

Rural Recreation in County Donegal

Presentation to the Inishowen Rivers Trust
19th September 2020



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Introduction

- **RRO in Donegal**
- **Trails & Rural Recreation**
- **Development Principles**
- **Landowners**
- **Recreation in the Irish Countryside**
- **Access, Responsibility & Liability**



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- **Donegal Local Development Clg**
- **Since 2008 as 'Honest Broker'**
- **Department Rural & Community Development (DRCD) and Fáilte Ireland**
- **Two strands:**



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- **Rural Recreation/ Trails**
- **Walks Scheme**



Developing, Maintaining and Promoting Trails and Rural Recreation in County Donegal



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**Landowners
& Farmers**

**Community
Groups**

**Trail
Users**

**Department
Rural &
Comm. Dev.**

**Tourism
Providers
Local
Businesses**

RRO

**Sport
Ireland
Trails**

**Donegal
CoCo**

**IFI, Coillte,
NPWS, etc**

**Sports
Partnership**

**Leave No
Trace
Ireland**



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Different Types of Walking Trails in Donegal

Fáilte Ireland National Looped Walks

- Inishowen Head Loop, Stroove
- Leenan Loop, Butler's Glen Loops

Long Distance trails - NWMW

- Bluestack Way
- 4 Slís = Bealach na Gaeltachta

Other Walks

- Glenevin Waterfall
- Dunree Fort trail
- Malin Head
- Slí na Sláinte



Development Principles

- **1st Landowners**
- **Landowners during the development**
- **All through the project!**



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Development Principles

- Permissive access obtained
- Development has to meet National Standards
- Inspected & passed by Sport Ireland
- Insured (National Scheme)



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What does it mean to have a trail on your land?

- Cannot be to the detriment of the landowner/holder
- Permissive access – no Right of Way
- Insurance indemnifying the landowners
- Help with fences, stiles etc.
- Management of users
- Business potential



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Landowner Liaison

- Landowners 1st !
- Landowners 2nd !
- Landowners 3rd ! – If they want to...
- All responsibility lies with you
- **NO** promotional materials, maps, etc.



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Landowner Liaison

- Ascertain all landowners
- Agree on best person to make contact
- **Verbal** approach – don't send letters, emails, etc.
 - Idea of the development/access
 - Ask for permission 'in principle'
 - Leave them a contact name and details
 - Nothing happens until they know about it



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Important points for landowners

- Permissive access only –
 - No right-of-way created, or extinguished
- Landowner has first and last word
- Any developments will have consent by all
- Best practice
- No disadvantage to landowner



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**Occupiers Liability
Act 1995- to ensure
that recreational
use of land does not
place an undue
burden of
responsibility on
landowners**



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Recreation in the Irish Countryside

Property Rights, Obligations and Responsibilities



Recreation in the Irish Countryside booklet

• **Comhairle na Tuaithe**

- Dept. Environment, Community & Local Government
- Dept. Agriculture, Food and the Marine
- IFA, ICMSA, ICSFA
- County & City Managers Association
- Angling Council of Ireland, Waterways Ireland
- NPWS
- Irish Sports Council
- Coillte, Irish Forest Service
- Irish Uplands Forum
- Keep Ireland Open
- Fáilte Ireland



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Recreation in the Irish Countryside booklet

- Sporting, recreational and holiday activities
- Land, Water & Air
- Usually not organised on defined courses – golf, football, show jumping etc.
- Usually non-motorised activities
- Shooting/hunting not included



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Recreation in the Irish Countryside booklet

- **Recreational Activity:**
 - **Sporting, scientific research and nature study**
 - **Exploring caves, visiting sites of historical, architectural, traditional, artistic, archaeological or scientific importance**



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Recreation in the Irish Countryside booklet

- **No legal right of access in Ireland**
- **Recreational User is an 'entrant' with or without the permission or invitation of the landowner**
 - **No charge imposed**
 - **There for the purpose of engaging in recreational activity**



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Recreation in the Irish Countryside booklet

Duty of Recreational Users

- **Responsible for their own safety and that of others**
- **Be aware of the inherent risk to all outdoor recreation activities**
- **Take responsibility for their own actions**
- **Be prepared**



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Recreation in the Irish Countryside booklet

• **Rights of Way: Public or private?**

- Marked the same
- Public – A strip of land usually leading from a public place to a public place where the public has a legal right to travel
- Usually maintained public roads
- High amount of evidence needed to be proven
- Local Authority has the power to create a public right of way



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Recreation in the Irish Countryside booklet

- **Private Right of Way**

- **Usually to otherwise landlocked holdings**
- **To named individuals**
- **Registered in the folio/deeds**
- **Plentiful but not relevant to the public**



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Occupiers Liability - Entrants

• Recreational User

- Engaging in recreation
- With or without the permission or implied invitation
- Who has not paid any fee other than for services (like parking)

• Trespasser

- Not recreational who does not have permission
- Recreational but who has defied a prohibition on entry
- Recreational but who has been asked to leave and is not



Occupiers Liability – Responsibility/ Duty

- Not to *intentionally injure* the person or damage the property of the person, nor act with *reckless disregard* for the person or the property of the person



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Occupiers Liability - Entrant

- **Visitor**

- **Invited for a purpose**
 - **Performing a contract (builder, vet, trade, etc.)**
 - **Exercising a right (Garda, postman, etc.)**
 - **Entrant who has paid a fee (other than ancillary services)**
- **To take such care as is reasonable in all the circumstances to ensure that a visitor to the premises does not suffer injury or damage by reason of any danger existing on the premises**



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Court Cases testing the Act

- **Weir Rodgers v S.F. Trust - Rossnowlagh**
 - **Came to court 2003 – 2005**
 - **'a landowner can assume that those on private land for recreational purposes will understand the risk that is inherent in their activities, have regard to the nature of the terrain they are crossing and take measures to ensure their own safety.'**



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Court Cases testing the Act

- **Wall v NPWS – Wicklow Way
(Wicklow Case High Court 2017)**

'Because of the vigilance expected from hill walkers walking on moderate mountain trails and the application of the legal principle that the standard of care has to be adapted to the conditions, the social utility of the provision of the boardwalk, the isolated location of the same, I do not hold that the defendant was negligent...'



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In Conclusion

- Landowner is Key
- Patience
- Communication
- Know your project
- Involve **all** concerned
- ***Keep a sense of humour!***



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Thank You For Listening!

.... Any questions?

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