Contents

Introduction........................................................................................................................................3
Glossary of Roles..................................................................................................................................4
Remit of the ARAG Expert Groups ......................................................................................................5
Summary of Products...............................................................................................................................7
Process and timeline for delivery...........................................................................................................8
Appendix 1: ARAG Expert Groups – Terms of Reference.................................................................13
Introduction

In 2017, the Welsh Government issued the Sustainable Management of Natural Resources (SMNR) Consultation. This included proposed reforms relating to access to the countryside. On 4 April 2019, the Deputy Minister for Housing & Local Government published a Written Statement setting out the Government’s response to the access proposals within Chapter 4.

“Wales is justifiably famous for the beauty of its landscapes. Our stunning countryside and coastlines provide an ideal environment for outdoor recreation. Despite this, we are now in a position where six out of ten adults and one in four of our reception aged children are overweight or obese. 1 in 4 adults in Wales will also experience mental health problems or illness at some point during their lifetime. We must do all that we can to reduce this and it is important that we fully unlock the broader benefits of our environment. Our Natural Resources Policy illustrates that nature-based solutions can support physical and mental health. That is why we are committed as a Government to enabling more people to enjoy our countryside more easily – to take advantage of the many health and wellbeing benefits that getting outside can bring.”

Although some reforms attracted strong support, it was felt that more consideration and scrutiny was needed to refine the way they are taken forward and consider more fully the potential consequences. The Deputy Minister made a commitment to seek further technical advice. This exploratory work will be taken forward by an Access Reform Advisory Group (ARAG). It will be overseen by the Welsh Government’s Landscape and Outdoor Recreation Branch (LOR), who will work in partnership with Natural Resources Wales (NRW) as the Welsh Government’s statutory advisers on access matters.

An ARAG Steering Group has been established to oversee the project and Expert Groups are being formed to look at the legal and financial ramifications of making these changes, as well as other factors. The ARAG will primarily focus on the reforms outlined in this document but may consider some of the other SMNR proposals, where these are inter-related and where the detailed proposals developed by Welsh Government could benefit from some additional professional scrutiny.

This Programme Initiation Document sets out the agreed approach to managing the Access Reform Advisory Group from 2019 to 2021 and beyond.
Glossary of Roles
The groups, organisations and fora listed below all directly contribute to the Access Reform Programme:

- **ARAG - Steering Group**: This group oversees the reform process. Members include:
  - WG’s Access and Rights of Way specialist
  - NRW Access and Rights of Way specialist
  - National Park Authority Rights of Way specialist (1 nominated individual representing the three NPAs and 5 AONBs)
  - Welsh Local Government Association (WLGA)
  - Welsh Rights of Way Managers Working Group (WROWMWG)

- **ARAG - Expert Groups**: The Expert Groups will include representation from WG and NRW, as well as a balanced representation from the three identified ‘pillars’ of the stakeholder community that the Access Reform Programme impacts on:
  - Land Management interests: including farming unions and landowner representatives
  - Recreation Users and User Interests: including National Governing Bodies and Representative Groups Outdoor recreation
  - Public Sector: primarily Local Authority/NPA Access professionals but also technical experts where appropriate.

- **ARAG - Secretariat**: This includes primarily the NRW Lead Specialist Advisor: Access Reform and the Access Reform Support Officer who are tasked with chairing and recording all of the EGs. They will also be the primary authors of the Access Reform Report and contributing sections. This secretariat role will be supported by specialists from NRWs Outdoor Access and Recreation Team and will be linked though to other relevant parts of the organisation.

- **Landscape and Outdoor Recreation Branch, Welsh Government (LOR)**: The ultimate owners of the Access Reform Programme and chair of the SG.

- **National Access Forum Wales and Local Access Fora**: Updated throughout, asked to share information about the Expert Groups EoI process with their representative sectors and asked to comment on the evidence presented during the access reform advisory process.
Remit of the ARAG Expert Groups
There will be three Expert Groups established to support and inform the ARAG Steering Group. The will be formed around themes that link relevant Access Reform proposals:

<table>
<thead>
<tr>
<th>Expert Group</th>
<th>ARAG Proposals</th>
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| 1. Changes to Open Access / CRoW Land | 11. To amend or revoke the following list of restrictions on access, provided in Schedule 2 (1) of the CRoW Act 2000:  
(b) uses a vessel or sailboard on any non-tidal water;  
(c) has with him any animal other than a dog;  
(i) bathes in any non-tidal water; and  
(s) engages in any organised games, or in camping, hang-gliding or paragliding  
The Welsh Government has committed to lift the restrictions on cycling and horse riding, hang-gliding and para-gliding, bathing or using a vessel or sailboard on natural bodies of water. Restrictions on manmade bodies of water, organised games and camping will be retained.  
13. To extend CROW access land to the coast and coastal cliffs. This could consider the implications for the Wales Coast Path. |
| 2. Flexibility on public paths | 10. To enable cycling and horse riding on footpaths to occur under the same conditions as those provided for cycling on bridleways under section 30 of the Countryside Act 1968. These provisions allow for cycling without placing additional burdens of maintenance and liability on the local authority; and they prioritise the ordinary users of those paths. Whilst it would not place additional liabilities or maintenance burdens on local authorities, it would enable them to plan and implement surface and furniture improvements to routes that would add most value to the rights of way network. It would place the onus of checking the suitability of individual paths on users.  
17. To enable temporary diversions and exclusions to be applied across all accessible land and water where circumstances require them and after the safety and convenience of the public have been considered.  
21. To introduce provisions to allow flexibility in relation to stock control measures on public rights of way |
| 3. Communicating access rights | 19. To enable the development of one statutory map of accessible areas and green infrastructure. Layers of mapping would initially include CROW access land (including water), public rights of way and designations, including National Trails. Legislation would need to allow further layers to be identified and added. |
Membership of Expert Groups will be selected through an Expression of Interest process. This process will be publicised through the National Access Forum and will be open to applications from any individuals who feel that they represent the interests of one of the ‘three pillars’ of access.

The Expert Groups should remain as small as possible to ensure focus, with a suggested group size of 9 plus a Chair and secretariat. Membership will be on a voluntary basis although travel expenses will be paid where required. Steering Group or Expert Groups may from time to time ask others outside of the membership to attend meetings and contribute to a particular topic.

Expert Groups members are there to represent their wider sector, rather than their individual organisation or personal views. Members would be expected to endorse as a precondition of participation the general direction of the proposed reform and not seek to use their membership to thwart reform or propose a significant change of direction unless there is a very sound rationale, agreed by the wider membership, for doing so.

To become a member, selected individuals will have to formally sign up to the Terms of Reference (ToR) for the group. This ToR can be found in Appendix 1.
Summary of Products

The goal of the Access Reform Advisory Group is to deliver a draft Access Reform Report to the Welsh Government by April 2021. The process of drafting this report will be undertaken in stages, each being an iteration on the previous stage. During this process, there will be several products that will be made available to the public. These are summarised sequentially in the diagram below:

The full process and timeline for delivering these products can be found on the following pages.
Process and timeline for delivery
The following timeline maps out the process that will be followed in the Access Reform Programme. The final output of this process is the Access Reform Report.

5 November 2019: National Access Forum Wales (NAFW)
Formal introduction of the Expert Group process and opening of the EoI window. The NAFW will be given the ARAG Programme Initiation Document, Expert Group Appointment Protocol and EoI Template.

29 November: EOI deadline
W/c 2 December: EOI sift

9 December 2019: Steering Group Meeting
Meeting to agree membership of the Expert Groups and discuss arrangements for the first Expert Groups meeting

W/c 16 December 2019: Successful applicants will be notified
Once these individuals have accepted the roles and signed up to the Expert Group Terms of Reference, a communication will be sent out to NAFW and LAFs introducing the representative and briefing about the process.

January 2020: All Expert Groups Meeting
Introductory meeting for all Expert Group members to set out the intent, process and ways of working.

Finalise arrangements for the first Expert Group (ExG) meetings including the Policy Intent Documents for each ExG. This will be before the meeting / develop an analysis of the consultation prepones.

Policy Intent Documents: This is the brief, defined by Welsh Government that is presented to each Expert Group based on the specific reform proposal highlighted in Chapter 4 of the SMNR consultation. This will be the ultimate measure of the value of any of option and will be defined for each Expert Group in relation to their area of concern.

January / February 2020: Expert Group Meetings: Problem definition
These will be the first of the individual Expert Group meetings. The meeting will introduce the Expert Groups to the Policy Intent Document for their area of reform and give a summary of the responses associated to Chapter 4 of the SMNR consultation. This will be a professionally facilitated meeting where the Expert Group will be asked to consider the opportunities and barriers associated with applying each of the Reform Proposals. This may include:

- Responsible Recreation and communication of changes/behaviours;
- Legislation in England and possible cross-border considerations;
- Health and Wellbeing and other Welsh Government priorities;
- Extent of inter-relatedness with other reform proposals; and

This will be an exercise to capture as many viewpoints as possible on each of the reform proposals. No solutions will be discussed. Based on the discussions at the meetings, the facilitator will write up a set of three Problem Definition Papers.

**Problem Definition Paper:** This is a paper that outlines all the issues and opportunities associated with the Reform Proposals given to the Expert Groups. These papers will be drafted through a facilitated session and will form the basis of the outputs that each Expert Group will deliver against.

**February 2020:** Steering Group Meeting
The Problem Definition Papers will be presented to Steering Group who will take an overview of all three reports and sign them off.

**February 2020:** Publication of Problem Definition Papers
These documents will be shared with the NAFW and LAFs. There will be no formal consultation on these documents, however, comments from the sector can be gathered by Expert Group representatives.

**March 2020:** Expert Group Meetings: Option Identification
The second meeting will be to take the Problem Definition Paper identified in meeting one and ask the Expert Group to propose all the possible solutions that could be conceived to address these. These will be catalogued and classified by type. For example:

- Legislative change
- Informal Agreements
- Funding led Programs

These possible solutions will be arranged into a list of reform options, ironing out any duplication or inconsistency in the process. The reform options selected for further investigation will be those deemed to be able to fully or in part address the Policy Intent. It will be the job of the NRW secretariat to draft these into a series of Reform Options Papers for each of the Expert Groups.

**Note:** Where the options are for legislative reform, they need not be detailed legislative instructions at this stage, but neither should they be options known to be unlikely to be suitable for progression to legislation.

**March 2020:** Steering Group meeting
The Steering Group will take an overview of all the Reform Options Papers across the three Expert Groups. These will be discussed rationalised and signed off.

**Reform Options Paper:** This is a paper builds on the previous paper, defining and outlining the options identified for each of the proposals. The analysis of each of these options will be the main content of the Reform Options Analysis Report.

**April 2020:** The Reform Options Papers will be circulated to the NAFW and LAFs, with a call for evidence and technical advice to inform the analysis of each of the proposed options. This will not be managed as a formal consultation.

**April to June 2020:** Option Analysis
A process of evidence gathering to inform the analysis of the reform options will be initiated. This stage of the programme will be led by the NRW secretariat and informed by the Steering Group (at monthly meetings), with input from members of the Expert Groups. The following criteria (used in the *Access to the Open Countryside: a consultation paper, February 1998*) will be applied:

- Extent of access
- Quality of access
- Permanency
- Clarity and Certainty
- Cost
- Monitoring and Enforcement

In addition, further criteria could be added, including

- Equity of Access
- Greater efficiency and transparency.

The criteria will be agreed and further refined by the Steering Group at the appropriate stage. The analysis will ensure that the Steering Group and Expert Groups are able to clearly understand the pros and cons of each potential solution.

**June 2020:** ARAG Steering Group
The evidence gathered will be presented to the Steering Group who will consider it and sign off the final documents. These interim documents will not be made public.

**July 2020:** Expert Group Meetings: Option analysis
The result of the evidence gathering stage will be presented to the Expert Groups. It will be the Expert Groups task to scrutinise the evidence and refine the advice prepared around each of the options. Expert witnesses may be called in to this meeting, to support the evidence being presented. The outcome of the meeting will be an agreement of the Reform Options to be taken forward – there may be some options presented to the Expert Groups that are deemed not viable after analysis. These may be discontinued at this time.

The outcome of this meeting is a draft **Reform Options Analysis Report**, drafted by the NRW secretariat, which presents the evidence and analysis for each of the reform options.
**Reform Options Analysis Report:** The intermediate report outlining the full analysis of each Reform Option. This report will be presented to the deputy minister as part of a formal review of the programmes progress.

**August 2020:** Steering Group meeting
The Reform Options Analysis Report will be presented to the Steering Group for scrutiny and sign off. After this has happened, the documents will be shared with the NAFW and LAF members to comment on the technical detail of the report rather than the overall direction of travel.

**September 2020:** Steering Group Meeting
The Steering Group will meet to discuss any proposed technical edits to the document.

**October 2020:** Formal Programme Review
Reform Options Analysis Report will be presented to the Deputy Minister along with a briefing on progress to date.

**October 2020:** Steering Group meeting
The Steering Group will process any feedback from the Deputy Minister and finalise the Reform Option Analysis Report.

**November 2020:** Expert Group Meetings: Option selection
The final set of Expert Group meetings will review the Reform Option Analysis Report and make final recommendations on which of the reform options should be taken forward by WG. The Expert Groups will work towards consensus on which reform options will be selected for each reform proposal. The group will discuss each group of options in turn, relegating those that are not deemed to be viable to be taken forward and working, if possible, towards a preferred option. If it is not possible to reach a consensus on the recommended reform option, all those with sufficient support should be taken forward.

**December 2020:** Steering Group meeting
The Steering Group meet to review the recommendations of the Expert Groups and finalise the preferred options to be recommended to WG, this includes setting the brief for the content and structure of the final **Access Reform Report**.

**Access Reform Report:** This is the final output for the ARAG, consisting of analysis each of the Reform Proposals, selection of the chosen options and recommendations to WG on how to proceed.

**December 2020 to March 2021:** Access Reform Report Drafting
The NRW secretariat will create a draft copy of the Access Reform Report, as specified by the Steering Group. Regular communication with the Steering Group will be carried out during this time to aid in the formulating and editing of the document. These edits would not make any fundamental change to the recommendations made by the Expert Groups but
would shape the tone and presentation of the draft document. Professional copy editors may be employed to advise on the tone or parts of the document.

**March 2021: Steering Group Meeting**
The Steering Group will meet to sign off the draft Access Reform Report so that it can be formally submitted to Welsh Government Ministers and Officials.

**April 2021: Steering Group Meeting**
The Steering Group will meet to discuss next steps including ongoing communication, identifying risks and possible public consultation process. A contract will be put in place to create the design for the final report.

**May 2021: Steering Group Meeting**
The Steering Group will meet to discuss any comments and recommendations made by Ministers.

**June 2021: Steering Group Meeting**
The Steering Group will meet to sign off the final Access Reform Report.
Appendix 1: ARAG Expert Groups – Terms of Reference

Key purposes of the Access Reform Advisory Group (ARAG)
1. To provide expert advice on the potential implementation of a number of reform proposals listed below.

2. To provide a draft written report by the end of March 2021 that considers in detail the impact of these proposals and makes a set of clear, coherent and realistic recommendations on their implementation.

3. ARAG will comprise a Steering Group and a number of Expert Groups.

4. The Steering Group’s purpose is to set the direction of the ARAG, steer the Expert Groups to develop the proposals and scrutinise their outputs.

5. The purpose of the Expert Groups is to consider ways of improving the provision of access through making changes to the status of Public Rights of Way, allowing more activities and simplifying processes.


Composition and Appointment of Expert Groups
7. Expert Groups will be comprised as detailed at Annex 1. Each Expert Group will advise the Steering Group on those proposals under its specific remit.

8. Each Expert Group will comprise of:
   - Welsh Government,
   - Natural Resources Wales, and
   - representatives of the three identified ‘pillars’ of the stakeholder community that the Access Reform Programme impacts on:
     i. Land Management interests: including farming unions and landowner representatives
     ii. Recreation Users and User Interests: including National Governing Bodies and Representative Groups Outdoor recreation
     iii. Public Sector: primarily Local Authority/NPA Access professionals but also technical experts where appropriate.

9. There should be equal representation from each of the three pillars, for example three representatives of each pillar, on each Expert Group.

10. From time to time, it may be necessary to invite other individuals or organisations to contribute to the work of the Group.

11. Expert Groups are expected to be chaired by NRW or Welsh Government.
12. Expert Groups may be asked to comment on other aspects of the Access Reform Programme, for example on access proposals being progressed by Welsh Government not formally part of the work of the ARAG.

13. Selection of Group members will be carried out by the ARAG Steering Group following a protocol agreed by the Steering Group. LOR will consult with the Deputy Minister for Housing and Local Government regarding the final composition of Expert Groups.

**Roles and responsibilities of Members**

14. Each member is responsible for bringing their skills, experience and expertise to the group, ensuring they carry out the functions set out under the agreed remit of the Group.

15. Where you are not a salaried employee of the organisation you are representing, you should be able to demonstrate that you have appropriate authorisation to represent the views of your group or organisation.

16. Each member is expected to take on board others’ perspectives, find ways to overcome differences and look for mutually acceptable ways to achieve outcomes.

17. Each member has the responsibility to treat each other with courtesy and exchange views in a respectful and constructive manner.

18. Ahead of meetings, group members will be expected to read all materials presented for their consideration and to contribute opinions and relevant examples of experience for discussion at the group, in a timely and appropriate manner. Where possible, members will be given at least 2 weeks to review documents ahead of meetings.

19. Members will commit to attend meetings and be named individuals. Members will be expected to make every effort to attend all meetings of your Expert Group. If you are unable to make any of the meetings you should contact the Access Reform Advisory Group secretariat as early as possible to discuss how you will contribute to the meeting.

20. Each member is expected to endorse the overall direction of the access proposal as defined at the outset, and not seek to challenge or undermine the original policy intent behind the 2017 proposal. However, it may be that collectively members reach conclusions about the viability of different delivery options.

21. Each member is expected to provide specific or detailed advice on where their expertise would help shape direction or provide solutions to particular issues.

22. Members serve on the Group to represent their wider sector, rather than their individual organisation or personal views. Clear guidance will be given to members about when and how they are expected to consult with the sector and stakeholders they represent.

23. Some information being discussed by ARAG may be sensitive so there will be clear distinction between the statuses of documents.
24. Through discussion, members will be encouraged to identify areas of agreement or disagreement about general principles and seek to maximise the areas of consensus. Where the Expert Group has difficulty in reaching consensus, members should adopt a pragmatic, constructive approach to making progress. On such occasions the Chair may decide on a particular course of action and members will respect any such decisions.

**Meeting arrangements**

25. Expert Groups are expected to meet at least four times during the Programme. Meetings are likely to last for a full day. Dates and location of meetings will be agreed by members during the first meeting.

26. There may be a need for Groups or members to meet collectively or as sub-groups outside of the formal meetings. Members will be expected to provide input and knowledge to the group both during meetings and also on specific tasks outside the meetings, as agreed by the Group.

27. The Chair will provide regular updates to the Steering Group, and engage appropriately with other areas of Welsh Government.

28. Technical and secretarial support will be provided by NRW. Record of meetings will be in the form of a summary note, identifying key points and actions. This will be distributed to members within 2 weeks of meetings.

29. The Agenda for each meeting will be agreed by the Chair. Members will be encouraged to provide short papers or presentations to guide the discussion at each meeting.

30. Members will not be paid for their contributions. However, the Welsh Government will reimburse reasonable travel costs (but not accommodation costs) incurred through membership of the group, if requested.