

Sticking to the path in the Forest of Bowland, an area opened up by CRoW.



EXPLORERS WELCOME

IT'S BEEN 10 YEARS SINCE THE COUNTRYSIDE RIGHTS OF WAY ACT (CRoW) WAS PASSED, BUT ARE WE USING OUR RIGHT TO ROAM?

Words **Phoebe Smith** Photographs **Tom Bailey**

Fences are familiar obstacles for walkers, and the one that faced me now was no exception. Rising from the ground like a giant 'Keep Out' sign it prevented me from going any further. But unlike earlier ones I'd encountered here in the Forest of Bowland, this one wasn't marked on any OS maps. Because this one only existed in my head – a filmic ribbon of woven sinew stopping me from leaving the well-marked path. Every walker will have encountered one of these fences before, I guarantee it. They're built from the doubt we have in our own ability, the fear of stepping into the unknown, of taking an unmarked route that lacks the promise of a clear direction which a well-trodden path can bring.



“PEOPLE ARE NOT USING THE RIGHTS WE FOUGHT FOR”

The woman I was walking with now is all too familiar with these kinds of fences. She is Marion Shoard, campaigner and author of *This Land is our Land* and *A Right to Roam* and a key figure in arguing for walkers' rights of access since the 1970s, when she saw an interesting area of woodland she wanted to explore and found out it was legally inaccessible.

“The fact is that the Countryside Rights of Way Act (CROW) gave us the right to explore places like Bowland, but the problem is that staying on the path is usually the easiest option,” explained Marion as we stopped at Black Clough to ponder whether or not we should leave the suggested rough path leading to Hawthornthwaite Fell to make our own way to the summit – a summit that 10 years ago would have out of bounds.

That was prior to CROW, an Act of Parliament that was passed in 2000 in England and Wales and rolled out over the next five years, with full implementation taking place by 2005. It essentially saw areas of ‘mountain, moor, heath, down and common land’ being officially designated as open countryside, meaning that access (with the exception of obvious temporary exclusions such as the hunting season or nesting time for lowland birds) was open for everyone, giving us the right to explore previously uncharted territory. Places like today’s destination of Hawthornthwaite Fell, which was previously inaccessible to all except the landowner, were now open for any who care to go there. It’s a fantastic idea, but 10 years on are we actually embracing it?

Not according to Marion. “People aren’t wandering around in the countryside as much as they used to, they’re not using rights that we fought for, and if anything they’re wandering less freely than they were before,” she admitted as we picked our own route through the rough, ankle-scratching heather and the boggy ground, which sucked at our boots.

“The fences that stop people taking full advantage

of the spiritual and psychological benefits that only enjoyment of the countryside can bring are no longer being put up by landowners. They are being erected within the minds of the people themselves.”

The reasons for this, Marion theorises, are the fact that children never get to go and explore on their own any more, and that in our age of instant gratification we’re using the outdoors as a backdrop for our own entertainment rather than the theatre for our exploration, allowing us to engage with it.

“And the bottom line is it’s easier to follow a path,” explains Marion as we find ourselves mysteriously back on the faint track we had left minutes earlier, drawn to it as if by an invisible magnet. “I see people out at weekends with guidebooks. They feel they see more if they keep to the path. But you encounter far more if you leave it. Part of the attraction is that by doing this you’re seeing a part of the area in a way that is different from everyone else. Going into untrodden territory can be scary but it’s incredible.”

Moody clouds hung over the brooding Bleasdale Moors ahead as we continued to play our game of leaving the track then stumbling across it again. Once at the summit and its unique towering trig point, reaching high out of the ground by 12ft thanks to the erosion of the peat around it, we mused at how we hadn’t passed a single soul all day.

Nick Owen, countryside officer for the Forest of Bowland, says that although huge swathes of land were opened up to walkers by CROW, numbers haven’t seen a dramatic increase.

“There was a time when ‘Private’ signs were dotted along the Trough Road ▶



A brief history of the people’s fight for the right to roam



Above: Phoebe, Marion Shoard (pictured top right) and Beatrice Stanley leave the path on Hawthornthwaite Fell. The summit (far left) would have been legally inaccessible prior to CROW.



Cutting from Broad End to Wansfell Pike with the Lake District's Steve Gaskell – a ridge-walk made legal thanks to CRoW.



“GOING INTO UNTRODDEN TERRITORY CAN BE SCARY – BUT IT’S INCREDIBLE”

every 50m, but now it's access signs that you'll see," said Nick. "But the uptake of walking in open areas here since CRoW hasn't been any bigger than we expected. The problem is that a lot of it is pretty hard going on the access land – mainly pathless, a lot of heather and bogs – and people don't want to walk on that for long distances."

Though the walk we'd done today was fairly short and didn't involve masses of tramping on rough ground, it was seriously devoid of people. Yet the rewards of heading off well-marked trails were obvious. From the plateau of this 479m fell we could see for miles. Fairsnape Fell stretched out to the south; Bowland's highest point, Ward's Fell, peeked up above the hills to the north; and Morecambe Bay with the Lakes beyond lay dead ahead.

"If you think that just a few years ago, before CRoW, we would have been trespassing, and this would have been quite a different experience," remarked Marion as we headed back down over the heather-entwined earth to Abbeystead. "You'd be constantly worried, looking over your

shoulder, expecting confrontation with gamekeepers at every turn. So we should feel a real sense of freedom being here now, because this is just beautiful."

Marion was right. With rolling fells all around us, like elaborate tapestries of earth tones – umber, ochre and viridian – it seemed crazy that we had the right to explore a huge bulk of it, yet remarkable that no-one seems to be doing it. It was obvious that leaving paths presented a challenge, with our own imagined fences blocking our sense of exploration, so how could we overcome this?

"Knowing it's there is half the problem," advised Nick. "Get a map with the CRoW access land marked on it [on OS Explorer maps it's shown by a shade of yellow], start planning your own routes, and get out there and explore – simply because you can!"

Of course not everywhere saw as dramatic a change in access rights once CRoW was implemented. Further north in Ambleside we met with Lake District ranger Steve Gaskell to see the Act's far more subtle impact.

"A very small amount was new access in the Lakes after CRoW – perhaps 4 or 5 per cent – as we had a lot of common land anyway [included in the Act] and a lot of de facto access [non-formal agreement]," explained Steve as we scrambled up the path from the Kirkstone Pass to Broad End.

We were here to link this fell with the ridge of Wansfell – one of the National Park's pilot CRoW projects – and something that would have been impossible prior to the Act. "The ridge was one of the first places we installed stiles and access signs," said Steve as we cut through a conveniently placed hole in the wall, a piece of CRoW legacy. "Although there was no right of way here before, a small number of people just ignored it and did it anyway – though it was not legal. Since we opened it a few people have told us that they found it more convenient, but really the Act hasn't had a huge impact – it was never going to."

Before we began the gentle climb up Wansfell, using the new slate steps in the walls, I noticed a sign that indicated this was Access Land [like the one on the photograph far left]. However,

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Trail's three explorers on the once forbidden heathery lower flanks of Hawthornthwaite Fell.



additionally it marked on a map a 'suggested route', clearly urging walkers to stick to the path.

"Surely that isn't what CRoW is about?" I asked Steve quizzically. "The whole thing is open, so why can't people just be left alone to explore?"

His answer didn't come wholly as a surprise: "People generally want to stick to paths as they tend to take the easiest line up a hill. You also know where you're going so you don't need to worry about getting lost – so it's a confidence thing too," he elaborated. "We do encourage people to stick to the paths purely to avoid erosion. Of course the absolute ideal would be if there were no paths and every single person who walked up here took a different line each time, so erosion was equal and much slower. But it won't happen that way because people walk up to places for the same attraction – summits and ridges – and even without a path people will more or less choose the same way, so we have to have a path that caters for most people and maintain that. It's really not about restricting freedom; it's about what's best for the fells."

His point is, of course, a valid one. Even before we started this route I had roughed out which way I'd go and, naturally, it followed the easiest and most obvious line up the ridge, the line we were now following, which was carved into a deer – though not over-used – path, all the way to Wansfell Pike.

Talking fences (both real and imagined) with Steve on Wansfell Pike.



So it seems that 10 years after the CRoW Act opened up the countryside, we're still finding it difficult to comprehend the fact that vast sections of pathless land can be ours for the exploring. Embracing your inner sense of exploration is of course much easier in Scotland, argue campaigners like Marion, which instead of CRoW has the Land

Reform Act 2003, a bill that basically made all land open for responsible access unless exemptions were applied for. It's funny when you think that, according to Marion, the same Scotland, which between 1830 and 1850 was so closed off by wealthy landowners that of the 543 Scottish mountain peaks rising higher than 3,000ft above sea-level more than 450 were out of bounds to walkers, is now the very place where the right to roam is the most extensive in the UK.

"A universal right to wander is much less complicated for a walker to navigate their way through," says Marion. "South of the border with CRoW we only have a partial right, and it starts with the presumption that land is not open for access unless it's explicit – ie you need to look on a map to know where freedom of movement is allowed; and the problem is that there are always discrepancies, and it can be quite patchy and arbitrary."

When you consider what a historical fight campaigners have had battling for walkers' rights, going back to the Ramblers' infamous and revolutionary Mass Trespass on Kinder Scout in 1932, it seems a shame that it's invisible fences that are now stopping many of us from taking advantage of these hard-won rights we now have.

"It was a long, difficult battle getting this access," agrees Marion. "It may be a partial right but it's something, so people should absolutely use their new-found freedom, leave the path and explore. Go up, write poems, paint pictures and enjoy the outdoors. There's so much to see and understand."

If you look at the new OS maps with their patchwork quilt of yellow access areas marked on them, it proves that the barriers the landowners once erected have slowly been removed. So perhaps we shouldn't despair too much that the fences in our heads are taking a little longer to deconstruct. Because if we each challenge ourselves from time to time by heading somewhere off the beaten track, or purposely take the less obvious line up a hill, then slowly those metaphorical fences will fall apart, piece by piece, and before we know it we will be free to explore wherever our imaginations allow us to wander. **T**



Embrace the power of CRoW



Peak District

Parkhouse Hill **SK079669**

Seize your chance to stand on the summit of Parkhouse Hill, a site of geological interest that for years had no right of way to the summit. Perhaps link it to Chrome Hill **SK070673** via a permissive path, another area opened up by CRoW.



Snowdonia

Tarren Ridge **SH684040**

The chosen location for a celebratory walk when CRoW was implemented in Snowdonia. If starting from Dolgach, the route takes in Tarrenhendre and is fitted out with stiles, waymarkers and other access facilities implemented by CRoW.



Brecon Beacons

Fan Gyhirych **SN880190**

Prior to CRoW there were a few permissive footpaths available in the area, but since the Act was past it is legally possible to take in the summit of this mountain and explore.



Cornwall

Bodmin Moor **SX158799**

Before CRoW, people could get to the summit of Brown Willy (highest point) only, along a permissive route. Now they can wander over a considerable area. And at Hawk's Tor **SX141755** there used to be 'Notice: No Access to Hawk's Tor Summit: Private Land' signs. But now you can reach the top.