



Department
for Environment
Food & Rural Affairs

helpline@defra.gsi.gov.uk
www.gov.uk/defra

Our ref: RFI 6665

Date: 8 July 2014

Dear

REQUEST FOR INFORMATION: COUNTRYSIDE AND RIGHTS OF WAY ACT 2000

Thank you for your request for information about the possible application of the Countryside and Rights of Way Act 2000 to caves, potholes and other natural underground voids which we received on 17 June 2014. As you know we have handled your request under the Freedom of Information Act 2000 (FOIA).

The open access rights under section 2(1) of the Countryside and Rights of Way Act 2000 are for "open air recreation". For that reason, even where land is shown on the conclusive maps of open country and registered common land, which were issued under the Act, the legislation does not in the Department's view create any new public rights to use cave systems beneath or within the mapped land.

In December 2013 Natural England asked the Department for its view on a number of specific questions relating to correspondence which Natural England was dealing with. In response the Department noted that the interpretation of the Countryside and Rights of Way Act 2000 is ultimately a matter for the courts. It also agreed the answers to the specific questions raised:

Do caves qualify as mapped open country as defined under the Countryside and Rights of Way Act 2000?

No, except possibly some large open caves on the side of mountains etc. In such cases the experience may remain essentially an open air one, depending on the configuration of the cave.



How does the Countryside and Rights of Way Act 2000 apply to exploring natural underground voids?

It does not.

Do cavers have a right to explore natural caves within open access land?

See above. This does not prevent cavers (whether land is mapped under the Countryside and Rights of Way Act 2000 or not) continuing to use particular cave systems, for example where this has been traditional, so long as the landowner continues to tolerate this or has given specific permission to do so.

What right do Commercial Cave Instructors have to access caves within Countryside and Rights of Way Act 2000 land with paid for caving training groups?

None, but see the previous answer.

In keeping with the spirit and effect of the FOIA, and in keeping with the government's Transparency Agenda, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you will now be published on www.gov.uk together with any related information that will provide a key to its wider context. Please note that this will not include your personal data.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact me.

Yours faithfully,

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London
SW1P 3JR

Annex A

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Annex B

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: requestforinfo@defra.gsi.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our website.

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF