Richardson, 2007)
- There are some recommendations that advocate maintaining reserves where human access is banned or limited, while others suggest that (should high levels of access occur) consideration should be given to: restrictions on access within 200 m of wintering grounds where flocks congregate; extension of these areas to encompass enclosed ground with breeding black grouse; existing restrictions extended regarding keeping dogs on leads during the breeding season from the end of July until August; increased visibility of fence and overhead wire hazards within 200 m of access routes through key areas for fleeing birds; and provision and promote viewing facilities for birdwatchers at leks.
- The report does acknowledge that the current studies are limited and the levels of disturbance used in the Baines and Richardson research (2004/2007) were low, but they do compare favourably with the levels of those currently using CROW access in the North Pennines (when compared to the CROW access monitoring report). The Baines and Richardson report also goes on to conclude that:

'...given that disturbance levels from gamekeepers and farmers are unlikely to increase in the future, there would need to be an overall 20-fold increase in parties of walkers to create an impact consistent with our category of high disturbance. Now, almost a year after the onset of the statutory rights of access, there is consensus among a forum of gamekeepers, scientists and conservation bodies that no meaningful increase in human usage of the North Pennine moorlands has been detected based on collective anecdotal observations'.

- Within the constraints of the experiment then there was no clear evidence that increased human access into the North Pennine uplands will impact negatively upon Black Grouse. Based on local evidence and from the results of the national CROW monitoring report there is no evidence to suggest any of the sites do have high levels of access.

(NB Link to the full version of the WAAG: <http://naturalengland.ctraderstores.com/NaturalEnglandShop/NECR013>)