

Guidance note on the dedication of land under section 16 of the Countryside and Rights of Way Act 2000

June 2012

This document has been archived.
For later information see
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

© Crown copyright 2012

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on our website at <http://www.defra.gov.uk/rural/countryside/access/>

Any enquiries regarding this document/publication should be sent to us at:

Defra

Commons and access implementation Team

Zone 109 Temple Quay House

2 The Square, Temple Quay

Bristol

BS1 6EB

Tel: 0117 372 3553

Email: coast.consultation@defra.gsi.gov.uk

PB13764

This document has been archived.
For later information see
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

Contents

Disclaimer.....	5
Introduction.....	6
Who can dedicate land?	8
What does dedication do?	8
Do I have to provide access at all times?	9
What types of land can I dedicate?.....	10
Are there any other considerations I should think about?.....	11
What else do I need to do before making a dedication?.....	13
How do I make a dedication?	13
What do I need to do after I've made the dedication?	14
Notifying the dedication.....	14
Registering the dedication as a local land charge.....	15
When does the dedication take effect?.....	16
Annex 1: Guidance for trustees of charities considering dedication	18
Annex 2: Guidance for local authorities	21
Annex 3: General restrictions	23
General restrictions: Schedule 2 to the 2000 Act.....	25
Annex 4: Obtaining consent to a dedication in order to satisfy an obligation in private law.....	29
Annex 5: Amending a dedication	31

Form A: Model form of instrument of dedication 32

Explanatory notes to model form of instrument of dedication 36

Form B: Application for the registration of a dedication as a local land charge 41

 To the Local Land Charges Officer 41

Contact details..... 43

This document has been archived.
 For later information see
 Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
 England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

Disclaimer

This guidance is non-statutory and provides guidance on the main features contained in section 16 of the Countryside and Rights of Way Act 2000 and the Regulations made under that section. It does not attempt to provide a comprehensive explanation of every provision nor does it offer a definitive interpretation of the legislation, which only the courts can do.

The Department for Environment, Food and Rural Affairs cannot provide specific advice on individual circumstances. Anyone needing this should consider taking independent expert advice.

This document has been archived.
For later information see
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

Introduction

- 1.1 The Countryside and Rights of Way Act 2000 (“the 2000 Act”)¹ creates a statutory right of access for the general public to mountain, moor, heath, down and registered common land (“access land”)² in England and Wales. Section 16 of the 2000 Act also provides freeholders and long leaseholders with the opportunity to voluntarily dedicate their land as access land – whether or not the land is mountain, moor, heath, down or registered common land.
- 1.2 A new right of access to the English coast is introduced in Part 9 of the Marine and Coastal Access Act 2009 (“the 2009 Act”). The 2009 Act amends Part 4 of the National Parks and Access to the Countryside Act 1949 to provide for the designation of a long-distance coastal route, and also Part 1 of the 2000 Act to provide a right of access to the route and an associated margin of land linked to the route for the purpose of open-air recreation.
- 1.3 Part 9 of the 2009 Act amends section 16 of the 2000 Act to enable a person to dedicate land as coastal margin. Land dedicated as coastal margin will be subject to the coastal access regime, including a reduction in occupiers’ liability and national and local restrictions and exclusions which apply to public access on other parts of the coastal margin. Later in the guidance we explain

¹ You can view an electronic copy of the 2000 and 2009 Acts and the two regulations mentioned in paragraphs 1.4 and 1.5 at:

<http://www.legislation.gov.uk/ukpga/2000/37/contents>;

<http://www.legislation.gov.uk/ukpga/2009/23/contents>;

<http://www.legislation.hmsso.gov.uk/si/si2003/20032004.htm> and

<http://www.legislation.gov.uk/uksi/2011/2020/contents/made>.

² The use of the words “access land” in this guidance does not correspond exactly to the definition of those words in section 1(1) of the 2000 Act.

these and other important differences between access land and coastal margin.

1.4 The steps that you need to follow to dedicate land as access land are set out in the Access to the Countryside (Dedication of Land) (England) Regulations 2003.

1.5 There are some additional steps you need to follow if you wish to dedicate land as coastal margin. These are set out in the Access to the Countryside (Dedication of Land) (Amendment) (England) Regulations 2011:

- you must give any person who has to consent to a dedication a statement as to whether or not the land is to be dedicated as coastal margin; and
- an instrument of dedication must include a statement as to whether or not the land is dedicated as coastal margin.

1.6 This guidance explains how to dedicate land for public access. It provides information to help you decide whether making a dedication is right for you. To make the process as straightforward as possible we have included, at **Form A** of this guidance, a model form of instrument of dedication which you can use to make a dedication. If you do decide to dedicate we have also included, at **Form B** of this guidance, an application for the registration of a dedication as a local land charge.

1.7 This guidance only applies if you want to dedicate land in England. If you wish to dedicate land in Wales, then you should contact the National Assembly of Wales or the Countryside Council for Wales.

1.8 If you require general guidance about the scope of the 2000 or 2009 Acts or the two regulations on dedication then please contact us.

Who can dedicate land?

2.1 You are eligible to make a dedication if you are either:

- the freehold owner of the land (i.e. the holder of “the fee simple absolute in possession of the land”), or
- a long leaseholder (so long as your lease is for a legal term of years absolute and has at least 90 years left to run).

2.2 You may also make a dedication if you are a tenant for life of settled land, a university or college to which the Universities and Colleges Estates Act 1925 applies, or an ecclesiastical corporation to which the Ecclesiastical Leasing Acts apply.

2.3 If you are a charity or a local authority and wish to dedicate some of your land, then special considerations may apply: see **Annex 1** or **2** of this guidance.

What does dedication do?

3.1 Dedicating land under section 16 of the 2000 Act creates a statutory right of access on foot which can be enjoyed by everyone. The act of dedication is irrevocable and binds successive owners and occupiers of the land (and others with an interest in that land) so that the right of access is protected for all time. However, if a dedication is made by a leaseholder, it will cease to have effect when the lease expires.

3.2 As the act of dedication will have a long term or, in many cases, a permanent effect, we recommend you take independent legal advice if you are considering dedicating any of your land so that you are fully informed about the implications of doing so.

3.3 Making a dedication:

- can open for public access land which would not otherwise be covered by the 2000 Act (for example, woodland);
- ensures that the right of access to such land remains in force if the land changes hands;
- ensures that the right of access to dedicated land which is mountain, moor, heath, down or registered common land or coastal margin continues, even if the land loses those characteristics at some point in the future following a change in the use of the land.

3.4 There are a number of general restrictions on the sort of activities that can be carried out by a person exercising the right of access. They are set out in Schedule 2 to the 2000 Act as amended by Part 2 to the Schedule to the Access to the Countryside (Coastal Margin) (England) Order 2010 as they apply to coastal margin. See **Annex 3** of this guidance for further details. You can also use a dedication to remove, or to relax any of these general restrictions,

3.5 In addition, broadly speaking, dedicating your land limits your duty of care to members of the public under occupiers' liability legislation to the level normally owed to trespassers. You can order a free copy of Natural England's information note about the occupiers' liability regime by calling the Open Access Contact Centre on 0845 100 3298.

Do I have to provide access at all times?

4.1 If you dedicate land, you will still be able to restrict or exclude access in certain circumstances:

- section 22 of the 2000 Act allows you, as the owner, or a farm tenant, to restrict access to access land for up to 28 days each calendar year – but it is

important to note that this provision **does not** apply to land dedicated as coastal margin;

- sections 23 of that Act allows an owner to restrict access to people without dogs on grouse moors or on land used in connection with lambing – but it is important to note that this provision **does not** apply to land dedicated as coastal margin; and
- sections 24 to 26 and 28 of that Act also provide opportunities for access to be excluded or restricted locally when necessary; for example, to allow you to carry out essential land management work. It allows a relevant authority to give a direction to exclude or restrict access. The term “relevant authority” for open country and registered common land means the National Park Authority where access land falls within a National Park or the Forestry Commission where land voluntarily dedicated for access is comprised mainly of woodland, and Natural England in all other cases. For land which is coastal margin Natural England is the “relevant authority” although it may authorise the National Park Authority or the Forestry Commission to carry out the functions as a “relevant authority” for land which is coastal margin as it may specify.

4.2 You can order a free copy of Natural England’s guidance about the restrictions system by calling the Open Access Contact Centre on 0845 100 3298.

What types of land can I dedicate?

4.4 The 2000 Act makes certain categories of land “excepted land” so there is no right of access to that land. “Excepted land” is a term used in that Act to describe land used for any of the purposes listed in Schedule 1 to that Act. So, for example, it includes land used for the purposes of a golf course, racecourse or aerodrome, and land covered by buildings or the curtilage of such land. For land which is coastal margin the categories of “excepted land” are different and, for example, include grounds used for the purposes of a school as well as school playing fields.

- 4.5 There is no right of access over land dedicated as access land which is, or at any time becomes, excepted land (although the dedication itself will remain in force). But the exclusion of the right of access to excepted land **does not** apply to any land which has been dedicated as coastal margin.
- 4.6 This means that if you were therefore to decide to dedicate land as access land, any land included in the dedication, which falls within any of the categories of excepted land in Schedule 1 to that Act, would be excepted from the access rights created by the dedication. It is not necessary to describe or exclude any excepted land in the instrument of dedication for the excepted status to apply. However if you were to decide to dedicate the land expressly as coastal margin this would automatically remove excepted land status from any land which was included within the area of the land to be dedicated, with the effect that the land became accessible by right
- 4.7 If you are wishing to make a dedication you must be sure of the extent of the land to be dedicated, especially in relation to the inclusion of areas of excepted land within the boundaries of the area dedicated as coastal margin. You cannot dedicate as access land which is already coastal margin, but land which is not already coastal margin can be dedicated as coastal margin if it adjoins the existing coastal margin.

Are there any other considerations I should think about?

5.1 Before making a dedication we recommend you contact:

- Natural England (if any part of your land includes a Site of Special Scientific Interest (a “SSSI”));
 - English Heritage (if any part of your land includes a Scheduled Monument);
- and

- the Forestry Commission (if any part of your land includes woodland).

5.2 If your land includes a SSSI, you should check your notification documentation to see whether your proposal might require special consent, authorisation or permission. Under the Wildlife and Countryside Act 1981, it is an offence for owners and occupiers of SSSIs to carry out, or cause or permit to be carried out, any operation specified in the notification without the consent of Natural England. Special provisions relate to those SSSIs that are owned or occupied by public bodies. Natural England will be pleased to discuss these issues with you before you decide to proceed with the dedication, to consider any potential impacts of the proposal, for example any appreciable change in the levels and patterns of public access there.

5.3 If your land includes a Scheduled Monument, you should check with English Heritage to ensure that opening up access to the extent you propose is not likely to raise concerns about heritage features such as archaeological remains. There is no requirement for you to obtain consent from English Heritage to the dedication of land which includes a Scheduled Monument, but we nevertheless recommend you consult them before making any final decision. You may also wish to consult your local government archaeological officer if you decide to proceed with the dedication.

5.4 If your land contains woodland, then you may need to carry out operations, such as tree harvesting, which pose particular dangers to the public. For this reason, if you are planning to dedicate land which includes woodland, we recommend you approach the Forestry Commission at an early stage. If you do decide to dedicate woodland, then the Commission will work with you to ensure that sustainable management of the land can continue alongside the right of access.

What else do I need to do before making a dedication?

- 6.1 If any person other than you (as the person making the dedication) holds an inferior leasehold interest in any of the land to be dedicated, you must make the dedication either with that person's consent, or jointly with that person.
- 6.2 If you are seeking someone's consent to a dedication, then you must provide them with the information specified in the Regulations including a statement as to whether or not the land is to be dedicated as coastal margin. We recommend that you also supply this information to anyone with whom you are planning to enter into a joint dedication with at an early stage.
- 6.3 In either event, it is very important to remember that the act of dedication is irrevocable and binds successive owners and occupiers of the land, either permanently or for the un-expired term of a long lease. If you are proposing to dedicate land, we therefore strongly recommend you make sure that there are no interests which might be adversely affected by the dedication, or any obligations in private law which might be breached. We recommend that you engage a solicitor to help you do this (see **Annex 4** of this guidance for further details).

How do I make a dedication?

- 7.1 Once you have obtained any necessary consents you can make a dedication by using the model form of dedication instrument (**Form A** of this guidance). If you do not wish to use this form then you must ensure that your instrument of dedication contains all the information specified in the Regulations, including a statement as to whether or not the land is to be dedicated as coastal margin.
- 7.2 If you wish to amend a dedication at a later stage - to remove or relax any of the remaining general restrictions on access - then you can do this by adapting **Form A** (see also **Annex 5** of this guidance).

What do I need to do after I've made the dedication?

Notifying the dedication

8.1 Once you have dedicated your land you must send a copy of the dedication instrument within 28 days to the following:

- any person who has consented to the dedication;
- any other person whom it is reasonably practicable to identify as having an interest³ in any of the land;
- the access authority (where the land lies within a National Park, this is the National Park Authority. In all other cases, this is the local highway authority); and
- Natural England⁴.

8.2 Natural England will ensure that the following bodies are also advised of the dedication:

³ In this context an "interest" includes "any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an estate or interest in land or by virtue of a licence or agreement, and in particular includes rights of common and sporting rights" (section 45(1) of the 2000 Act).

⁴ Open Access Contact Centre, Natural England, Temple Quay House, 2 The Square, Bristol, BS1 6EB.

- English Heritage (if you have indicated that any part of the land includes a Scheduled Monument); and
- the Forestry Commission (if you have indicated that your land consists wholly or predominantly of woodland).

8.3 Section 19 of the 2000 Act gives access authorities power to erect and maintain signs indicating the boundaries of access land, including the boundaries of land which has been dedicated. Such signs may include information about restrictions to the right of access and details of any excepted land. Signs may also include information about any of the general restrictions in Schedule 2 to the 2000 Act which you have removed or relaxed. You may wish to consult the access authority about how this can be done most effectively when you notify it of the dedication.

8.4 Paragraph 6 of Schedule 20 to the 2009 Act enables Natural England (or the access authority if so delegated by Natural England) to erect and maintain notices or signs on land over which the coastal route passes.

Registering the dedication as a local land charge

9.1 As a dedication is a local land charge (by virtue of section 16(8) of the 2000 Act), you must make sure that the dedication is registered in the appropriate local land charges register kept by the relevant district council or London borough council ("the registering authority"). You must register the dedication in this way to comply with the statutory duty placed on you by section 5 of the Local Land Charges Act 1975 ("the 1975 Act"). Where dedicated land lies across two or more areas in which separate local land charge registers are kept, section 4 of the 1975 Act requires the local land charge to be registered in each register.

9.2 Registration is important as, if the land is sold and its status as a local land charge is not registered (or is not shown as being registered by the official search certificate used in the conveyancing process), section 10 of the 1975

Act provides that the purchaser is entitled to claim compensation for any loss incurred as a result.

- 9.3 To make sure that your dedication is properly registered as a local land charge, we recommend you fill in and send **Form B** of this guidance to the registering authority, together with a copy of the instrument of dedication and accompanying map. The registering authority will return a copy of **Form B** to you, to confirm that your dedication has been registered as a local land charge, within about 10 working days of your application.
- 9.4 It is important to remember that you are responsible for registering your dedication as a local land charge and for checking that it has been properly registered in the appropriate local land charges register(s). You should also be aware that, once your dedication has been registered, the information contained in the dedication instrument will be available for inspection by members of the public.

When does the dedication take effect?

- 10.1 The right of access to access land under Part 1 of the 2000 Act was implemented throughout England on a regional basis during 2004 and 2005. A number of Commencement Orders were made during this period which set out a date on which the right of access came into force for each region in England. The individual Orders provided for the right of access to land which was dedicated as access land under section 16 of the 2000 Act (but which was not also shown as open country and registered common land on the conclusive map for the area covered by that map) to come into force on the date set out in the Order or the date of 6 months after the dedication was made (whichever was the later date).
- 10.2 This means that as soon as you sign the instrument of dedication, then, if it is not already access land, the dedicated land becomes access land. However, the new right of access to dedicated land will not commence until 6 months

after that date in order to allow time for the various notifications to be given, for the dedication to be registered as a local land charge and for you or any other entitled person to apply for local restrictions to exclude or restrict access. It allows time if necessary for an appeal to be made and determined by the Planning Inspectorate against any refusal by Natural England to exclude or restrict access.

- 10.3 Land can only be dedicated as coastal margin once the Secretary of State has approved Natural England's proposals for the coastal margin on a particular stretch of the coast. An Order⁵ by the Secretary of State will be required to set a date to commence the right of access to the coastal margin. The dedication of land as coastal margin will start on the date set out in the Order or the date on which the dedication was made, whichever is the later date.

⁵ In relation to each of a Natural England coastal access report the Order will appoint a day for the termination of the access preparation period (under paragraph (b) of the definition of "access preparation period" in section 3A(10) of the 2000 Act, as inserted by section 303(1) and (5) of the 2009 Act).

Annex 1: Guidance for trustees of charities considering dedication

1. The guidance contained in this Annex applies when either the trustees of charities hold land which is used by the charity for its own purposes or when the land is used to produce income for the charity.
2. Trustees must administer the charity in accordance with its governing document and the law and must consider all relevant issues. Land can be dedicated provided that public access is either directly or indirectly a way of furthering the purposes of the charity and that dedicating the land is in the best interests of the charity.
3. Trustees must act in the best interests of the charity and should not let their personal views affect the decisions which they make when managing any property or land. Trustees may need to consider the interests of future as well as present beneficiaries and must consider the effect of dedicating land on the current and future use of the land and also the effect on its current and future value.
4. Section 36 of the Charities Act 1993 (“the 1993 Act”) sets out restrictions on land transactions designed to ensure that charities do not dispose of land for less than the best terms available. The Charity Commission’s view is that the restrictions set out at section 36 of the 1993 Act will not apply to dedications.
5. Some charities may be concerned that their governing document does not provide powers to make a dedication. However, unless allowing public access is prohibited in its governing document, it is considered that any charity will have power to make a dedication. If the trustees are satisfied that it is in the interests of the charity to dedicate land, having considered the points described above, they will be able to do so. Any trustees who are unsure about whether they are able to dedicate a particular area of land can seek the formal advice of the Charity Commission under section 29 of the 1993 Act.

The Commissioners will advise the trustees based on the principles described above. Provided that the Commissioners have been given all the relevant information, and their advice has been followed, trustees are legally protected.

6. If a charity has a restriction written into its governing document which specifically prevents the trustees allowing public access to the charity's land, then the trustees can ask the Charity Commission for advice about how such a prohibition could be lifted if they feel that they could otherwise make a dedication.
7. Charities could use the power to dedicate in the following ways:
 - (i) the trustees of charities which exist to provide access to open spaces or for recreation may decide that a dedication will directly further those objectives.
 - (ii) the provision of public access might not directly achieve the purposes of some other charities. It might be argued, however, that dedicating land would be of benefit to the charity and contribute indirectly to the achievement of its purposes. For example, providing access opportunities through dedication could be argued to support the aims of a charity whose purposes included the preservation or conservation of land.
 - (iii) for some charities, such as those which help the poor, a dedication will not further their objects even indirectly. However, if the trustees decided that it was both justified and in the best interests of the charity to do so they could dedicate land belonging to the charity. Reasons why a dedication might be in the best interests of the charity could be:
 - if it promoted or furthered the interests and work of the charity (including its reputation); or
 - if the charity could be said to benefit from the dedication in other ways; or

- if the dedication enhanced the reputation of the charity in the community, thereby gaining support for its work.

8. There may be a further benefit from making a dedication if the public already has permitted access to the land belonging to a charity because it would reduce the liability of the trustees for any harm to the public to the level normally owed to trespassers. The trustees would need to be clear, though, that any dedication did not inhibit the charity from achieving its objects in the longer term.

This document has been archived.
For later information see
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

Annex 2: Guidance for local authorities

1. This Annex applies to local authorities who wish to dedicate their land for public access under section 16 of the 2000 Act.
2. Local authorities have general and discretionary powers under sections 123 and 127 of the Local Government Act 1972 (“the 1972 Act”) to dispose of land in any manner they wish. This includes sale of their freehold interest, granting a lease or assigning any unexpired term on a lease, and the granting of easements.
3. The only constraint is that a disposal must be for the best consideration reasonably obtainable, except in the case of short tenancies. Where local authorities propose to dispose of their land at an under value it will be necessary to seek the Secretary of State’s consent unless it falls under a category which is covered by a general disposal consent⁶. However, the provisions in sections 123 and 127 of the 1972 Act are general powers relating to land disposals and do not apply to disposals made under other statutory powers.
4. A dedication would be a transaction made under section 16 of the 2000 Act. Sections 123 and 127 of the 1972 Act would not apply to it. There would be no need, therefore, for an authority proposing to make such a dedication to consider whether it is a disposal that requires the Secretary of State’s consent.

⁶ The general disposal consent issued in August 2003 enables local authorities to make land disposals which will contribute to the promotion or improvement of the economic, social or environmental well-being of an area at less than best consideration without seeking the Secretary of State’s consent provided the undervalue does not exceed two million pounds.

5. The guidance will be relevant if an authority is either an “access authority” for the purposes of section 1(2) of the 2000 Act or a “registering authority” for the purposes of section 3 of the Local Land Charges Act 1975 (“the 1975 Act”), or both:
 - a. access authorities include all National Park authorities and local highway authorities. All County Councils, Metropolitan Borough Councils, Unitary Authorities and London Borough Councils are local highway authorities;
 - b. an authority will be a registering authority under the 1975 Act if it is either a District Council, Unitary Authority, Metropolitan Borough Council or a London Borough Council with a local land charges department.⁷
6. Once a dedication has been made, the dedicator will send an access authority a copy of the instrument of dedication in compliance with regulation 6(c) of the Regulations. A dedication is a local land charge under section 16(8) of the 2000 Act. Dedicators have a statutory duty to apply for a dedication to be registered as a local land charge, under section 5 of the 1975 Act (see paragraph 9.1 of this guidance).
7. If an authority is a registering authority for the purposes of section 3 of the 1975 Act then, after a dedication has been made, you can therefore expect to receive an application for registration.

⁷ You can check whether your authority is a registering authority by contacting the Local Land Charges Institute on 01924 502070, <http://www.llci.org>

Annex 3: General restrictions

1. Unless you specify otherwise, the right of access to dedicated land is limited to access for the purposes of open-air recreation on foot.
2. Schedule 2 to the 2000 Act contains a number of general restrictions which must be observed by a person exercising the right of access. Part 2 of the Schedule to the 2010 Order amended Schedule 2 to the 2000 Act to make a number of changes to the categories of general restrictions as they applied to coastal margin.
3. The process of dedicating land allows you to remove or relax any of these restrictions. This means, for example, that you could dedicate a right of access to your land for horse riding (by relaxing the restriction in paragraph 1(c)) of Schedule 2 or cycling (by relaxing the restriction in paragraph 1(a)) of that Schedule, as well as walking.
4. It is very important to note that removing (rather than relaxing) a restriction will allow access users to engage in any activity which would otherwise be prohibited by that restriction. For example, removing the restriction in paragraph 1(a) of Schedule 2 will enable people to drive across your land, as well as to cycle. If you wish to extend the right of access to include some (but not other) activities prohibited by any particular general restriction, you should therefore clearly state the extent of the relaxation in the dedication instrument, in terms of the activity itself and the area of the land to which the relaxation applies. Instructions on how to do this are set out in the explanatory notes to **Form A** of this guidance.
5. Once your land has been dedicated, it is possible for you to amend the dedication at a later date to remove or relax any of the general restrictions left in place. However, it is not possible for you to re-instate restrictions once they have been removed or relaxed, either in the original dedication or in a subsequent amendment. You therefore need to consider very carefully

whether removing or relaxing any of the general restrictions is appropriate. Before removing or relaxing a general restriction you should also consult any authority whose permission may be required before the restriction can be lifted (for example, if you wish to dedicate your land for vehicular use then this might require planning permission).

6. The general restrictions listed in Schedule 2 to the 2000 Act limiting the activities that may be carried out by a person exercising the right of access, are reproduced on the following pages of this guidance. The changes to the general restrictions which apply to coastal land, as amended by the 2010 Order, are shown in bold.

This document has been archived.
For later information see
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

General restrictions: Schedule 2 to the 2000 Act

1(1) **Subject to sub-paragraph (2) section 2(1)** does not entitle a person to be on any land if, in or on that land, he-

- (a) drives or rides any vehicle other than an invalid carriage as defined by section 20(2) of the Chronically Sick and Disabled Persons Act 1970,
- (b) uses a vessel or sailboard on any non-tidal water,
- (c) has with him any animal other than a dog,
- (d) commits any criminal offence,
- (e) lights or tends a fire or does any act which is likely to cause a fire,
- (f) intentionally or recklessly takes, kills, injures or disturbs any animal, bird or fish,
- (g) intentionally or recklessly takes, damages or destroys any eggs or nests,
- (h) feeds any livestock,
- (i) bathes in any non-tidal water,
- (j) engages in any operations of or connected with hunting, shooting, fishing, trapping, snaring, taking or destroying of animals, birds or fish or has with him any engine, instrument or apparatus used for hunting, shooting, fishing, trapping, snaring, taking or destroying animals, birds or fish,
- (k) uses or has with him any metal detector,
- (l) intentionally removes, damages or destroys any plant, shrub, tree or root or any part of a plant, shrub, tree or root,
- (m) obstructs the flow of any drain or watercourse, or opens, shuts or otherwise interferes with any sluice-gate or other apparatus,
- (n) without reasonable excuse, interferes with any fence, barrier or other device

designed to prevent accidents to people or to enclose livestock,

- (o) neglects to shut any gate or to fasten it where any means of doing so is provided, except where it is reasonable to assume that a gate is intended to be left open,
- (p) affixes or writes any advertisement, bill, placard or notice,
- (q) in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land, does anything which is intended by him to have the effect-
 - (i) of intimidating those persons so as to deter them or any of them from engaging in that activity,
 - (ii) of obstructing that activity, or
 - (iii) of disrupting that activity,
- (r) without reasonable excuse, does anything which (whether or not intended by him to have the effect mentioned in paragraph (q)) disturbs, annoys or obstructs any persons engaged in a lawful activity on the land,
- (s) engages in any organised games, or in camping, hang-gliding or para-gliding, or
- (t) engages in any activity which is organised or undertaken (whether by him or another) for any commercial purpose.

(2) Nothing in sub-paragraph (1)(f) or (j) affects a person's entitlement by virtue of section 2(1) to be on any land which is coastal margin if the person's conduct (to the extent that it falls within sub-paragraph (1)(f) or (j)) is limited to permitted fishing-related conduct.

(3) In sub-paragraph (2) the reference to permitted fishing-related conduct is a reference to the person—

- (a) having a fishing rod or line, or**
- (b) engaging in any activities which—**
 - (i) are connected with, or ancillary to, fishing with a rod and line, or with a line**

only, in the exercise of a right to fish, and

(ii) take place on land other than land used for grazing or other agricultural purposes.

2. - (1) In paragraph 1(k), "metal detector" means any device designed or adapted for detecting or locating any metal or mineral in the ground.

(2) For the purposes of paragraph 1(q) and (r), activity on any occasion on the part of a person or persons on land is "lawful" if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.

3. Regulations may amend paragraphs 1 and 2.

4. – (1) During the period beginning with 1st March and ending with 31st July in each year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead.

(2) Sub-paragraph (1) does not apply in relation to land which is coastal margin.

5. Whatever the time of year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead and which is in the vicinity of livestock.

6. In paragraphs 4 and 5, "short lead" means a lead of fixed length and of not more than two metres.

6A.—(1) Whatever the time of year, section 2(1) does not entitle a person to be on any land which is coastal margin at any time if—

(a) that person has taken onto the land, or allowed to enter or remain on the land, any dog, and

(b) at that time, the dog is not under the effective control of that person or another person.

(2) For this purpose a dog is under the effective control of a person if the following conditions are met.

(3) The first condition is that—

(a) the dog is on a lead, or

(b) the dog is within sight of the person and the person remains aware of the dog's actions and has reason to be confident that the dog will return to the person reliably and promptly on the person's command.

(4) The second condition is that the dog remains—

(a) on access land, or

(b) on other land to which that person has a right of access.

(5) For the purposes of sub-paragraph (4), a dog which is in tidal waters is to be regarded as remaining on access land.

6B.—(1) Section 2(1) does not entitle a person to be on any land which is coastal margin if, on that land, the person obstructs any person passing, or attempting to pass, on foot along any part of the English coastal route, any official alternative route or any relevant temporary route.

(2) In this paragraph—

“the English coastal route” means the route secured pursuant to the coastal access duty (within the meaning of section 296 of the Marine and Coastal Access Act 2009(6));

“official alternative route” has the meaning given by section 55J of the National Parks and Access to the Countryside Act 1949(7);

“relevant temporary route” means a route for the time being having effect by virtue of a direction under section 55I of that Act(8) to the extent that the line of the route passes over coastal margin.”.

Annex 4: Obtaining consent to a dedication in order to satisfy an obligation in private law

1. The guidance in this Annex is intended to highlight some of the situations where you (as a freeholder or a leaseholder) may need to obtain the consent of a third party before making a dedication in order to comply with a requirement in private law. The examples given below do not constitute an exhaustive list and there may be other situations where you will need to obtain the consent of a third party before making a dedication in order to comply with such a requirement. We therefore recommend you seek legal advice about any such requirements before making the dedication.

Financial charges: The 2000 Act does not require agreement by the holders of any financial charges over the land (for example, a building society or lender in a mortgage or loan agreement) as a condition of a dedication being made. The terms of many mortgages or loan agreements, however, may require you to inform the lender of any change in circumstances. Where a financial charge is held over your land you are therefore strongly recommended to consult the holder of the charge before dedicating that land, to check whether their consent is required.

Third party rights: You may need to obtain the consent of any person who holds a right, such as a sporting right, over the land which you are planning to dedicate. The 2000 Act does not require the agreement of the holders of these rights as a condition of making a dedication either. We nevertheless advise you to check carefully whether dedicating the land might cause you to incur liability towards the holder of such a right.

Covenants in a leasehold agreement: If you are a leaseholder considering dedicating your land, then you will also need to check carefully whether your lease contains any covenants which, either expressly or by necessary

implication, restrict or prohibit the use of the land for public access (in which case dedication may not be appropriate). If you are planning to remove or relax any of the general restrictions listed in Schedule 2 to the 2000 Act then you should make similar checks in respect of the activities covered by these restrictions.

2. In all cases, we recommend that, wherever possible, you to try to enter into an agreement with the holder of any interest that the dedication would adversely affect as, in the absence of any such agreement, you might be at risk of an action in private law.
3. If you do not believe that the holder of an interest in or a right over the land you are proposing to dedicate would be adversely affected by the dedication, then you could put the position beyond doubt by asking the holder of that interest to give its consent to the dedication, even though this is not required by the 2000 Act.

This document has been archived.
For later information see:
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

Annex 5: Amending a dedication

1. A dedication can be amended by any person who would have been entitled to make the dedication in the first place (see paragraphs 2.1 and 2.2 of this guidance).
2. It is possible to amend a dedication at any time after it has been made. However, an amendment can only be made in order to remove or relax one or more of the general restrictions in Schedule 2 to the 2000 Act. It is not possible to amend a dedication in order to re-impose any restrictions on the right of access which may already have been removed or relaxed.
3. The Regulations enable a previous dedication under section 16 of the 2000 Act to be amended to provide that the land is dedicated as coastal margin, and that any exclusion or restriction of access in effect on that land immediately prior to dedication of land as coastal margin shall cease to have effect.
4. You can amend a dedication by adapting the instrument of dedication at **Form A** of this guidance. If you do not wish to adapt this form then you must ensure that the instrument amending the dedication includes all of the information required in respect of a full dedication, as specified in the Regulations. Whichever approach you take, you will need to obtain the consent of, or make the amendment jointly with, any relevant party with an interest in the land (see paragraphs 6.1 - 6.3 and **Annex 4** of this guidance) before making the dedication, supplying them with full details of the proposed amendment. We again recommend that you contact Natural England, English Heritage and the Forestry Commission, as appropriate, and also that you seek the services of a solicitor.
5. Once you have made an amendment to a dedication then you will also need to notify all those parties listed at paragraph 8.1 of this guidance, by sending them a copy of the amendment within 28 days.

Form A: Model form of instrument of dedication

Before you start to complete this form please read the accompanying explanatory notes printed at the end. You should also read the Defra Guidance note on the dedication of land under section 16 of the Countryside and Rights of Way Act 2000.

INSTRUMENT OF DEDICATION PURSUANT TO SECTION 16 OF THE COUNTRYSIDE AND RIGHTS OF WAY ACT 2000

1. In this Instrument of Dedication:

“the Act” means the Countryside and Rights of Way Act 2000; and

“the Land” means the land at:

, the location and extent of which is shown on the attached map (“the Map”).

2. I / We [delete as appropriate]: _____

of: _____

I / We [delete as appropriate]: _____

of: _____

DEDICATE the Land under section 16(1) of the Act, for the purposes of Part I of that Act.

3. The person(s) referred to in paragraph 2 hold(s) the fee simple absolute in possession in the Land / a legal term of years absolute in the Land, the unexpired term of which isyears.....days and which is due to expire on ___ / ___ / _____ [delete as appropriate].

4. I / We [delete as appropriate]: _____

of: _____

I / We [delete as appropriate]: _____

of: _____

DEDICATE the Land pursuant to section 16(2) of the Act, jointly with the person(s) referred to in paragraph 2.

5. The person(s) referred to in paragraph 4 hold(s) the following interest(s) in the Land:

Name	Nature of leasehold interest	Length of unexpired term

6. The **CONSENT** of the following person(s) is given to this dedication, pursuant to section 16(2) of the Act:

Name	Address

7. The following general restrictions in Schedule 2 to the Act are removed or relaxed to the extent specified below:

General restriction in Schedule 2 to the Act	State whether the general restriction is removed or relaxed and, where it is relaxed, the extent of the relaxation	Land in respect of which the general restriction is removed or relaxed

8. Some or all of the Land consists wholly or predominantly of woodland.

or

None of the Land consists wholly or predominantly of woodland.

[delete as appropriate]

9. Some or all of the Land is a Site of Special Scientific Interest. The name of the site is

or

None of the Land is a Site of Special Scientific Interest.

[delete as appropriate]

10. Some or all of the Land includes a Scheduled Monument. The monument number is.....

or

None of the Land includes a Scheduled Monument

[delete as appropriate]

11. None of the Land is dedicated as coastal margin

or

Some or all of the Land is dedicated as coastal margin.

[delete as appropriate]

Signed _____

Name [please print] _____

Date _____

This document has been archived.
For later information see
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

Explanatory notes to model form of instrument of dedication

This model form of instrument of dedication is recommended for use when dedicating land in England. It is not compulsory to use this form, but if it is not used the instrument of dedication must contain all the information required by regulation 5 of the Access to the Countryside (Dedication of Land) (England) Regulations 2003, as amended by the Access to the Countryside (Dedication of Land) (England) (Amendment) Regulations.

The instrument of dedication must be in writing. It may be in an electronic form and it must be signed and dated by the person making the dedication. If the instrument of dedication is contained in an electronic communication it may be “signed” by incorporating in it or logically associating with it an electronic signature, as defined in section 7(2) of the Electronic Communications Act 2000.

The paragraph numbers below relate to the paragraph numbers on the model form of instrument of dedication:

1. In paragraph 1 describe in words the location and extent of the land that you are dedicating. You must also include a map on a scale of not less than 1/10,000, with the boundary of the land that you are dedicating clearly marked on it.
2. Insert the name and address of every person making the dedication under section 16(1) of the 2000 Act here. If you are making the dedication jointly with a person(s) who holds an inferior leasehold interest in the land then you should insert their details at paragraph 4 below.
3. In paragraph 3 indicate whether you hold a freehold or leasehold interest in the land. If you hold a leasehold interest, insert the unexpired term of the lease and the date on which the lease is due to expire. **The information specified in paragraphs 1, 2 and 3 must always be provided.**

4. Paragraphs 4 and 5 are for use where a person(s) with an inferior leasehold interest in any of the land to be dedicated is making the dedication jointly with you (pursuant to section 16(2) of the 2000 Act) rather than only with their consent. You should insert the name and address of every such person here.
5. Use paragraph 5 to record the name of any person referred to in paragraph 4, the nature of such a person's leasehold interest in the land and the length of the unexpired term of that interest. In most cases one would expect the leasehold interest to be a legal term of years absolute. **If no-one is joining in the dedication pursuant to section 16(2) of the 2000 Act, both paragraphs 4 and 5 should be omitted.**
6. Paragraph 6 is for use where a person(s) with an inferior leasehold interest in any of the land to be dedicated is consenting to the dedication (pursuant to section 16(2) of the 2000 Act) rather than making the dedication jointly with you under paragraphs 4 and 5. You should insert the name and address of every person consenting to the dedication here. See paragraphs 6.1 to 6.3 of this guidance to find out what information you need to provide to such persons when seeking their consent. **If you do not require the consent of any person to the dedication, paragraph 6 should be omitted.**
7. The general restrictions contained in Schedule 2 to the 2000 Act are for the protection of the landowner and will automatically apply to dedicated land unless they are removed or relaxed in the dedication instrument.
 - (i) If you wish to remove or relax any of these restrictions then you should clearly identify the relevant paragraph of Schedule 2 to the 2000 Act in the first column of the table (see **Annex 3** of the dedication guidance). For example, if you wish to allow horse riding on any part of your land you should insert "paragraph 1(c)" in the first column.
 - (ii) You should use the second column to clearly state whether you are removing or relaxing the restriction, by stating either "The general restriction is removed" or "The general restriction is relaxed".

In the example given above, if you state “The general restriction is removed”, this will allow people to access your land with any type of animal, not just horses. If you only wish to allow people to bring horses onto your land, and not livestock, for example, you should instead insert “The general restriction is relaxed”.

If you are relaxing a restriction you should also describe the extent of the relaxation, for example, by inserting “persons with horses are permitted” or “persons with ponies or horses are permitted”.

(iii) You should use the third column to describe whether the removal or relaxation applies to all or part of the land being dedicated.

If you are removing or relaxing a restriction only in relation to a specific part(s) of the land then you should describe this in words, and mark the appropriate area(s) on the Map (and state “see attached Map”).

A general restriction can be subsequently removed or relaxed but any which have already been removed or relaxed cannot be re-imposed. **If no general restrictions are being removed or relaxed paragraph 7 should be omitted.**

8. You must state in paragraph 8 whether or not any part of the land you are dedicating consists wholly or predominantly of woodland. **This information is required by regulation 5(1)(f) of the Regulations.**
9. Site of Special Scientific Interest (a “SSSI”) is an area specified under section 28 of the Wildlife and Countryside Act 1981. There is no requirement under the Regulations for you to indicate whether any of the land is a SSSI and you can omit paragraph 9 if you wish. However this information would be helpful. If you indicate that any of the land is a SSSI then the Natural England access team will inform the Natural England site management team.
10. A Scheduled Monument is a monument that is listed in Schedule 1 to the Ancient Monuments and Archaeological Areas Act 1979. There is no

requirement under the Regulations for you to indicate whether any of the land includes a Scheduled Monument and you can omit paragraph 10 if you wish. However this information would be helpful. If you indicate that any of the land includes a Scheduled Monument, then Natural England will inform English Heritage.

11. You must state in paragraph 11 whether or not any part of the land you are dedicating is dedicated as coastal margin. **This information is required by regulation 5(1)(g) of the Regulations.**

Signature blocks at end of model form:

Any person giving their consent to the dedication and then each person making the dedication (including any person who is joining in the dedication pursuant to section 16(2) of the 2000 Act) must sign, print their name and date the instrument of dedication at this point. Where a dedication is made jointly, the instrument of dedication is treated as being made on the date on which the last person making the dedication signs the instrument of dedication.

The completed dedication instrument must be sent to The Open Access Contact Centre, Natural England, Temple Quay House, 2 The Square, Bristol BS1 6EB. Telephone: 0845 100 3298. Email: openaccess@naturalengland.org.uk.

PLEASE NOTE that section 16(7) of the 2000 Act provides that a dedication under section 16 of that Act is irrevocable and binds successive owners and occupiers of the Land to which it relates, and any other people with an interest in the Land. If the Land is leasehold the dedication has effect only for the remainder of the term held by the person making the dedication: see section 16(4) of the 2000 Act.

Please remember to include a map of your land with the instrument of dedication.

Data Protection Act 1998

Personal data supplied on, or in connection with this form will be stored by Natural England on a computer system. The data will also be shared with, and may be stored by, the Forestry Commission, English Heritage and the relevant local highway authority or National Park authority (the “access authority”), as appropriate. If you supply copies of the data to a district council or a London borough council in its capacity as a “registering authority” for the purposes of section 3 of the Local Land Charges Act 1975, then the data will also be held on the local land charges register held by that authority and will be available for public inspection. The data may be used in connection with any purpose set out in any Act of Parliament, or regulations, which a recipient of the data is responsible, or partly responsible, for administering.

The bodies referred to above may be required to release information, including personal data and commercial information, on request under the Environmental Information Regulations, the Code of Practice on Access to Government Information or the Freedom of Information Act 2000.

This document has been archived.
For later information see www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coast-path margin at
www.gov.uk/manage-your-land-on-the-england-coast-path

Form B: Application for the registration of a dedication as a local land charge

To the Local Land Charges Officer

Following a dedication of land made under section 16 of the Countryside and Rights of Way Act 2000, please accept this as notification of a Dedication of Land for registration in Part 4 of the Local Land Charges Register. A copy of the instrument of dedication (including a copy of the map referred to in the instrument) is attached. Please return a copy of this form to the person named below as confirmation of registration.

This notice may be registered using the following template, to be completed by the dedicator:

1. Instrument of Dedication of Land made under section 16 of the Countryside and Rights of Way Act 2000, in accordance with the Access to the Countryside (Dedication of Land) (England) Regulations 2003 as amended by the Access to the Countryside (Dedication of Land) (Amendment) (England) Regulations 2011.

Dated: ___/___/___ [please insert date when dedication was made]

2. My interest in the land is / is not leasehold [delete as appropriate].
3. If the interest is leasehold, the lease will expire (“the charge removal date”) on ___/___/___ [please insert date]

4. Dedicator’s signature: _____

5. Further information can be obtained from the dedicator at:

Please remember to enclose a copy of the dedication instrument and the associated map (on a scale of not less than 1/10,000) with this form.

You should send this to the local land charges department of the relevant district council or London borough council as appropriate.

FOR OFFICIAL USE ONLY: TO BE COMPLETED BY THE LOCAL LAND CHARGES OFFICER AND A COPY RETURNED TO THE DEDICATOR AT THE ADDRESS RECORDED OVERLEAF

_____ Council have registered the above notice in

Part 4 of the Local Land Charges register on: _____

Signed: _____

Dated: ____ / ____ / ____

*This document has been archived.
For later information see
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path*

Contact details

Access authorities

The access authority is a National Park authority if your land falls within a National Park, or the relevant local highway authority (i.e. the local authority for your area) in all other cases.

Charity Commission

Charity Commission, PO Box 1227, Liverpool, L69 3UG. Telephone: 0845 300 0218 (national contact centre)

Countryside Council for Wales

Countryside Council for Wales, Maes y Ffynnon, Penrhosgarnedd, Bangor, Gwynedd, LL57 2DW. Telephone: 0845 1306 229

Department for Environment, Food and Rural Affairs

Landscape and Outdoor Recreation, Defra, Zone 1/09, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6EB. Telephone: 0117 372 3553. Email: coast.consultation@defra.gsi.gov.uk

English Heritage

English Heritage, 1 Waterhouse Square, 138 - 142 Holborn, London EC1N 2ST. Telephone: 020 7973 3000. Email: customers@english-heritage.org.uk

Forestry Commission

Forestry Commission, 620 Bristol Business Park, Coldharbour Lane, Bristol, BS16 1EJ. Telephone: 0117 906 6000. Email: fe.england@forestry.gsi.gov.uk

National Assembly for Wales

The National Assembly for Wales, Cardiff Bay, Cardiff, CF99 1NA. Telephone: 0845 010 5500. Email: assembly.info@wales.gov.uk.

Natural England

The Open Access Contact Centre, Temple Quay House, 2 The Square, Bristol BS1 6EB. Telephone: 0845 100 3298. Email: openaccess@naturalengland.org.uk.

Contact details for your local Natural England office can be found in the notification documents sent to owners and occupiers of Sites of Special Scientific Interest, or by telephoning the Natural England enquiry service on 0845 600 3078. You can also obtain these details by emailing: enquiries@naturalengland.org.uk.

This document has been archived.
For later information see:
Open access land: management, rights and responsibilities at
www.gov.uk/open-access-land-management-rights-and-responsibilities or
England Coast Path: manage your land in the coastal margin at
www.gov.uk/manage-your-land-on-the-england-coast-path