



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Consultation on an order for the Isle of Wight under the Marine and Coastal Access Act 2009

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<https://www.gov.uk/government/consultations>

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Purpose of consultation

1. A Consultation on an order for the Isle of Wight under the Marine and Coastal Access Act 2009 was published by the Department for Environment, Food and Rural Affairs on 24 July 2012. The consultation sought views on whether or not the Government should make an order under section 300(2)(b) of the Marine and Coastal Access Act 2009 (the “2009 Act”) so that the coastal access duty under that Act would apply in relation to the coast of the Isle of Wight.

2. A Summary of responses to the consultation was published on 16 July 2013¹ in which the Government said:

‘The Government has decided that it will not make an order for the Isle of Wight as it is not a priority for the coastal access programme. It considers that the Isle of Wight Ramblers should work with local landowners and the local authority to see what can be achieved by voluntary agreements.’

3. The Government has re-considered what respondents had originally said to the consultation and its decision on the outcome of that consultation. The Government now wishes to give a second opportunity for people to state (or re-state) their views on whether or not the Government should make an order. The closing date for responses to the consultation is Friday 24 January 2014.

4. In considering whether or not to make an order the Government will specifically consider the degree of priority that should be accorded to the making of an order and the implementation of any coastal access proposals for the Isle of Wight as against the rest of the coastal access programme, given limited funds for the overall programme.

5. If you submitted a response to the previous consultation, which was issued on 24 July 2012, please note that it will be taken into account and there is no requirement for you to submit a new response unless you wish to do so.

Background

6. A new right of access to the English coast was introduced in Part 9 of 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 for the whole of the English coast, and also amends Part 1 of the Countryside and Rights of Way Act 2000

¹ The consultation and Summary of Responses are available on the Gov.uk website at <https://www.gov.uk/government/consultations/consultation-on-an-order-for-the-isle-of-wight-under-the-marine-and-coastal-access-act-2009>

to provide a right of access to a margin of land associated with the route for the purpose of open-air recreation. For this purpose “the English coast” means the coast of England adjacent to the sea, including that of any island (in the sea) comprised in England other than “an excluded island”. The Isle of Wight is currently an excluded island for this purpose (see paragraph 10 below).

7. The coastal access provisions in section 296 of the 2009 Act place a coastal access duty on the Secretary of State and Natural England to secure two linked objectives:
 - a. that there is a route for the whole of the English coast consisting of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
 - b. that in association with the route there is a margin of land along the length of the English coast which the public can have access to and enjoy for the purpose of open-air recreation.
8. In discharging the coastal access duty Natural England and the Secretary of State must (under section 297(2) of the 2009 Act) have regard to the following considerations:
 - a. the safety and convenience of those using the English coastal route;
 - b. the desirability of that route adhering to the periphery of the coast and providing views of the sea; and
 - c. the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
9. In addition the Secretary of State and Natural England “*must aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land*”, under section 297(3) of the 2009 Act.

Effect of making an order

10. The coastal access duty relates to the English coast and applies in relation to the coast of any island (in the sea) unless the island is “excluded”. Section 300(2) of the 2009 Act explains that an island is “excluded” unless it is either an “accessible island” or an island specified by the Secretary of State by order. The 2009 Act defines an island as “accessible” if it is possible to walk to that island from the mainland of England (or from another “accessible island” or an island specified by the Secretary of State by order) across the foreshore or by means of a bridge, tunnel or causeway, even if it is only possible to walk to the island at certain times, or during certain periods, only. The power to make an order for this purpose is exercisable by the Secretary of State by

way of a statutory instrument (an instrument of subordinate legislation) (see section 316(3) of the 2009 Act).

11. It is not possible to walk to the Isle of Wight from the mainland of England, and to date no order has been made specifying the Isle of Wight for the purposes of section 300(2)(b). This means that the coastal access duty under section 296 of the 2009 Act does not presently extend to the Isle of Wight.
12. One condition of an order being made is that the Secretary of State must be satisfied “that the coast of the island is of sufficient length to enable the establishment of one or more long-distance routes along its length capable of affording the public an extensive journey on foot” (section 300(5) of the 2009 Act). The Isle of Wight has a coastline of about 70 miles, and the Secretary of State considers that this condition as to the length of the coast is satisfied.

Coastal access implementation programme

13. The new right of coastal access was first implemented on a stretch of the English coast at Weymouth Bay on 29 June 2012. The Government has also now approved Natural England’s coastal access reports for a stretch of the coast in Durham, Hartlepool and Sunderland and a stretch in Cumbria. It is expected that the right of access will come into force on these two stretches early in 2014. As of November 2013 Natural England has also submitted reports to the Secretary of State for stretches of the coast in Kent, Norfolk and Somerset.
14. In addition to the stretches noted above Natural England is working on delivering coastal access on further stretches in Cumbria, Durham, Kent, Norfolk and Somerset as part of a medium-term plan to set out which stretches will have been started over the next 5 - 7 years. The aim is that by 2019/20 the coastal route would link into some of the existing National Trail network, so, for example, linking the existing South-West Coast Path at Poole, Dorset to the first Severn Bridge and there joining up with the Wales Coast Path (which was opened in May 2012) and the southern end of Offa’s Dyke Path².

Isle of Wight implementation – priority

15. Given the limited funds available for the coastal access programme, adding the Isle of Wight to the programme, and consequently Natural England starting to develop proposals for a coastal route on the Isle of Wight, might mean either dropping or

² Details of Natural England’s indicative programme and current reports is available at: <http://www.naturalengland.org.uk/ourwork/access/coastalaccess/default.aspx>

delaying some of the already planned stretches from the programme, using the prioritisation criteria set out in the Coastal Access Scheme³.

16. The question of the degree of priority that should be accorded to the implementation of any coastal access proposals for the Isle of Wight, as against the rest of the coastal access programme, will therefore be taken into account in the Government's final decision as to whether or not to make an order. For example, if the responses to the consultation show that people regard implementation on the Isle of Wight as a low priority the Government will need to consider whether it is appropriate to make an order at all.
17. Should the decision be taken to make an order, the question of the degree of priority will be determined in accordance with the prioritisation criteria set out in the Coastal Access Scheme.

Response to consultation

18. If you submitted a response to the previous consultation, which was issued on 24 July 2012, please note that it will be taken into account and there is no requirement for you to submit a new response unless you wish to do so.
19. We would welcome views on the following questions:

Question 1

Did you respond to the previous Defra consultation issued on 24 July 2012?

Please answer yes or no.

If you have answered **yes** please now answer questions 2, 5 and 6.

If you have answered **no** please now answer questions 3, 4, 5 and 6.

Question 2

Do you have any further views and comments on whether the Government should make an order in addition to those which you previously included in your response to the consultation issued on 24 July 2012?

³ Natural England's Coastal Access Scheme is available at: <http://publications.naturalengland.org.uk/publication/5327964912746496>

Question 3

Do you support the Government's making an order under section 300(2)(b) of the Marine and Coastal Access Act 2009 specifying the Isle of Wight for the purposes of that section, so that at a future date a coastal route around the Isle of Wight might become part of the English coastal route with, in association with that route, a margin of land accessible to the public? Please answer yes or no.

Question 4

What are your reasons to support the reply you gave to question 3?

Question 5

What degree of priority do you think should be accorded to implementation of coastal access on the Isle of Wight as against the rest of the coastal access programme?

Please answer High or Low?

Question 6

What are your reasons to support the reply you gave to question 5?