

Date : 17 June 2003  
To : Bridget Dales, Recreation and Access Group, Scottish Natural Heritage  
From : R Craig Campbell  
Direct dial : 0131 472 4002  
E-mail address : craig.campbell@nfus.org.uk

## **DRAFT SCOTTISH OUTDOOR ACCESS CODE**

### **Summary**

1. NFU Scotland believes that the draft provides a basis for an amended version which may serve the best interests of both those who seek recreational access to the countryside and those who provide it. Please note that NFUS is in favour of improved access opportunities. We believe that managed access on paths in and around enclosed land could realise those opportunities for the benefit of both parties.
2. NFUS's Legal and Technical Committee and Environment and Land Use Committee have considered the proposed Code. Members of the NFUS National Parks and Access Working Group have also been consulted. Whilst recognising the significant improvements that have been made from previous editions, we have several important reservations about this draft. These are so important that, if not resolved to our satisfaction, NFUS may feel obliged to seek the support of Members of the Scottish Parliament in opposing introduction of the Code and, thereby, commencement of Part One of the Act. We hope that will not be necessary.
3. The structure of this response to the draft is in two parts. The first part provides a principled response to the issues. The second part replies to the set questions.
4. In summary, the views of NFUS are that:
  - A distinction must be drawn between access arrangements to open hills and mountains on the one hand and enclosed ground on the other.
  - For the former situation, there remain issues of safety for access takers where livestock are involved. However, these are of a less serious order of magnitude than that for enclosed ground.
  - For access on enclosed ground, substantial issues of public safety can only be properly addressed by creation of core path network - of paths which provide a physical separation of access takers from livestock and from crops.
  - Where such paths are provided, it would be irresponsible to not use them. This should be reflected in the Code.

### **Public Safety**

5. It is desirable that there be a better public understanding and appreciation of farming activity. Enhanced access opportunities provide an obvious way to achieve that, and at the same time deliver the public interest in improved health fitness of the general public through outdoor recreation. The key issue is risk minimisation. It would be paradoxical if improved access resulted in more accidents.

6. The countryside is not risk-free, as has been recognised in the consultative document. The health and safety of those people taking recreational access must be safeguarded. With very much reduced employment on farms, following many years of low farm business incomes, there are too few people on-the-ground to be able to advise people about particular hazards. While land managers may be identifiable, they are few on the ground. Access takers can be numerous and their whereabouts are not easily identified.
7. Therefore, a total physical separation of the access-taking public from farm animals, from crops and from farming operations, is the ideal. NFUS recommends that the Scottish Executive should take responsibility explicitly - to ensure that all relevant parts of government strive to put that ideal into practice.
8. The concept of a core path network has been advanced previously and the Act obliges local authorities to plan for it. However, no direct obligation has yet been placed on any part of government as regards the specification of paths, nor of their delivery other than by path order. (See paragraph 20 below regarding different classes of path users.) Nor has the Scottish Executive made an unequivocal commitment of resources to that purpose. (See paragraph 23 below on local government finance.)
9. Finally, we welcome the draft Code's recognition [paragraph 3.9] that access takers must take responsibility for their own safety, by assessing potential risks and taking avoiding action. There should be more emphasis on the message that people act on the results of their risk assessment. This should give effect to the aspiration at clause 5(2) of the Act that the duty of care owed by land managers is not affected by the granting of the right of responsible access. [Texts are proposed in response to questions 2 and 3 below.]

### **Open ground**

10. On hill ground, we have an existing concordat that works fairly well. It has been tacitly - if not explicitly - accepted that where access takers can put some distance between themselves and livestock, there should not be a problem. Nonetheless, considerations of animal welfare and of personal safety should be observed.

### **Enclosed areas**

11. Most new access demand is anticipated in areas convenient to towns and cities. Because these are predominantly on the lower ground, the adjacent farmed land is usually enclosed in fields. Within these fields, a variety of farming operations present a variety of potential risks to anybody present. Farmers are generally aware of what these risks are. However, even they get hurt from time to time. The general public cannot be expected to be well informed about the generality of risks, nor about the specific risks in an individual field.
12. Proposed access taking on arable and grass field margins, where paths have not been provided, must be reconsidered. In addition to the safety issue of unwitting exposure to agricultural chemicals, such places do not always have well defined edges to crops. There is a real danger that access takers could unwittingly cause damage to the production area. Also, the question of what constitutes responsible behaviour in the context of conservation of these places raises both a general and a specific point.
13. The general point is that field margins provide a conservation resource both in terms of the habitat for a variety of plant and animal species and in terms of providing connections between habitats. Trampling of margins which may contain sensitive species and which provide wildlife corridors is undesirable.

14. The specific issue is that many farmers have increased obligations for conservation of field margins and headlands under environmental management agreements with SEERAD and with SNH. SEERAD have said that SNH should undertake extensive signposting under the new Act to discourage access in such places.
15. NFUS is not satisfied that the draft Code has fully recognised and addressed livestock issues. Where the opportunity to use a path is not yet available, for example in gaining access to open hill ground, there needs to be a set of very simple rules to protect the public and ensure that access-takers are bound by the same conditions as farmers in relation to biosecurity and to food safety.
16. The focus of both safety issues and biosecurity/farm assurance concerns tends to be those taking access with dogs. Therefore, we deal with this first. Access takers with dogs should be told in the Code that they must choose a route that avoids fields with livestock and crops grown for animal and human consumption, including grass. Dogs should be kept on a lead wherever they might stray into such situations. [Quality assurance schemes require that dogs on farms are wormed at least twice per year.] For open ground with livestock, dogs should be kept on a short lead and walked well away from animals, particularly when with young and in Spring, prior to lambing and calving.
17. If charged by an animal when a dog is involved, the present guidance jeopardises personal safety. Access takers in such situations should be advised to take their dog off the lead. Please note that most livestock accidents experienced by farmers, who are in a better position to evaluate risk, involve cows rather than bulls. Also, and despite their relative size, sheep can be aggressive. Farmed deer can be highly dangerous.
18. However, it should not be assumed that those taking access without dogs are free of risk. Because few members of the public will have experience of livestock, let alone any knowledge of particular animals, provision of alternative routes should have a very high priority.
19. Privacy, safety and night-time access complications could be greatly simplified by providing paths at some distance from farm houses and from farm buildings of all kinds. Local access forums should be asked to prioritise paths which by-pass such problem areas. During the hiatus, farmers should be able to signpost temporary routes. Being on such by-pass paths or temporary routes should be defined as the only responsible places to be, by day or by night.

### **Specification of paths**

20. The Act creates access rights for horse riders and cyclists, as well as for walkers. It is important there should be clear rules about responsible behaviour for riders of both kinds, because of the physical impact. The general injunction about not causing damage is best delivered by providing path surfaces maintained to a standard which can sustain that kind of traffic. There should also be a prohibition of going on wet ground. Otherwise, poaching will result and farmers could be in breach of tenancy terms and of good farming practice obligations. Compaction and erosion are also important impacts on soils that must be avoided.
21. For foot traffic, it may be expected that cars will also be employed. Taking cars to the start/end of a walking route imposes extra requirements on the proposed core path network – provision of car parks. This will avoid unreasonable situations where parked cars prevent farm vehicle and livestock movements because of use of roadside verges and gateways. [Please note that reference to parking in paragraph 3.3 needs to be amended to bring it into line with paragraphs 3.4 and 3.40.]

22. It is recommended that land managers should seek adoption of existing paths by local access forums, on behalf of local authorities, so as to secure a transfer of liability. This is to give effect to clause 5(2) of the Act by guarding against situations such as responsibility for accidents caused by falling trees/boughs during and after storm events. Such unlikely hazards will present greater risks if/when there is more frequent use of wooded routes. Likewise, maintenance needs and responsibility for existing stiles and gates may increase.

### **Local government finance**

23. During the last Scottish Executive administration, announcements were made about resources to be allocated for path creation and maintenance. Unfortunately, this was announced as grant-aid to local government. The legal position is that resources, once allocated to local authorities, can be spent at local discretion. To ensure that paths are properly resourced without any doubt of the outcome, we recommend a contractual relationship between central and local government for this purpose.

### **Access taken by commercial groups**

24. The Code should state that activity by commercial groups should not be undertaken within fields on enclosed farmland, except by permission.

It should be noted that many NFUS members undertake diversifications of a recreational nature. More may wish to do so in the future and this is encouraged by the Scottish Executive's Forward Strategy for Scottish Agriculture. There is a danger that the two policies - for agriculture and for access - could become incompatible because the property rights attached to farmland are not exclusive. This is a matter of legislative intention rather than a matter of guidance which can be dealt with through revision of the Code.

25. We recommend that the Scottish Executive reconsider the position of access by organised groups at an early date. It is further suggested that this be an early agenda item for the proposed National Access Forum.

### **Conclusion**

26. The central proposition that the Scottish Outdoor Access Code must address is that we, the Scottish people at large, as well as farmers, have a communications problem. Access to the countryside is for everyone but most people don't live in rural areas. Even for those who do, we are several generations away from farming as the dominant employment activity. Therefore, we cannot assume any familiarity with farming.
27. In consequence, a high priority for the long term should be given to educating and informing the public about the Code itself and about how informal recreational access may co-exist with other countryside activities. Before the commencement order for Part One of the Act, SNH should make clear to the public that new access arrangements are not yet in place.
28. Visitors to the countryside should be able to understand a little more about the production side of the countryside - but viewed from a safe distance. At the same time, we hope that they may learn to appreciate the custodianship issues that contribute to our significant resources of landscape and wildlife. Visitors in the right place, at the right time, are a good thing.

## **PART TWO – RESPONSES TO SNH’S SET QUESTIONS**

- 1. We would welcome any ideas on how we can balance the need to cover all key issues in sufficient detail with the length of the Code.***

NFUS response: The Code may be adopted by the Scottish Parliament in a more substantial format, such as the scale of the draft document, but its key features must be reproduced in as short a format as possible. (See below.) Any specific interpretations for particular forms of recreation should be subject to “quality control” by the National Access Forum.

- 2. We would welcome any ideas on what sort of short summary of the Code you would find useful and what its contents should be.***

NFUS response: The Code will need to be reproduced in as brief a format as possible, detailing principles of responsible behaviour. As a model of presentation, we commend “Care for Scotland’s Countryside. Follow the Country Code”. This was published by SNH in 1998.

We recommend that the text of an amended version should read as follows:

The right in the Land Reform (Scotland) Act 2003 is a right of responsible access. If people are not behaving responsibly on somebody else’s ground, or water, they have no right under this new law.

Being responsible means:

1. Keeping to paths wherever these are provided.
2. Horses and cycles being used only on paths designed for those purposes.
3. Avoiding any places where signs indicate that dangerous operations are underway or that a site is being protected for wildlife.
4. Not entering land with livestock wherever possible and especially when sheep and cattle are expected to be producing young or already have young animals nearby.
5. Leaving all gates as you find them. Gates can be deliberately closed to prevent livestock movements or deliberately open to allow them.
6. Keeping dogs away from livestock and from fields growing crops. Grass is an important crop in Scotland. Dog fouling can create food safety issues on grassland too. Quality assurance schemes require that dogs on farms are wormed at least twice per year.
7. Where paths are not provided, entering and leaving fields wherever possible at gates and stiles. Where gates are locked, climb at the hinged end to avoid damage.
8. Where farm machinery is operating, making a detour to avoid the area.
9. Taking litter home, including dog faeces. Leaving litter and dog fouling are offences in Scotland.
10. Avoiding direct contact with farm animals. Feeding or touching farm animals can spread diseases. Official advice is that fields which are, or have been, used for livestock should not be used for camping or picnicking. E-coli 1570 is prevalent in Scotland among farm animals: it is especially important that young children are kept away from livestock and from fields where they have been.
11. Not disturbing or taking plants, edible fungi, fruits etc., animals or birds’ eggs from the countryside.
12. Being considerate towards those who live and work in rural areas and towards other people taking recreational access.

13. Taking care of your own safety by not taking unnecessary risks. Note that unaccompanied children are unlikely to be able to appreciate risks.
14. If visiting the countryside as an organised group, seek permission.

**3. Do you find these key principles helpful in thinking about what responsible behaviour means? [Paraphrased, these were: be courteous and considerate, have a care for others, look after the places visited and be responsible for safety of yourself and others.]**

NFUS response: As a summary of the points made above, these so-called principles are unexceptional, apart from the last part of the last one. It is absolutely unacceptable that land managers should be held responsible for the safety of others beyond that obliged by existing legislation. Indeed, the Act says so.

An alternative wording for the final “principle” would be:

Access takers should be responsible for the consequences of their actions and take personal responsibility for their own safety. Access providers should not jeopardise the safety of others, knowingly and for that purpose.

Also, a distinction must be drawn between access arrangements to open hills and mountains on the one hand and enclosed ground on the other. This would be usefully added to the first introductory paragraph.

**4. The role and status of the Code is determined by the Land Reform (Scotland) Act 2003. Do you think it is clearly explained in this introduction?**

NFUS response: No.

The second and third sentences of paragraph 1.1 are inaccurate. The right is a right of responsible access. Access rights do not exist outwith responsible behaviour. These sentences should be replaced by:

Those who undertake outdoor recreation responsibly can do so as a matter of right under the Act. This Code defines what is meant by “responsible”.

Similarly, the second bullet point of paragraph 1.2 should say:

The ...Code .....gives practical guidance on: what constitutes responsible behaviour by access takers.

**5. The extent of access rights is determined by the Land Reform (Scotland) Act 2003. Do you think that this section (section 2) of the Code summarises access rights accurately and is the interpretation within the Code understandable and easy to follow?**

NFUS response: No.

The “at a glance” summary and paragraph 2.1 suffer from the same problem as that identified under question 4 above.

Paragraph 2.2 needs substantial qualification as regards access around the margins of fields where crops are growing. It would be irresponsible, i.e. not within the right, to take access in these places: where a path provides an alternative route, where the margin is covered by a management agreement with government for conservation purposes, where signs indicate that there is a hazard to persons, where a temporary or long-term exclusion order is in place, where doing so would cause a breach of food safety rules and where livestock are present. *This text is recommended as an addition.*

Anybody taking access under such circumstances would be taking access on the existing legal basis, not as a right.

Similarly, paragraph 2.8 requires qualification as regards horse riding and cycling. As noted in paragraph 20 above, horses and cycles impose particular wear and tear on the ground where they are used.

Farmers withdraw livestock from land and suspend machinery operations where to do otherwise would damage the ground. As regards wet ground, this is usually called “poaching”. Compaction and soil erosion are also potential results of damaging use. Maintaining good agricultural condition is an aspect of good farming practice which is an obligation of tenancy (covering about one-third of all Scottish farms) and a cross-compliance issue that is likely to be a part of obligations on recipients of all agricultural support payments. We recommend a footnote to the effect that horse riding and cycling, exercised within the right, must be restricted to those places and times where ground damage such as poaching would not result. In effect, such places will have been prepared for those purposes. This is an example of the need for Code guidance that is specific to certain forms of recreation.

If the Scottish Executive was to agree that it would be responsible for horse riders and cyclists to be anywhere, at anytime, very substantial claims for compensation would result.

**6. *A key role of the Code is to show the point at which behaviour is or is not responsible. Is the test of responsible behaviour – unreasonable interference in the form of damage or disturbance causing harm or loss – set too low or too high, or is it about right?***

NFUS response: Too low.

The aspirations of section 3 may be about right, apart from a few detailed points which follow. The principle difficulty for NFUS members is that the aspirations of the Code are not realisable if access takers are not in a position to know what action interferes with farming activity or causes damage.

The passages dealing with crops and grass are of no practical benefit as guidance to people who cannot distinguish between the two. Nor can the bulk of the population be expected to know what farm animals and in what circumstances present a hazard. With or without a dog on a short lead, there are public safety grounds for saying that access by the public to enclosed land with livestock would be irresponsible. The “at a glance” summary and paragraph 3.3 should be revised to that effect.

It should be noted, say at paragraph 3.9, that unaccompanied children are unlikely to be able to appreciate risks. Therefore, it should be considered irresponsible for parents to allow their children access to the countryside, without an adult present.

Telling people what action is permissible as of right would be a sounder basis for proceeding, rather than asking that they exercise value judgements on matters beyond their ken. Our response at question 2 above, provides such guidance.

Comments on detailed points follow in response to additional questions.

**7. *Do you think that the guidance emphasises enough that the countryside cannot be made hazard-free and that people should be responsible for their own actions?***

NFUS response: No.

We suggest an additional sentence to paragraph 3.9:

As soon as any conduct becomes irresponsible, the perpetrator places himself/herself outside the right of access.

**8. *Does the Code strike a sensible balance between the needs of people exercising access rights and the need to give people reasonable measures of privacy and peace in their own home? If you think that the Code does not strike a sensible balance, please explain why.***

NFUS response: Don't know.

NFUS suggests that the critical issue is management of access through path provision that directs access takers away from homes and from farm buildings. Given that, whether the Code is sufficient to produce the desired outcome will be found out in practice. If it needs adjusting, that should be a task for the National Access Forum.

**9. *If you think that reasonable needs for privacy can only be respected by keeping a certain distance from any house, what distance would you recommend and why?***

NFUS response: An appropriate distance must depend on individual circumstances. Routing of paths should respond to those circumstances and their use should be mandatory within the right.

**10. *Does the guidance strike a sensible and workable balance between the interests of those exercising access rights and those working in farmyards.***

NFUS response: No, but in practice should be improved through path creation.

At paragraph 3.18, access through farmyards, has been noted as a matter of concern within the Access Forum - with no agreement on what would be responsible behaviour where no alternative paths/routes are provided. Our response is that creation of farmyard "by-passes" should be the highest priority in establishment of the core path network. It would be irresponsible on the part of government not to do so, given the policy imperative for improved access.

In the meantime, we suggest that farmers be allowed to put up signage indicating their requirements, including temporary by-pass arrangements, pending new path creation. Given that acceptance, bullet point two supports.

**11. Do you think that the guidance provided on access over land where land management work is underway is sensible and workable on the ground? If you don't, please explain why.**

NFUS response: No.

Paragraph 3.21 should be strengthened to the effect that not following advice from someone in a more knowledgeable position is irresponsible. It would compromise responsibility for personal safety. Temporary signage should also be followed because farm personnel cannot be expected to be on hand to answer all enquiries.

An addition is required, say at paragraph 3.21, to the effect that farm machinery, when not in use, also presents a hazard and must be avoided.

**12. Do you think that the Code strikes the right balance between people being able to exercise access rights responsibly and ensuring that any risks to animal health are minimised? If you don't, please explain why.**

NFUS response: No.

Paragraph 3.25 regarding biosecurity etc. should be strengthened along the lines indicated in the explanatory notes. It is not responsible to enter enclosed land, with or without dogs, when to do so could compromise animal welfare needs, rules of food quality assurance schemes or responsibility for personal safety.

[Please note that the research referred to in the explanatory notes (by the Macaulay Land Use Research Institute in year 2000) predates the most recent outbreak of Foot and Mouth Disease and subsequent biosecurity requirements placed on farmers by government.]

**13. Do you think that the guidance in the Code strikes a reasonable balance between people exercising access rights through fields and the interests of land managers? If you don't, please explain why.**

NFUS response: No, for reasons laid out in response to question 5.

**14. The Code stresses the need to take care while enjoying the natural and cultural heritage. Do you think the guidance strikes a fair balance between protecting this resource and encouraging people to enjoy and appreciate it? If you don't think that the balance is fair, please explain why.**

NFUS response: No.

Many places on farms are managed for conservation purposes, including those under management agreements with SNH and the Scottish Executive. The issue has been highlighted in the context of field margins. Other situations arise which can be most effectively addressed by managing access through path provision and by making it clear that this is another reason, additional to personal safety, why access on paths is the only responsible behaviour in many instances. This clear message should be stated. (Paragraphs 3.32 and 3.33 refer.)

**15. Dogs can be an emotive issue. The Code defines “under proper control” in several ways, including not taking dogs into some types of field. Do you think the responsibility placed on dog owners are about right? It would help us if you could let us know in your response if you own a dog.**

NFUS response: No.

Paragraph 3.37 is an inadequate statement of responsible behaviour with respect to dogs. From the second sentence it should say:

At all times, choose a route that avoids fields with livestock and crops grown for animal and human consumption, including grass. Dogs should be kept on a lead wherever they might stray into such situations. For open ground with livestock, keep dogs on a short lead and walk well away from animals, particularly when with young and in Spring, prior to lambing and calving. Sheep disturbed after tugging can be prone to egg resorption. No visual damage is done at the time but the economic impact can be significant.

If charged by an animal, take the dog off the lead to protect your personal safety. Please note that most livestock accidents experienced by farmers, who are in a better position to evaluate risk, involve cows rather than bulls. Also, and despite their relative size, sheep can be aggressive.

**16. Do you think that the guidance for the organisers of groups and events, particularly the distinction between when to talk to land managers and when to obtain their permission, is reasonable? If you don't, please explain why.**

NFUS response: No.

Paragraph 3.42 should be amended by deletion of the second sentence. There should be no exception to the general rule that educational groups should take account of the concerns of land managers.

A distinction must be drawn between access arrangements to open hills and mountains on the one hand and enclosed ground on the other. The Code should state, say after paragraph 3.45, that activity by commercial groups should not be undertaken within fields on enclosed farmland, except by permission.

Whether the other components of this section of the draft Code are sufficient to produce the desired outcome will be found out in practice. If guidance needs adjusting, that should be a task for the National Access Forum.

It should be noted that many NFUS members undertake diversifications of a recreational nature. More may wish to do so in the future and this is encouraged by the Scottish Executive's Forward Strategy for Scottish Agriculture. There is a danger that the two policies - for agriculture and for access – could become incompatible because the property rights attached to farmland are not exclusive. This is a matter of legislative intention rather than a matter of guidance which can be dealt with through revision of the Code.

We recommend that the Scottish Executive reconsider the position of access by organised groups at an early date. It is further suggested that this be an early agenda item for the proposed National Access Forum.

If it is found that claims are made for access taking which jeopardise legitimate businesses on farmland, revising legislation should be brought forward to restrict access rights in certain circumstances to informal recreation. This warning note is to draw attention to possibilities on enclosed ground. This is not to challenge the position of guided groups on open hills and mountains.

***17. A key role of the Code is to show the point at which behaviour is or is not responsible. Is the test of responsible behaviour for land managers – people being prevented or discouraged from accessing access rights, or whether actions are unreasonable – set too low or too high, or is it about right.***

NFUS response: Too high.

A balance needs to be struck between the easily identifiable and relatively scarce access providers and the disparate and numerous access takers. If access takers are not behaving responsibly in a context familiar to the farmer concerned, he/she should have authority to say so. If it is a persistent problem of interpretation, signs may be the best way to communicate such information. Either action should not be interpreted as interference or obstruction. This should be made clear by modifying paragraphs 4.3 to 4.6.

Similarly, references to locking gates should be removed in the context of fields, as compared to paths. This can be an essential management practice.

[Paragraph 4.2 is incorrect for the reason explained in response to question 4.]

Whether, on other matters, it is sufficient to produce the desired outcome will be found out in practice. If it needs adjusting, that should be a task for the National Access Forum.

***18. Do you think that the list of examples of what might be deemed an unreasonable obstruction is reasonable or too long, or would you like to suggest other examples?***

NFUS response: As above.

***19. Do you think that the guidance strikes the right balance between the obligations that land managers have under other laws, the obligations that they have under the Land Reform (Scotland) Act 2003 and the needs of people exercising access rights? If not, it would help us if you could explain where the balance is wrong, and why.***

NFUS response: Don't know. Whether it is sufficient to produce the desired outcome will be found out in practice. If it needs adjusting that should be a task for the National Access Forum.

***20. Do you think that the guidance provides sufficient encouragement and guidance for action by land managers to help people exercise access rights responsibly?***

NFUS response: The question is incompetent.

The purpose of the Code is laid down in the Act [Chapter 3, clause 10(1)].

Encouragement and guidance for land managers to take action to help access taking does not enter the specification. It must set out guidance on the circumstances under which behaviour is responsible, both that of access takers and of land managers.

Encouragement and guidance for access providers to assist access cannot be fulfilled by the Code. That is a primary role for local access forums, together with action by government to realise a core path network.

Also, people cannot exercise access rights under the legislation unless acting responsibly.

**21. Do you think that Section 5 provides clear, sensible and practicable guidance to those exercising access rights and to land managers? If you think it could be improved, please tell us in what way.**

NFUS response: No.

We disagree with the content of a number of sections, for reasons given mainly in responses to other questions. Our alternative proposals are:

<b>Places</b>	<b>behaviour by public</b>	<b>behaviour by land managers</b>
Farmyards	Use alternative routes wherever provided.	Contact local access forum for by-pass paths. Sign temporary alternative routes.
Field margins	Should say that use of field margins is heavily circumscribed.	Contact local access forum for by-pass paths.
Fields of grass etc.	Field margins only and heavily circumscribed.	Contact local access forum for by-pass paths.
Fields with calves etc.	Not responsible to take access.	Contact local access forum for by-pass paths.
Fields with other livestock	Not responsible to take access, with or without dogs.	Contact local access forum for by-pass paths.
Cycling	Only responsible on purpose-built facilities.	Contact local access forum for by-pass paths that are built and maintained to a suitable standard.
Horse riding	Only responsible on purpose-built facilities.	Contact local access forum for by-pass paths that are built and maintained to a suitable standard.
Picnicking	Not in enclosed fields.	
Wild camping	Not in enclosed fields, except by permission. Elsewhere, not within 5 km of an authorised site or 2 km of a road, except by permission.	You are under no legal obligation to provide camping facilities but may wish to do so as a diversification venture.

**22. Can you think of any other situations that might be regularly encountered which should be included in the table?**

NFUS response: No, other than those above. However, review may be desirable in light of experience. That should be a task for the National Access Forum.

**23. Do you find the advice in Section 6 useful?**

NFUS response: Doubtful.

The key issue is how to respond to deliberately irresponsible behaviour. In that event, this legislation is irrelevant. It would be helpful to have more detailed guidance on the subject of aggravated trespass. Depending on the circumstances of the incident, it may be appropriate to involve the Police rather than the local authority. (Ref. paragraph 6.3)

**24. Is the guidance for dealing with irresponsible behaviour sensible and realistic? If not, please say why.**

NFUS response: Within the limits of Part One of the Act, the guidance is possibly sensible and realistic.

However, no new offence has been created. Those not acting responsibly will forfeit taking access under the right and land managers are faced with the same old problem of seeking redress under civil law against access takers who must be shown to be damaging their interests, including denial of the quiet enjoyment of property under human rights legislation.

It remains to be seen in practice, whether and how local government may have influence on irresponsible behaviour in the countryside.