

# Managing Public Access

A Guide for Land Managers



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# Introduction

The English countryside offers a unique range of opportunities for people to enjoy its varied landscapes. Some activities such as horse-riding, cycling and walking have been enjoyed for generations. These and other pursuits are bringing new demands for countryside access, and with them a range of benefits to local communities, such as opportunities for business enterprise and support for rural shops and pubs. Participation in countryside activity can also bring significant benefits to society, by helping to promote public understanding of rural issues, and providing opportunities to improve health and quality of life.

This publication is intended to help landowners, managers and their advisers to understand the law on public rights of way and countryside access management. It is also likely to be of interest to local authorities and members of the public with a specialist interest in countryside access. It complements other advice available for land managers about managing access to land, which can be found by visiting the website [www.countrysideaccess.gov.uk](http://www.countrysideaccess.gov.uk).

This guidance relates only to England. The Countryside Council for Wales (the equivalent body to the Countryside Agency in Wales) are publishing a version of this booklet called ‘Managing Public Access’, applicable to Wales. Scottish Natural Heritage are publishing information about public access in Scotland, where the law is different. For contact details of these organisations, see the ‘Further information’ section at the back of this booklet.

This publication is not a substitute for professional advice tailored to specific situations. Care has been taken to ensure that the guide is as accurate as possible but the authors and publishers accept no responsibility for any errors or omissions. The legal position continues to evolve as new legislation is passed and case law takes effect.



# Chapter 1

## Access land and the Countryside and Rights of Way (CROW) Act 2000

### Introduction

There are a number of ways that the public can enjoy access to the countryside. This chapter summarises the effect of Part I of the Countryside and Rights of Way Act 2000 (CROW Act) which provides public access to areas known as 'access land'. More detailed information is available in the Countryside Agency publication the Land Managers' Guidance Pack (CA150F)<sup>1</sup>.

### The Countryside and Rights of Way Act 2000 (Part 1)

The CROW Act gives people a new right to walk freely over the following:

- mapped areas of open country, that is mountain, moor, heath (lowland areas with vegetation such as heather, gorse, bilberry, scrub and bracken) and down (semi-natural grassland in chalk or limestone areas);
- mapped areas of registered common land shown on official registers kept by the county council or unitary authority;
- dedicated land. Landowners and long leaseholders can dedicate land for public access, if they wish, even if it is not mapped as open country or registered common land. Information about dedicating land is given later in this chapter.

Around one million hectares of land are being made available in this way.

There are areas of open country and common land already open to the public through existing statutory rights of access, or by local permission or tradition. On some of it existing access rights apply instead of rights under the CROW Act. This is 'section 15 land', because the land types are listed at section 15 of the CROW Act, and explained more fully in Chapter 2.

<sup>1</sup> Available from the Land Managers' section of the Countryside Agency's website

[www.countrysideaccess.gov.uk](http://www.countrysideaccess.gov.uk) or by order from the Open Access Contact Centre on 0845 100 3298.



The access symbol

In addition, the Secretary of State has the power under the CROW Act to extend the access right to coastal land by order.

'CROW access land' is shown on the new Ordnance Survey Explorer (1:25,000 scale) series maps and on the website ([www.countrysideaccess.gov.uk](http://www.countrysideaccess.gov.uk)). It may be indicated in the countryside by a small access symbol shown here. Access information will increasingly appear at major points of entry to access land and at information centres, and will be kept as up to date as possible to show people where they can go and give information about any local access restrictions.

At the time of publication, the CROW access rights are not yet all in force, but are expected to be in effect throughout England by the end of 2005.

### Activities included in the right

The CROW access right is on foot (or wheelchair) for open air recreation including walking, running, climbing, picnicking and bird watching. Dogs are allowed but must be kept on a short fixed lead around farm animals and between 1st March and 31st July, the period when most birds are nesting.

Schedule 2 of the CROW Act sets out the general national restrictions on the right of access. The right does not include riding a horse or a bicycle, driving a vehicle, camping or lighting a fire, taking part in organised games or commercial activities. In addition, it does not include bathing or using boats in lakes or other non-tidal water, hunting, fishing, having or using a metal detector or collecting anything from the area including rocks, fallen wood or plants.

None of these limitations restrict existing rights or traditions, or prevent an occupier from authorising such activities. However, members of the public who exceed their CROW access right could become trespassers and lose the right of access within the same landholding for 72 hours. In some cases, a person exceeding their right by undertaking an activity specified in Schedule 2 may have committed a criminal offence, and thus be liable to greater penalties.

### Areas not included in the new right

As explained earlier, the CROW Act access right only applies on mapped areas of open country (mountain, moor heath and down), registered common land and voluntarily dedicated land. Certain types of land are exempt from the access right even where they occur within these mapped areas. They are known as 'excepted land' and are listed in Schedule 1 to the Act. They include:

- buildings and land used with them such as gardens, farmyards or courtyards and livestock pens;
- land ploughed or drilled within the previous 12 months to grow crops or trees;

- quarries or other active surface mineral workings;
- land covered by military byelaws<sup>2</sup>;
- golf courses;
- racecourses;
- racehorse training gallops – between dawn and midday and at any other time when racehorses are being trained;
- structures such as electricity substations or phone masts;
- railways, tramways, airports and aerodromes;
- temporary livestock pens.

## Managing the new right of access

### Informal access management

Much CROW access land already has a long history of public access and there may be no need for any change in the way it is managed. Even in areas where public access is introduced for the first time, the number of visitors may be insufficient to warrant any special management measures.

Land managers who fear unacceptable impacts from the new right of access may use informal management techniques, such as putting up a polite notice to steer people away from sensitive areas. It is an offence to display signs or notices that contain false or misleading information likely to deter people from exercising their right of access, but this does not prevent use of signs seeking people's co-operation. The public will usually obey such requests where the need for them is clear. Further information on informal land management, including a booklet explaining more about these techniques, is available in the Land Managers' Guidance Pack published by the Countryside Agency – see [www.countrysideaccess.gov.uk](http://www.countrysideaccess.gov.uk).

Your local 'access authority' (highway authorities and national park authorities) may be able to help with the management of CROW access land. These bodies have also set up local access forums for their areas, which provide strategic guidance to these authorities on access management issues in their area. Access authorities have been given important new powers. They can erect and maintain signs and notices to inform the public about the boundaries of access land and any restrictions or exclusions that are in force; enter into agreements to provide infrastructure such as gates, stiles and bridges to help the public gain access to the land; make byelaws to maintain order, prevent damage and interference with others' enjoyment; and appoint wardens.

**Highway authorities and national park authorities have a duty to set up local access forums under the CROW Act 2000. Members have a wide range of interests, including those of user groups and of land managers. Local access forums' overall role is to advise on the improvement of access to land for open-air recreation and public enjoyment in their areas.**

<sup>2</sup> Individual byelaws may allow for access at certain times. Some areas have been designated as 'managed access' areas for the public and are depicted on OS maps and the Countryside Agency website, [www.openaccess.gov.uk](http://www.openaccess.gov.uk)

## Formal local restrictions and exclusions to the right of access

Landowners and farm tenants (and, in some circumstances, others with a legal interest in the land) can also formally exclude or restrict the CROW right of access, where more stringent measures are considered necessary. These restrictions must be notified or applied for in advance and do not apply to any public rights of way crossing access land or any other existing access arrangements.

Broadly, there are four types of restriction:

- discretionary restrictions under sections 22 and 23 of the CROW Act. The owner or farm tenant can use these powers to limit CROW access to their land for any reason for up to 28 days a year, prevent users of the CROW right bringing dogs into lambing enclosures, or (owners only) to prevent them bringing dogs on to grouse moors;
- directions made following application from a land manager to limit access on grounds of land management, danger from things done on the land, or fire prevention during exceptional conditions;
- directions made without application on grounds of danger, fire prevention, nature conservation or heritage preservation;
- directions made for the purposes of defence or national security.

The Countryside Agency's Open Access Contact Centre (the 'Contact Centre') administers restrictions on behalf of relevant authorities.<sup>3</sup> Further information about restrictions can be found in the Land Managers' Guidance Pack.

## Extending access rights - dedications under section 16

The CROW Act enables landowners and leaseholders with 90 years or more of their lease left to run, to dedicate land for public access. A dedication made by a freeholder remains in force in perpetuity. A dedication made by a leaseholder will cease to have effect when the lease expires. Any type of land can be dedicated.

Dedicating land makes it subject to the CROW access right. The right can be formally restricted if necessary as described above and the land can also become excepted land if it is used for one of the purposes listed earlier. Occupiers also benefit from a reduced liability regime which applies to all CROW access land (see Chapter 12). Dedicating access secures a guaranteed right of access for future generations to enjoy, and can be helpful in formalising existing informal access arrangements. It does not prevent sale, lease or development of the land.

Access to dedicated land becomes available six months after the

<sup>3</sup> The relevant authority is the National Park Authority where CROW access land falls within a National Park. The Forestry Commission is the relevant authority for dedicated land that consists wholly or predominantly of woodland. On other CROW access land in England, the Countryside Agency is the relevant authority. Most directions are given by a relevant authority, but national security or defence directions are given by the Home Office or the Ministry of Defence.

**The website**  
[www.openaccess.gov.uk](http://www.openaccess.gov.uk)  
**is kept up to date with**  
**information about**  
**restrictions in force. Local**  
**information centres and**  
**signs may also display**  
**this information.**

**Defra has produced detailed**  
**guidance on dedications,**  
**including model forms**  
**which can be used for**  
**making a dedication and**  
**registering this as a local**  
**land charge. Copies can be**  
**ordered free of charge from**  
**Defra (see 'Further**  
**information' on page 71).**

date when the dedication instrument is signed, although any dedication will only take effect if the right of access under the CROW Act has commenced in the region.

A dedication may also extend the type of access available under the CROW right, on dedicated land, or on any other CROW access land. This is done by removing or relaxing general restrictions on CROW access (see page 8) as appropriate. For example, the landowner may decide to create horse riding rights on his or her heathland, in addition to the public right to use the land on foot under the CROW Act. This can be done at any time, and the effect is permanent; it cannot be revoked later.

Alternatively, the landowner or farm tenant can approach the relevant authority to propose that it gives a direction<sup>4</sup> allowing such wider uses until further notice. Such an arrangement can be revoked later if necessary.

Where land is notified as a SSSI, dedication requires English Nature's written consent (under the Wildlife and Countryside Act 1981, section 28E(1)) if new activities are permitted which are included on the site notification as an 'operation likely to damage' the interest of the site.

### **Development on CROW access land**

CROW access land can be developed, subject to appropriate planning permission, in the same way as any other type of land. CROW access land is often valuable for ecological reasons and ploughing of natural or semi-natural vegetation may require permission. Check with Defra's Rural Development Service (on 0800 0282140) before ploughing such land for the first time. Any proposed intensification could require an Environmental Impact Assessment. English Nature should be consulted over any developments that may directly or indirectly affect a SSSI.

<sup>4</sup> Such a direction is given by the relevant authority under Schedule 2 paragraph 7, and requires the landowner's farm tenant's consent.



## Chapter 2

### Other public rights of access to areas of land

This chapter describes the other main categories of legal right for the public to use areas of land for access and enjoyment. In some cases these rights entitle people to enjoy a wider range of recreational activities than the open-air recreation on foot authorised by the CROW Act.

#### 'Section 15' access rights

Section 15 of the CROW Act lists several categories of land, discussed below, over which open access rights already existed when the Act was made. These existing access rights, while they remain in force, apply in place of the CROW access rights.

As CROW access rights do not apply over these types of land, the national restrictions on CROW access rights (explained in Chapter 1) do not apply to the land, and neither can the formal local restrictions system described be used there.

Sometimes an area of open country, registered common land or dedicated land has section 15 status but this status is lost – for example because the relevant agreement or deed or scheme ends, or is revoked. The land then immediately becomes subject to the CROW access rights, (if they are then in force). The national restrictions on CROW access then apply and the local restrictions system may be used if necessary to limit the CROW rights.

The Countryside Agency holds a national dataset that records the areas of land where it appears from available records that section 15 access rights exist. Where such land coincides with land mapped for CROW purposes, it is shown in a different colour on the access maps that land managers can view by visiting the website [www.openaccess.gov.uk](http://www.openaccess.gov.uk).

This dataset represents the Agency's best efforts to assemble section 15 information that is readily available from public sources. If the Agency becomes aware of unrecorded section 15 land, it will periodically add it to the national dataset. Equally if the Agency becomes aware that land is wrongly identified as section 15 land, or has lost that status, it will amend its records, and the maps will reflect this.

**Urban commons and land with open access rights under local/private acts and schemes must be registered under the Commons Registration Act 1965, held by county councils and unitary authorities (or their equivalent).**

**Access agreements can also be made using other powers, such as those in the Wildlife and Countryside Act 1981. These types of agreement do not give the land section 15 status, and the rights of access coexist with any CROW rights.**

The individual categories of section 15 land are briefly discussed below.

### **Land subject to section 193 of the Law of Property Act 1925 – urban commons**

This legislation gave the public access rights on foot and horseback over commons and manorial waste falling within the former boroughs and urban districts, or in the London area. These are often known as ‘urban commons’. The rights also apply to commons that have been made subject to section 193 by means of a voluntary deed made by the landowner. Such deeds could be made either revocably or irrevocably.

### **Land with open access rights under local/private acts and schemes**

This category covers land where:

- a local or private act of Parliament, or;
- a scheme made under the Commons Act 1899 for the management and regulation of a common gives the public or local inhabitants a right of access at all times for open-air recreation – which may be described in the act or scheme itself.

### **Land subject to 1949 Act access agreements or orders**

This covers any land where a voluntary access agreement or an access order is in force under Part V of the National Parks and Access to Countryside Act 1949. These agreements and orders can be made over any area of ‘open country’, as defined for these purposes. The Act as amended makes woodland, water/watersides and coastal areas eligible for such agreements or orders, as well as mountain, moor, heath or down.

### **Ancient Monuments**

The final section 15 category covers land to which the public have access under section 19(1) of the Ancient Monuments and Archaeological Areas Act 1979 (public access to monuments under public control), or where they would have such access but for the arrangements under the rest of that section for imposing restrictions on public access.

### **‘Parallel’ access rights**

Not all existing public access rights over areas of land give the land section 15 status. Some access rights merely co-exist with any CROW access rights over the same land, i.e. ‘in parallel’. Any restrictions imposed on CROW rights in this situation have no effect on the parallel rights.

Examples of ‘parallel’ access rights are briefly discussed overleaf.

### **Town and village greens**

Town and village greens are areas of land in or near settlements where the local inhabitants have area-wide recreation rights. These rights may have been allotted under an inclosure award; they may have been enjoyed for centuries under the law of custom; or they may have become recognised as a result of people using the land for at least 20 years for lawful sports and pastimes ‘as of right’. A statutory register of greens is held by County Councils and their equivalents, alongside the statutory commons register. Some 3,600 greens have been registered in England. Village green rights prevail over all other rights, so greens cannot be developed or used for any other purpose incompatible with the local inhabitants’ rights.

### **Millennium Greens and Doorstep Greens**

A total of 500 of these areas have been secured in recent years in both urban and rural areas under two Lottery-funded Countryside Agency programmes. They are not registered town or village greens, but have open access rights. Millennium Greens are permanent ‘breathing spaces’ where people can relax, play, meet or simply get out for some fresh air. They are normally held by special local trusts that look after the land. ‘Doorstep Greens’ are similar informal open spaces in communities where communal green space was previously lacking or run down.

### **Section 39 management agreements**

Local planning authorities have powers under section 39 of the Wildlife and Countryside Act 1981 to enter into management agreements with land managers to conserve or enhance the natural beauty or amenity of the countryside, or to promote its enjoyment by the public. Often such agreements include public access rights over the areas of land in question.

### **Other formal access arrangements**

Chapter 9 summarises the arrangements for access provisions and conditions in written agreements relating to grant aid or tax relief. In addition, a great deal of land is open to the public under the organisational policy of the landowner, whether that be a local or public authority, a landowning trust, a public utility or a private estate.

### **‘De facto’ access arrangements**

There are also many areas, which the public has never been specifically invited or permitted to use and where no formal rights of access apply, but where some degree of public use has become established over many years. This is often because it is impractical to prevent or control access to the land, for example because of its extensive or remote character. Such access is sometimes known as ‘de facto’ access, because it occurs in fact rather than by right. There is sometimes a mixture of access by right – perhaps on foot – and de facto access – perhaps on horseback.



# Chapter 3

## Public rights of way

### Introduction

Many landowners have public rights of way over their land which, according to their status, can be used by the public for walking, horse riding, cycling or motoring. All public rights of way are highways in law and there is a substantial volume of statute and common law<sup>5</sup> governing access along highways.

A ‘highway’ is simply a defined route over which the public has a right of access. All highways must be kept open and available for public use at all times. The term ‘highway’ includes both public roads and public rights of way. Public roads can be used by anybody, whereas use of a public right of way is limited by its status. This booklet focuses primarily on the law concerning public rights of way.

A private right of way (often called an ‘easement’) is different. It is not subject to the same terms of use as a public highway. A common example is where a landowner has a private right of access over a neighbour’s land to their own land. The conditions are normally set out in the deeds of both properties.

Some ways can carry both public and private rights. For example, a farm access road with private rights for motor vehicles may also be a public bridleway, or public footpath. Private rights must not be exercised in such a way as to interfere with the rights of the public.

‘Once a highway, always a highway’ is an important principle of law. It means that once a highway comes into existence, it remains a highway until it is ‘stopped-up’ or ‘extinguished’ by a formal legal procedure. A highway may not be visible on the ground because it has not been used for many years, but that does not alter its legal status. The situation will change after 31st January 2025, after which some rights will be lost unless recorded on the definitive map at that time (see page 24). Most highways are maintainable at public expense. This means the highway authority, not the landowner or

**Private rights of access can also exist over highways but must not be exercised so as to interfere with public rights.**

<sup>5</sup> Statute law is contained in legislation; common law is either the basic law that has not been set out in statute (where no statute exists) or case law, a judicial interpretation of law in a specific case.

occupier, owns its surface. In some cases the highway authority may also own the subsoil, such as where it has acquired land for road building. Obstructing a highway, for example by allowing vegetation to overhang from the side, putting up physical barriers, or damaging its surface, is a criminal offence under the Highways Act 1980.

The legal processes involved in recording and making changes to rights of way is complex and only a summary is provided here. The Countryside Agency publication ‘A guide to definitive maps and changes to public rights of way’ (CA 142) provides more information.

### Types of public right of way

There are estimated to be about 190,000 km (118,750 miles) of public rights of way in England recorded on definitive maps.

On all public rights of way, the public can stop for a while – admire the view, take a photograph, make a sketch, eat a picnic or simply rest – provided they stay on the way and do not cause an obstruction. They can also take items regarded as ‘usual accompaniments’ – for example, a backpack, binoculars, a camera, dogs under close control, a pram, a pushchair or a wheelchair.

The right to walk, cycle, ride a horse or drive a vehicle depends on the type of public right of way. There are four types (often depicted on the ground by a ‘waymark’ or symbol as shown):



**1. Public footpath** – right of way on foot. It is usually a ‘civil wrong’ to ride a bicycle or a horse on a footpath, which means the user could be sued by the landowner for trespass (see page 60) or nuisance. There are about 145,600 km (91,000 miles) of public footpaths in England.



**2. Public bridleway** – right of way is on foot, or on a horse, (where horse includes ass, donkey or mule). A horse may also be led. Bicyclists (including mountain bikers) can also use them but they must give way to walkers and riders. There may also be a right to drive animals, such as cattle where this is recorded in the definitive statement. There are about 32,160 km (20,100 miles of public bridleway).

**3. Restricted byway** – this is a new category of right of way, re-designated from ‘roads used as public paths’ (RUPPS – see opposite) introduced by the CROW Act, which, once introduced (expected 2005), will be for people on foot, horseback, pedal cycle or driving other non-mechanically-propelled vehicle (such as a horse-drawn carriage).

The right for the public to drive animals along a restricted byway will be similar to that for bridleways – the right will exist only where recorded in the definitive statement.

**In general, the highway authority owns the surface of a publicly-maintainable highway while the landowner owns the subsoil.**

**At the time of writing this publication, the waymark for a restricted byway has not been agreed.**



- 4. Byway open to all traffic** (often simply termed BOAT or ‘byway’)  
– right of way exists for people on foot, horseback or pedal cycle, or driving wheeled vehicles of all kinds including horse-drawn and mechanically-propelled vehicles.

At first glance, this appears similar to public roads but byways are generally used, or their character means that they are likely to be used, for the same purposes for which footpaths and bridleways are used. There are about 3,700 km (2,300 miles) of byways open to all traffic in England.

### Other terms used to describe rights of way

#### Roads used as public paths (RUPPs)

You may see this term on OS maps and definitive maps and statements for a while and also on signposts. Highway authorities are under a duty to re-classify RUPPs as footpaths, or more commonly, as bridleways or byways open to all traffic, according to the public rights that exist over them. This is a long process and few highway authorities have completed reclassification of all their RUPPs. Once the relevant sections of the CROW Act are introduced, any RUPPs that remain will be redesignated as restricted byways.

Some RUPPs will be in the process of re-classification at the time the relevant part of the Act comes into force. Highway authorities are required to follow these reclassifications through to completion. When the re-classification order is determined, the way will be re-classified as a footpath, bridleway or BOAT depending on the rights that have been found to exist. Pending determination, there will be an element of uncertainty over what rights exist.

#### Carriage or cart roads

Definitive maps and statements for some authorities use the terms ‘carriage-road (or cart-road) used as a footpath’ (CRF) and ‘carriage-road (or cart-road) used as a bridleway’ (CRB) rather than the legally-correct term ‘RUPP’. The terms CRF and CRB have been mentioned in guidance to highway authorities in the past but have no legal status.

#### Green lanes

The term ‘green lane’ is sometimes used to describe an unsurfaced path that is (normally) hedged. The term has no legal status. Green lanes may carry footpath, bridleway or byway rights, or may carry no public rights at all, in the same way as any other track, route or path.

## Promoted routes

Some rights of way have been joined together to form continuous routes, making it easier for people to enjoy the countryside or to see the features of interest in an area. There is now a wide choice of routes, ranging from simple local walks of just a few miles, to walking, cycle and horse riding trails and long distance National Trails, which allow extensive journeys to be undertaken over several days. The Countryside Agency always consults landowners when developing National Trails and encourages highway authorities to do the same when developing promoted routes.

## National Trails



The 12 National Trails in England and 3 in Wales provide over 4,000 km (2,500 miles) of quality walking (and, in some cases, riding and cycling) routes through diverse and spectacular landscapes. In England, National Trails are designated by the Countryside Agency and approved by the Secretary of State. They are depicted on the ground by the ‘acorn’ symbol shown here. Each National Trail is managed through a partnership of the relevant highway authorities with a dedicated National Trail Officer who is responsible for co-ordinating the development and maintenance of the route.

National Trails are developed by linking or creating public rights of way. People using the Trails have the same rights and responsibilities as on other public rights of way. Even where a route is intended as a walking route, it may include some sections along bridleways or byways, where people are allowed to ride a horse or bike, or take a motor vehicle, as appropriate.

## Greenways

The term ‘greenway’ is used to describe a largely car-free off-road route which connects people to facilities and open spaces in and around towns, cities and to the countryside. A greenway is intended for shared use by people of all abilities on foot, bike or horseback and for commuting or leisure. The Countryside Agency has produced a Greenways Handbook (see ‘Further information’ on page 70).

## Records of highways and public rights of way

Highway authorities maintain two main sets of highway records, the list of streets and the definitive map, both of which should be available for public inspection free of charge at local highway authority offices.

## Lists of streets

Lists of streets maintainable at public expense are prepared by the highway authority under section 36(6) of the Highways Act 1980. The list of streets may also be accompanied by maps (though this is not a legal requirement). It records all highways, both public roads and public rights of way, which the highway authority is legally liable to

maintain, whether or not they are surfaced, but it does not indicate the rights that exist over the highways that are listed. In some cases the minor ('unclassified') public roads shown on the list may no longer be visible on the ground.

### Definitive maps and statements

'Definitive maps and statements', prepared by highway authorities<sup>6</sup> under section 53 of the Wildlife and Countryside Act 1981, are the legal records of public rights of way. Definitive maps and statements are legal records of public rights of way only, they are not the legal record for public roads.

These documents provide conclusive evidence, at the relevant date of the map, of the existence and status of the public rights of way that are shown on them. The public can expect the situation on the ground to reflect precisely what is shown on the maps and statements, and highway authorities are under a duty to ensure that the public rights of way are open and available for use.

However, definitive maps may be incomplete and are conclusive only in respect of what is recorded on them. For example:

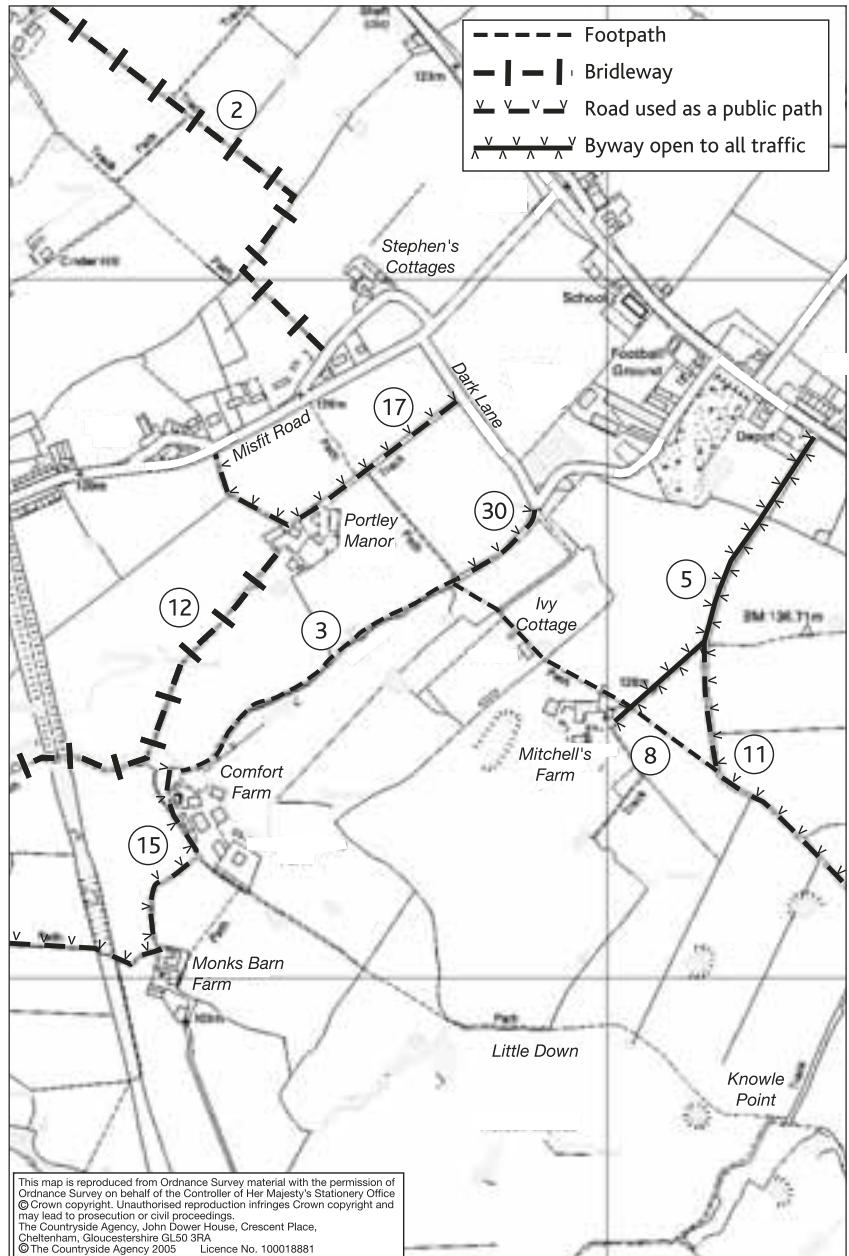
- rights may exist over a way not shown on the definitive map, but have never been recorded;
- additional rights may exist over a way shown on the definitive map, even though they are not recorded. For example, a way may be shown as a footpath when rights also exist to use it by horse, so it should be shown as a bridleway;
- rights of way may also have been wrongly recorded and the map not yet changed or 'modified';
- the map may not yet show the effect of recent changes through, for example, public path orders (see Chapter 5) to extinguish, create or divert paths.

**The public can still exercise their rights even where they are not recorded on a definitive map.**

Some urban areas may not have a definitive map at all but the public rights still exist.

It is advisable for land managers to keep an up-to-date copy of the relevant parts of the map and statement covering their land holding. Intending purchasers of land should also check the relevant part of the definitive map and statement which are the most up to date record of public rights of way. Copies of the definitive map are available for inspection at highway authority offices and extracts can usually be photocopied (for which a fee may be payable). Parish councils and some libraries may also hold copies of the definitive map and statement for inspection.

<sup>6</sup> Strictly, it is the surveying authority that is responsible for the definitive map and statement but this is, in the case of rights of way, also the highway authority. Highway authorities have a much wider role in managing and maintaining rights of way, so the term highway authority is used here for simplicity.



### Example of a definitive map

The figure above shows an extract from an illustrative definitive map. Each public right of way is numbered and standard annotations for each category of way have been used.

The statement that accompanies the map (not shown here) may describe the rights of way. Many do so only in outline, but some statements include important information on the position and width of paths and on legal limitations on public use, such as gates and stiles. Where such details are given they are also conclusive evidence in law.

This extract shows the limitations with definitive maps. For example:

- paths 11, 15, 17 and 30 are still shown as roads used as public paths (RUPPs). The map does not show whether the RUPP is in the process of re-classification or whether it has been/will be re-designated as a restricted byway;
- the path from Comfort Farm to Knowle Point is on the base map but not on the definitive map as a public right of way. Its status should be checked with the highway authority.
- path 3, in the centre of the map, is shown as a footpath but seems to be part of a continuous route with routes 15 and 30, suggesting that it might have been wrongly designated. This apparent anomaly should also be checked with the highway authority. All three paths (3, 15 and 30) are part of an old carriage route that can legally be used by vehicles. They should all be properly recorded on the definitive map as byways open to all traffic.

### **Ordnance Survey maps**

**If you believe an OS map is wrong, check it against the definitive map and the list of streets. Ask the highway authority to refer any discrepancies to the OS and to ensure that the correct information is clearly marked on the ground, or write to the OS yourself.**

Information on public rights of way, based on information supplied by highway authorities, has been shown on Ordnance Survey (OS) maps in the Landranger, Explorer and Outdoor Leisure series for many years. The maps are widely used by members of the public, who generally expect OS maps to be accurate, and to be able to use the public rights of way shown on them. However, old editions may not show recent changes. OS maps always carry the disclaimer “the representation on this map of any other road, track or path is no evidence of the existence of a right of way”. Public rights may still exist over such roads, tracks or paths and OS maps cannot be used as a substitute for the legal record of public rights of way.

### **How public rights of way come into existence**

Public rights of way may come into existence in the following ways:

#### **Express dedication**

Express dedication occurs where landowners (who, in this case, must be the freeholder) consciously and deliberately give the public the right to use ways over their land. They must intend to dedicate the way as a public right of way and the public must actually use the way (i.e., it must be accepted by the public). It must be for the public at large and in perpetuity.

#### **Creation agreements for public rights of way**

Public path creation agreements to create a new public right of way can be made between local authorities and landowners, or orders can be made by local authorities under section 25 of the Highways Act 1980. Such agreements can incorporate conditions, set out maintenance responsibilities (the new path will normally be maintainable at public expense) and provide for payment.

Parish councils can also enter into agreements to create public rights of way under section 30 of the 1980 Act. However, there is no provision for paths created in this way to be maintainable at public expense, unless a separate agreement is reached under section 38 of the 1980 Act.

The CROW Act (section 58) gives the Countryside Agency the power to apply to the Secretary of State for an order for the purposes of creating a right of way to provide access to open country.

#### **'Deemed dedication' at common law**

This is when dedication of the right of passage is inferred because there has been open use, as of right, in such a way that the owner must have known that the public was using the route. The burden of proof is on the public claiming the route. Use must have been by the public (not, for example, by employees of the landowner) and without permission, secrecy, force or interruption. This means that the landowner has not asked people to leave, put up a notice, locked a gate or obstructed a path in order to deter people. The length of time of uninterrupted use depends on all the circumstances. In most cases, this has to be for not less than 20 years. In some cases, use for only a year or so may be sufficient to establish that a way has been dedicated, but these are very rare.

#### **'Presumed dedication' under statute law**

Section 31 of the Highways Act 1980 provides that where the existence of a right of way is brought into question and use of it by the public has been for not less than 20 years, without permission, secrecy, force or interruption, and that the owner has not indicated a lack of intention to dedicate the route to the public there is a presumption of dedication. The difference between this and deemed dedication at common law is that the burden of proof is on those who say that the route is not public. Where a way has been used for less than 20 years, it is not possible for a right of way to be claimed through presumed dedication under statute law, although a claim at common law might still be possible.

#### **Making a claim**

The public may approach the highway authority to make a claim for a way to be added to the definitive map, but the authority must itself keep the definitive map under review and can modify it where it has evidence that information recorded on it is wrong (following legal procedures as necessary). These procedures for modifying the map and other information on changing the definitive map are explained in the Countryside Agency publication 'A guide to definitive maps and changes to public rights of way' (CA 142).

#### **Depositing a statutory declaration**

Depositing a statutory declaration provides greater certainty for both landowners and the public. Local authorities will be required to keep

**Section 31(6) of the Highways Act 1980 enables landowners to protect themselves against claims based solely on public use by depositing a map, statement and statutory declaration with the highway authority showing which public rights of way, if any, they acknowledge over their land. By doing this, the landowner is declaring that he does not recognise any other way across his land as a public right of way.**

registers of these deposits and make the registers available for public inspection (though at the time this publication was written, this provision has not come into effect).

The public may still use farm tracks or access roads following deposit of a map, statement and statutory declaration by the landowner. Where a track has been used informally, but for less than 20 years prior to the date of the deposit, it is not possible for a public right of way to be claimed through presumed dedication (although a claim at common law might still be possible). The declaration has to be renewed every 10 years for it to remain valid.

**Follow this procedure to deposit a map, statement and statutory declaration:**

- a. Examine the definitive map and statement to ascertain what public rights of way are already recorded, and their precise routes.
- b. Obtain a recent or current map at 1:10,000 scale of the entire area involved. Carefully mark up the precise route of all public rights of way that you acknowledge are shown on the definitive map, or are otherwise acknowledged to exist. Do not try to deny the existence of any public rights of way shown on the definitive map unless an application for a definitive map modification order has already been made. Also, do not show unofficial diversions: the effect of the statutory declaration will be to confer public right of way status on such routes. The route on the definitive map will still remain a public right of way.
- c. Draw up a statement and statutory declaration. Model forms are available from the CLA and NFU. Ensure that the documents are accurate and are declared before a solicitor or Justice of the Peace. The statement should be made first and the statutory declaration shortly afterwards.
- d. Deposit the statement with the map and statutory declaration with the highway authority. If they have not previously checked the map, they may wish to check it against the definitive map and to clarify any areas of uncertainty.
- e. Subsequent statutory declarations are required at intervals of no longer than ten years, for the deposited map and statement to remain effective. They should be accompanied by further maps as necessary.
- f. Keep copies of maps, statements and declarations with the title deeds for the property or Land or Charge Certificate.
- g. You can, if you wish, place notices on any tracks or paths that are not admitted to be public rights of way, to make the position clear.

Declarations can also be made with respect to permissive paths (using a separate map and statement).

### **Historic rights of way not currently on the definitive map**

The CROW Act makes provision to extinguish footpath and bridleway rights in existence before 1949 and not recorded on the definitive map by 1st January 2026, subject to any transitional arrangements that may be in place. The deadline can be extended by the Secretary of State.

Research suggests there are a significant number of unrecorded rights and the Countryside Agency has set up a project (called ‘Discovering Lost Ways’) to help record these rights by 2026. It will still be possible, after 31st December, 2025 to bring forward post-1949 evidence demonstrating the existence of rights. For more information on the legal process for claiming historic rights of way see the Countryside Agency publication ‘A guide to definitive maps and changes to public rights of way’ (CA 142).



# Chapter 4

## Temporary changes to public rights of way

### Introduction

Most changes to the line of a public right of way require an order (known as a public path order) made by the highway authority. See Chapter 5 for more information on these procedures.

Sometimes it is necessary to close or divert a public right of way temporarily. This section covers the powers available for temporary closures for:

- works undertaken by the landowner on or near a public right of way;
- works being undertaken by the highway authority;
- traffic regulation orders;
- control of animal and plant disease.

If you see a need for any of these measures on your land, first contact the highway authority for your area.

### Dangerous works undertaken by the landowner on or near a public right of way

The CROW Act amended the Highways Act 1980 so that landowners will be able to make temporary diversions of a footpath or bridleway (but not restricted byways or byways open to all traffic) where works are being undertaken that are likely to cause danger to users of the footpath or bridleway. At the time of writing, the provision had not been introduced and the types of works for which this power can be used have yet to be specified, but it is expected that this may include, for example, tree felling or drainage works that cross the way. The following conditions apply:

- fourteen days' notice must be given to the highway authority and, if the path is on or contiguous with CROW access land, to the Countryside Agency before the commencement of the diversion;
- the intention to divert must be publicised at least seven days before the diversion takes effect;
- diversions on a footpath or bridleway must not exceed 14 days in any one calendar year;

- the diversion must be done in a manner which is reasonably convenient for the exercise of the public right of way;
- any temporary footpath or bridleway must be clearly marked on the ground and be of suitable width and, if diverted onto another highway, must be a footpath or bridleway (if a footpath is temporarily diverted), or a bridleway (if a bridleway is temporarily diverted);
- the diversion must not be on land in the occupancy of another without their consent;
- no notices should be posted or diversions take effect unless the procedures have been complied with;
- any damage to the footpath or bridleway must be made good.

The highway authority may make an order to divert a footpath, bridleway or restricted byway temporarily for up to three months, in connection with any excavation or engineering operation that is reasonably necessary for agricultural or forestry purposes. There is no requirement for the order to be advertised or any opportunity for representations or objections to be made; a notice and plan showing the alternative route are simply displayed at each end of the diversion while it is in force.

### Traffic regulation orders

Traffic Regulation Orders (TROs) are sometimes made by the appropriate local authority, on a temporary basis, for example to prevent danger to the public. For further information about TROs see page 29. Section 261 of the Town and Country Planning Act 1990 also provides for temporary closures to enable mineral extraction.

### Closures to control the spread of animal and plant disease

The Department for Environment, Food and Rural Affairs (Defra) has drawn up a contingency plan for dealing with outbreaks of foot and mouth disease. The plan will be brought into use not only in the event of an outbreak of foot and mouth disease, but also to provide the structures, frameworks and systems for the control of other animal and plant diseases. It states that public rights of way will only be closed on ‘infected premises’ and within the 3km ‘protection zone’. The aim would be to keep as much of the countryside open to the public as possible. Risk assessments undertaken by the State Veterinary Service would be used to assess the need for closures of public rights of way and other publicly accessible areas. Inspectors would prohibit entry to land within protection zones but only where this is justified on the basis of advice contained in the risk assessment. Restrictions would be location-specific and time-limited, allowing reviews to determine whether continued restrictions are needed.

**Protection zones are areas of at least 3km radius around an infected place.**



# Chapter 5

## Permanent changes to the public rights of way network

### Introduction

Local authorities have powers to make orders under a range of legislation to alter the line of a public path or extinguish it, even if it is not shown on the definitive map. These are known as public path orders.

The authority may identify a need for changes and make orders to create, extinguish (ie. stop-up or close) or divert paths. In addition, anyone (whether a member of the public, a user group or a landowner) can apply to the highway authority to have changes made to a public right of way. The CROW Act extends this right (at the time of writing, this is not yet in force) to allow owners of agricultural land (including land used for rearing and/or keeping of horses) and forestry land to make an application for an order and require the highway authority to decide within four months whether to proceed with the order.

If no decision has been reached within this time, the applicant can ask the Secretary of State (following consultation with the authority) to direct the highway authority to determine the application before the end of the time to be specified.

This chapter provides a summary of the powers available to highway authorities to make legal changes to the rights of way network and what you need to do. The Countryside Agency publication 'A guide to definitive maps and changes to public rights of way' (CA 142) explains the procedures undertaken in more detail.

### Highway authority powers to change different types of public rights of way

Highway authorities have the following powers to make orders to change public rights of way:

#### Highways Act 1980

- Creation of a new right of way through agreement (section 25) or by order (section 26)
- Extinguishment of an existing path (section 118)

- Extinguishment of a highway for purposes of crime prevention (section 118B)
- Extinguishment of a highway to protect school children and staff from threat (section 118B)
- Diversion of an existing path (section 119)
- Diversion of a highway for purposes of crime prevention (section 119B)
- Diversion of a highway to protect school children and staff from threat (section 119B)
- Diversion of certain highways for the protection of SSSIs (section 119D) (CROW Act provision to be introduced in 2005)

#### **Town and Country Planning Act 1990**

- Diversion or closure of paths for reasons of proposed developments (section 257)

**Highway authorities can use the power under section 116 of the Highways Act 1980 in connection with footpaths and bridleways, but the Secretary of State advises they should not do so unless there are good reasons (for example, to divert a connecting footpath at the same time as a byway is being diverted).**

Orders to divert or extinguish byways open to all traffic, or other minor highways with public vehicular rights, are normally made under section 116 of the Highways Act 1980 and are made by the magistrates' court, or from the application of the highway authority. The magistrates hear any objections. The parish council can veto an order by refusing to consent to the authority's application. Anyone who requests the highway authority to make an application may be asked to meet the whole of the authority's costs.

#### **How to change the route of a public right of way**

If you want to change the route of a public right of way, read Chapter 12 first – this offers a range of management measures that may remove the need for a permanent change. Highway authorities are likely to wish to discuss informal management measures before agreeing to pursue any legal change. You may also wish to seek advice from the CLA or NFU.

Before deciding whether to request a change to the line of a public right of way, think about the following:

- why is the change needed?
- will the change really resolve the problem, is it the only practical solution, and might it give rise to further problems?
- what will be the benefits in land management terms?
- what effect will the proposals have on other people's use and enjoyment, both of the paths on your land and the wider network in the area?
- are all the existing rights of way that are affected by the proposals open and available for use, as the law requires?
- can the proposals be modified, if necessary, to meet any further concerns that are raised?
- are the benefits worth the likely costs?

## **The costs of public path orders**

Anyone who expects to gain some financial or other benefit from extinguishing or diverting a path will normally be expected to bear at least some of the costs associated with the order. Local authorities have powers to recover from the owner, occupier or lessee of the land the costs of making up a newly created path and any compensation that may be payable arising from a public path diversion order (e.g., where the diversion puts the path on to a neighbour's land).

**The Local Authorities (Recovery of Costs of Public Path Orders) Regulations 1993** also enable authorities to recover their advertising and administrative costs in making a public path order, a rail crossing order or an order to divert or extinguish a footpath, bridleway or restricted byway to enable development to take place.

They can also recover costs associated with a public path creation order where this has been made concurrently with a public path extinguishment order. The applicant can be charged with the cost of putting notices of making, confirming and coming into effect of a public path order in one local newspaper. The applicant will also be required to contribute towards the authority's costs in making the order.

When recovering costs, the authority has discretion to take into account factors such as the applicant's financial hardship or the potential benefits to the public of the changes proposed. All or part of the charge may be waived. Where the order is not confirmed, the applicant is not automatically entitled to a refund, but costs will normally be refunded upon request if the authority decides not to proceed (e.g., if it fails to confirm an unopposed order), if the order cannot be confirmed because it has been invalidly made, or if a creation order is not confirmed concurrently with an extinguishment order.

It is Government policy that the parties at a public inquiry or hearing are expected to meet their own expenses irrespective of the outcome. Costs against any party at an inquiry will be awarded only exceptionally, for example, if they are shown to have behaved unreasonably. However, the local authority will normally pay the costs of a person objecting who has an interest in the land affected by a public path order.

## **Traffic regulation orders**

Local authorities sometimes use traffic regulation orders to close, divert or restrict use of a public right of way. These may be used to restrict specific classes of vehicles, either permanently, temporarily or seasonally and to restrict speed, weight etc. They can be used to regulate use of highways (including public rights of way) in a number of circumstances as follows:

- to prevent danger to persons or other traffic;
- to preserve the character of the highway for use by persons on horseback or on foot;
- to preserve the amenity of the area through which the highway runs;

- to prevent damage to the highway;
- to prevent use of the highway by vehicular traffic of a kind that is unsuitable having regard to its existing character;
- to conserve or enhance the natural beauty (including the conservation of flora, fauna, geological and physiographical features) of the area through which the road runs.

If you are experiencing difficulties with a right of way on your land, read Chapter 12 first, but if everything else fails you may be able to persuade the highway authority to make a traffic regulation order to restrict use.



# Chapter 6

## Maintenance of public rights of way

### Introduction

Responsibility for keeping open public rights of way that are maintainable at public expense<sup>7</sup> is divided between highway authorities and the occupiers of land. Some national park authorities, district councils and parish or town councils act as agents to carry out work on behalf of the highway authority for their area. This chapter describes where those responsibilities lie.

### Highway authority responsibilities

Highway authorities have the duties set out below to maintain public rights of way, and, where necessary, will act in default where the responsibilities of others, such as landowners, have not been carried out.

### Surfaces and vegetation

- Maintain the surface of public rights of way and control vegetation (other than crops) on the surface of paths.
- Respond to notices served by members of the public under the Highways Act 1980 (section 56) and to any subsequent order from the magistrates' court, about surface maintenance.

### Rights of way infrastructure – gates, stiles, bridges etc

- Authorise new gates or stiles (ie. where there was no gate/stile before) and provide a minimum 25 per cent contribution towards any costs incurred by a landowner in maintaining stiles or gates on public rights of way, when requested to do so by the landowner.
- Maintain bridges over natural watercourses including farm ditches which were there when the path was first recorded.

**Section 69 of the CROW Act will amend the law to ensure that before new gates or stiles are authorised by a highway authority, the needs of people with mobility problems will be taken into account. Gates are not normally permitted on byways open to all traffic but, where permitted, they must be left unlocked and may have conditions specified on the definitive statement.**

<sup>7</sup> Most public rights of way are maintainable at public expense. Those that are not are likely to be privately-maintainable roads, routes created through 'express dedication' (see page 21) and some routes that have come into existence since 1949 under common law or through 20 years' use. The highway authority will be able to confirm whether a route is maintainable at public expense or not.

### **Signposting and waymarking**

- Provide signposts where public rights of way leave metalled roads. Highway authorities may also waymark public rights of way, after consulting the landowner.

### **Obstructions and misleading notices**

- Secure the removal of obstructions<sup>8</sup>, and respond to notices about obstructions served by members of the public under the Highways Act 1980.
- Ensure that there are no intimidating or misleading notices deterring the public from using paths shown on the definitive map, and prosecute anyone who displays such notices.

### **Meeting the requirements of the Disability Discrimination Act 1995 (DDA)**

- Consider the requirements of the DDA in a local context to ensure the service they provide is ‘reasonable’ in meeting the needs of disabled people (see Chapter 8).

### **Parish and Town Council responsibilities**

Parish and town councils also have certain discretionary powers in their own right. These include:

- maintaining any public footpath or bridleway in the community;
- requiring the highway authority to remove an obstruction;
- putting up signposts and waymarks (with the consent of the highway authority and after consulting the landowner);
- requiring the local authority to carry out its duty to signpost and waymark public rights of way.

<sup>8</sup> ‘Obstruction’ has been interpreted by the courts to cover anything that could inconvenience or endanger the public in any way or discourage use.

### **Path widths**

The width of a public right of way is sometimes recorded on the definitive statement. Where no width is given and there is no other independent source of information about the width (such as, for example, a legally enforceable width given in a diversion order where a path has previously been diverted) then the following widths (as set out in the Rights of Way Act 1990) apply to paths that cross cultivated land:

- where a cross-field footpath is cultivated, it must be restored to a minimum width of 1 metre;
- where a cross-field bridleway is cultivated, it must be restored to a minimum width of 2 metres;
- other cross-field highways must not be cultivated and a minimum width of 3 metres must be respected for byways and restricted byways;
- a field-edge footpath must not be cultivated; a minimum width of 1.5 metres must be respected;
- a field-edge bridleway must not be cultivated; a minimum width of 3 metres must be respected;
- other field-edge highways must not be cultivated; a minimum width of 5 metres must be respected for byways and restricted byways.

The widths specified in the Rights of Way Act 1990 apply where land is ploughed or cultivated. They do not apply in other circumstances. So, for example, if someone mows the verge of a bridleway and then encloses the mown area into their garden the highway authority cannot use the widths quoted in the 1990 Act to prove the person has encroached onto the highway. Equally, if the public have used a footpath for 20 or more years and now claim it as a public right of way, they can only claim the width that has been used – they cannot now say it should be 1.5 metres because it is a field-edge path. If the public has used a width greater than 1.5 metres, the landowner cannot use the widths quoted in the 1990 Act to limit the width claimed.

## Responsibilities of landowners and occupiers

### Vegetation, cultivation and other obstructions

- Keep rights of way clear of any obstructions, such as padlocked gates, rubbish, barbed wire, slurry, manure, electric fences, and chained or loose dogs.
- Do not obstruct the public from using a public right of way, according to its status, at any time.
- Cut back vegetation encroaching from the sides (but not the surface) and branches encroaching from above so as not to inconvenience the public and to prevent the line of the public right of way being apparent on the ground. On bridleways, horse-riders should be allowed 3 metres (10 feet) of headroom.
- Keep paths clear of crops (other than hay and grass silage) to ensure that they do not inconvenience the public.
- Ensure that cross-field footpaths and bridleways are not cultivated (ie. ploughed or disturbed) except where it is not convenient to avoid them. Where cultivation cannot be conveniently avoided, ensure that the surface is made good to at least the minimum width (see previous page), so that it is reasonably convenient to use, within 14 days of first being cultivated for that crop, or within 24 hours of any subsequent cultivation (unless a longer period has been agreed in advance in writing by the highway authority).
- Ensure that field-edge footpaths and bridleways, and all restricted byways, and byways open to all traffic and public roads are never cultivated.

### Rights of way infrastructure – gates, bridges, etc (see also Chapter 12)

- Maintain stiles and gates on public rights of way (where necessary and authorised) in good order.
- Provide adequate bridges where, with the permission of the highway authority, new ditches are made or existing ones widened.

### Hazards

- Warn users about potential dangers near public rights of way.
- Fence-off abandoned quarries and plug old mine shafts where failure to do so would constitute a statutory nuisance and use warning signs as appropriate.
- See Chapter 11 for more information about public safety and liability.

### Bulls

There are legal requirements about keeping bulls in fields with public rights of way – see Chapter 12 for information on this and on keeping cattle in fields with any public access.

## **Waymarking**

Waymarking rights of way helps the public to keep to the path. Contact your highway authority to discuss any waymarking requirements on your land.

## **Misleading signs**

Do not place any signs on or near public rights of way that might discourage access.

## **Enforcement**

Many highway authorities are proactive in assisting landowners with public rights of way maintenance issues and are able to resolve problems informally. Some highway authorities have set up schemes whereby they enter into voluntary maintenance agreements with farmers and landowners, or work with local volunteers. Some also work with local councils or user groups to decide maintenance priorities.

Highway authorities are not obliged to work informally to resolve maintenance problems and some may resort to serving notices or taking court action. The public also have some powers to serve notice on highway authorities to ensure public rights of way are maintained and to secure removal of obstructions. This section provides information on the circumstances where these more formal procedures might be used.

### **Enforcing the highway authority to maintain – public powers**

If the highway authority fails to carry out its maintenance duties, section 56 of the Highways Act 1980 provides for any person affected to serve notice on the authority to repair the highway. However, the highway authority need only maintain a public right of way so that it is suitable for the ordinary traffic of the neighbourhood. Where damage can be attributed to use of a public right of way by farm vehicles, for example, the authority may ask the landowner or occupier to help defray the costs involved in repairing it.

### **Enforcing removal of an obstruction – highway authority's powers**

The highway authority may serve a notice on an occupier requiring an obstruction to be removed, or may post a notice on the land if the occupier cannot be identified. If the landowner or occupier takes no action within the period specified by the authority, the authority may enter the land, carry out the works it thinks are necessary and recover the costs from the occupier. Alternatively, or in addition, the authority may prosecute the occupier in a magistrates' court.

Continued failure to act could lead to the landowner being fined, with the fine increasing for each day that the obstruction is not removed. In most cases the fines are relatively small but can be charged for every day that passes without the required action being taken.

**In a recent case, a landowner was fined over £90,000 for failing to remove an obstruction to a public right of way, when required to do so by order of a magistrates' court, following a substantial delay.**

**A notice requiring the removal of an obstruction may not be served where the obstruction is a building or any structure designed, adapted or used for human habitation.**

Failure to abide by a magistrates' court order may be deemed to be contempt of court, which could lead to a prison sentence.

### **Enforcing removal of an obstruction – the public's powers**

A member of the public may serve notice on the highway authority requiring it to remove any obstruction on a public right of way. The person serving the notice must include the name and address of the person who they think is responsible for the obstruction, if known. The authority must respond within one month by serving notice on any person whose details are included in the original notice, on any other person that they consider may be responsible for the obstruction and on the original complainant stating what course of action they propose to take.

If, having served the notice, the complainant is not satisfied that the obstruction has been removed, they can then apply to the magistrates' court to require the authority to take action. Before doing so, however, they must inform the highway authority of their intention. The application to the magistrates' court cannot be made until at least two months and no more than six months have elapsed since the original request notice was served on the authority.

If the court is satisfied that the obstruction is one to which the notice process applies and that neither the status of the route is in dispute nor plans are in place to take remedial action, it can order the highway authority to take action, within a period which the court considers reasonable.

### **Highway authority and public powers to enforce the removal of overhanging crops**

Powers to prosecute an occupier for failing to keep a cross-field or field-edge public right of way clear of growing crops are also available to both highway authorities and members of the public. Where an occupier employs a contractor to do work, the occupier is liable, irrespective of any contract terms, for any failure to restore cross-field footpaths or bridleways, or failure to avoid any other cross-field or field-edge right of way.

### **The single farm payment, cross compliance and set-aside land with public access**

Landowners are now required to meet all their legal obligations on the maintenance of public rights of way when claiming payments under the Single Payment Scheme administered by the Rural Payments Agency (RPA). The RPA booklet 'Single Payment Scheme Cross Compliance Handbook for England 2005 Edition' sets out the full requirements, with 'GAEC 8' applying to public rights of way. If you carry out your responsibilities for public rights of way as set out in this chapter, you will meet the requirements of GAEC 8.

Land set-aside under the Single Payment Scheme is considered to be

still in agricultural use. This means the Highways Act 1980 in relation to ploughing and cultivation still applies to that land. Similarly, rights of way across set-aside land should be kept clear of obstructions.

Where the necessary vegetation cover is allowed to regenerate, the resultant growth should still be cleared from the right of way by the occupier. If the cover consists predominantly of growth from the previous crop, it may be considered to be a crop and responsibility for clearing it will remain with the occupier. Where the cover consists predominantly of grasses and other plants not sown by the occupier, responsibility for clearing it will rest with the highway authority.

Where it appears that a right of way on set-aside land is, or is likely to become, blocked by naturally re-generated growth, the occupier should contact the highway authority as soon as possible to discuss how it may best be dealt with. Any action by the highway authority will not absolve the occupier from the responsibility to manage the set-aside land and, where appropriate, cut the cover in accordance with both the set-aside management rules and public rights of way legislation.



# Chapter 7

## Rights of Way Improvement Plans

### Introduction

This chapter provides information on the main way that highway authorities are now required to plan local rights of way and countryside access development – through rights of way improvement plans. If you are interested in improving the rights of way network in your area, contact your highway authority to find out how you can contribute your ideas.

### Rights of Way Improvement Plans

Every highway authority has to produce a Rights of Way Improvement Plan for its area (or join with others to do so) by 2007 and review it at least every ten years after that. Defra has provided national guidance on how these plans should be prepared.

Highway authorities have to go through four stages in developing rights of way improvement plans. These are described briefly below.

### Network assessment

The network assessment may consider the distribution, connectivity and condition of public rights of way and cycle tracks and may also include a wider range of existing access opportunities such as – greenways, canal towpaths, country parks and CROW access land, for the full range of users, including those with mobility and sight problems.

### Assessment of use and demand

This covers the need for access to the countryside both for local residents and visitors to the area, including current, latent and potential future demand. Walkers, cyclists, horse riders and drivers of motor and other non-mechanically propelled vehicles are all considered. Emphasis is given to the needs of people with impaired mobility and sight problems. Authorities are also required to look at the preferences of people who do not currently use rights of way, as well as users, and people of all ages, abilities and ethnic backgrounds.

## **Consultations**

The law requires the highway authority to consult widely (both in making its assessments and over its draft plan), including adjoining authorities, national park authorities and parish councils, and local access forums. The draft plan or any amendments to the plan have to be made available for public comment and the authority has to consider any representations made.

## **Statement of action**

The completed plan will contain a Statement of Action, which sets out the authority's intentions for the management and improvement of local rights of way.

## **Rights of Way Improvement Plan implementation**

Rights of Way Improvement Plans are expected to set out proposals for improvements to the local rights of way network for the highway authority to implement over the subsequent 10 years. This may include, for example, developing new routes, improving the network by modifying the existing network, and working with others to produce an integrated pattern of access opportunities better able to meet the needs of local residents and visitors. They may also set out how the improvements are to be funded.

A further function of the plan is to act as a statement of intent against which proposals for changes to the network made by others can be judged. Rights of way and other highways can be changed, but only for the reasons specified in legislation, and only through statutory procedures. In future, highway authorities will have to have regard to any material provision of their Rights of Way Improvement Plan when considering changes to the rights of way network.



# Chapter 8

## Access for disabled people

### Introduction

New legislation has focused attention on the need to consider disabled people when managing public access. The requirements for improved access to the countryside are highly variable and one solution is not necessarily appropriate for all disabled people – who, like able bodied people, are very varied in their wishes and aspirations. They may wish to visit a developed site such as a country park and here, particularly if the site is popular and well visited, it is reasonable for them to expect a high quality path and good facilities. What is judged ‘reasonable’ in situations like these will be of a higher standard than on rights of way across agricultural land or on open moorland.

However, some disabled ramblers also enjoy less developed areas of countryside. They are likely to be sensibly equipped and may use buggies or scooters to help move around. They just ask for a minimum of unnecessary barriers (gates, for example, instead of stiles), some paths with a reasonable, but not necessarily modified, surface and information to help them decide where to go. Specially trained assistance dogs also help increasing numbers of people to enjoy the countryside, including those with hearing impairments and epilepsy as well as visual impairments.

### The law

#### Disability Discrimination Act 1995

The Disability Discrimination Act 1995 (DDA) requires those who provide a public service to ensure that, as far as is reasonable, the service is accessible to disabled people. The definition of a disabled person under the DDA 1995 includes a person with any of the following:

- mobility or visual impairments;
- hearing loss;
- speech impediments;
- learning difficulties (including dyslexia);
- mental illness;

- a long term health condition; or
- issues of continence.

The way the DDA applies to public rights of way and access land has not been tested in the courts. It is unlikely that allowing people to exercise their rights over land, such as along a public right of way or over CROW access land, constitutes a service. However, taking action to enable someone to exercise that right may constitute a service.

Currently, highway authorities are advised to decide at a local level which activities are likely to be considered a service under the DDA. The provision of gates and stiles, information panels and signs is likely to be considered a service. The DDA is also likely to apply to promoted routes and paths, for example National Trails. Until interpretation of the law is clear, landowners are advised to work as necessary with the appropriate local authority, who work directly with disabled people to determine a reasonable level of service provision.

### **Disability Discrimination Bill 2003**

The draft Disability Discrimination Bill 2003 is passing through Parliament at the time of writing. It is likely to place a duty on public bodies to make the consideration of the needs of disabled people an integral part of the policy-making or decision-making process. It will also extend the application of the Disability Discrimination Act 1995 to private clubs and may have implications for any outdoor activity clubs that operate on private land.

### **Countryside and Rights of Way Act 2000 (CROW Act)**

The CROW Act also places a duty on highway authorities to have regard to the needs of people with mobility problems and gives them the power to enter into arrangements with landowners to erect stiles and gates that do not present barriers. Authorities also have to take account of the accessibility of local rights of way to people with mobility problems and the visually impaired when preparing their Rights of Way Improvement Plans (see Chapter 7).

### **What it means in practice**

These new provisions will mainly impact on the way in which public money is spent. This will particularly affect highway authorities and access authorities, for example when providing information or installing means of access on access land. It may also affect land managers receiving grants from public funds. If public funds are being used on your land you can expect to be asked to do the following:

- provide gates instead of stiles. Self closing gates are a stock proof alternative to stiles in most situations;
- provide slopes and ramps as an alternative to steps (eg. to access a bridge);

- keep natural surfaces, which are generally acceptable, including crushed stone or grass, although tarmac and concrete may be appropriate in localised areas.

Landowners in receipt of significant grants may be able to provide more in the way of facilities, for example:

- a nature trail or path specifically suitable for those reliant on mobility vehicles, those with sight problems or elderly people;
- suitable access to viewpoints;
- an adapted bird, deer or badger watching hide;
- fishing platforms adapted for wheelchair users;
- provision of information in alternative formats so that it can be accessed by those with sight problems.

## Further sources of information

Your highway authority is the first point of contact. The following organisations can provide specialist advice if required:

**RADAR** (the Royal Association for Disability and Rehabilitation), which publishes a directory of countryside and wildlife sites suitable for disabled people;

**Disabled Ramblers** is very willing to talk over types of access need when approached by land owners and managers;

**Royal National Institute of the Blind** is able to provide guidance and advice that would be of benefit to people with sight problems;

**MENCAP** provides guidance on access for people with learning difficulties;

**Fieldfare Trust** is specifically concerned with access in the countryside, particularly the more managed areas of countryside, for disabled people;

**The Kennel Club** provides general advice on managing access for all dogs, including assistance dogs, and has links to all the specialist charities involved.

Contact details are included in the ‘Further information’ section at the end of this guide.



# Chapter 9

## Access payment schemes and other agreements

### Introduction

Improving access in a managed way has several advantages. It can:

- help reduce problems of trespass elsewhere on the landholding;
- provide useful supplementary income, if, for example, undertaken through an agri-environment scheme;
- form a missing link, for example in a circular walk and create commercial opportunities (eg. tea rooms);
- build goodwill towards landowners on the part of the local community and visitors.

The previous chapters explained how to dedicate land as access land (Chapter 1), make legal changes to the public rights of way network (Chapters 3-6) and participate in the Rights of Way Improvement Plan process (Chapter 7). This chapter provides information on other ways of increasing public access to land, through payment schemes and other voluntary agreements.

### Environmental stewardship

In England, the Countryside Stewardship Scheme and, in some places, the Environmentally Sensitive Areas Scheme, have provided incentives to farmers to provide public access. Environmental Stewardship, which is replacing these schemes, has three elements; Entry Level Stewardship; Organic Level Stewardship; and Higher Level Stewardship. Higher Level Stewardship is the only element discussed here, as it is the only one providing access incentives (although payments on the other two elements are conditional on rights of way and access land responsibilities being met).

The promotion of informal public access and understanding of the countryside is one of the primary objectives of Higher Level Stewardship. The main types of access improvements eligible are:

- permissive open areas;
- permissive footpaths and bridleways/cycle paths;
- access for people with limited mobility;

- upgrading of CROW access land to provide additional access for people with limited mobility and for cyclists and/or horseriders;
- educational packages (for schools, colleges and other study groups).

In each case, applicants are expected to demonstrate that there is a local demand for the proposed access. A good way of demonstrating this would be to talk to local residents, parish councillors, the local authority, the local access forum for your area and special interest groups (such as the local Ramblers' Association) and ask for letters of support.

For every type of access, there are particular management requirements. These are generally to:

- put necessary and appropriate gates and/or stiles in place and make access freely available;
- promote the access with on-site maps and waymarks provided by Defra. Access sites will also be promoted through the Defra website;
- ensure the public are safe when using the access;
- keep access available all year round (land can be closed for a small number of days each year, as agreed with Defra);
- maintain adequate public liability insurance cover.

Both annual and capital payments are available. The payment rates are determined for the country as a whole, but regional top-ups may be available to reflect local priorities and conditions. These rates will be reviewed from time to time. Details of current payment rates are shown on Defra's website.

## **Forestry and woodland schemes**

The Forestry Commission operates the England Woodland Grant Scheme (EWGS) from 2005. EWGS is a national scheme that provides for regional flexibility to meet local needs. There are several types of payment covering all aspects of woodland management and creation: the Woodland Management Grant, Woodland Improvement Grant and Woodland Creation Grant provide payments for public access.

Regional variations of the grants, in conjunction with regional initiatives, may support public access in different ways and to different degrees depending on the regional needs and funding available.

Woodland management must adhere to sustainability principles as laid out in the UK Forestry Standard and practice guidelines. Grants supporting public access carry a commitment to provide access for up to 30 years, depending on whether the woodland is new or existing and the amount of public funding offered.

## **Woodland Management Grant**

The Woodland Management Grant will be paid where it helps secure or enhance public benefits (including public access) in existing woodlands,

over and above legal requirements. This includes support for the costs of providing good quality permissive access and maintenance of visual amenity along public rights of way and permissive routes. It does not contribute to costs incurred in keeping public rights of way free from obstruction, which is an existing legal requirement.

### **Woodland Improvement Grant**

The Woodland Improvement Grant will support capital projects that increase the public benefits from woodland and forests. The grant will be paid as a contribution towards the cost of the work and the funding arrangements vary regionally.

### **Woodland Creation Grant**

The Woodland Creation Grant offers incentives to encourage public access to new woodlands. This grant can be varied regionally but when EWGS is first launched, all grants will be similar. On top of the main woodland creation grant, planting new woodlands within 5 miles of a population of over 100,000 people or on land within a Community Forest or the National Forest will attract an additional one-off payment. Also, new woodlands that provide public access where there is a demonstrable demand will attract a further payment.

### **National and Community Forests**

Land that lies within one of the 12 Community Forests or the National Forest in the Midlands will qualify for support for new public access provision as part of a tree planting project. Any planting in these areas will qualify for the Woodland Creation Grant.

A special Tender Scheme is open to landowners in the National Forest and applications are prioritised in relation to the public and environmental benefits and value for money offered by applicants. If you are planning to plant an area of land with trees with public access, you might qualify for additional grants if the land is in one of these areas, so contact the appropriate Community Forest or National Forest team (see ‘Further Information’ page 74).

### **Permissive path agreements**

Landowners can also enter into short or long term agreements with either highway authorities or user groups, to provide access. Permissive path agreements can include conditions, for example to allow (or not allow) a range of user types – walkers, horse riders etc – and to help with land management – for example, dogs on leads only. Such agreements are a good way of helping people to enjoy the countryside without conferring long term rights, but should not be seen as a substitute for the rights of way network.

### Permissive and concessionary routes

A permissive path is not a public right of way but a route that can be used by the public with the permission of the landowner. The duty of care to users lies with the landowner. So too does responsibility for maintaining permissive paths, unless a licence agreement is in place that states otherwise.

Highway authorities may approach you direct about creating a permissive path. All permissive paths (except where linked to an agri-environment scheme) should be subject to formal agreements between landowners and local authorities. This will avoid any confusion over the status of the path. Notices about any conditions should be posted at each end of the route.

Entering into a formal agreement should avoid any possibility of a subsequent claim being made that it was intended to dedicate a permissive path as a public right of way.

### Toll-rides

An alternative to an agreement with a local authority is an agreement with a specific group of users. For example, many horse riders want to ride their horses off road. They may be willing to pay an annual fee to use safe ‘toll-rides’ which link with other quiet areas where they can ride.

There are several organisations in England which negotiate the provision of toll-rides on behalf of horse riders and co-ordinate links over land in different ownership. In some areas, jumps or exercise fields are also provided. Riders who participate in a toll-ride scheme pay an annual fee. Toll ride schemes usually require members to wear identifying coloured armbands and to observe certain safety rules.

### Access agreements to areas of open country

Access agreements can still be negotiated between the local authority and landowners under section 64 of the National Parks and Access to the Countryside Act 1949. However, the need for these agreements has, in the main, ended following commencement of the CROW Act and existing agreements will not be renewed (where they can be terminated). Even so, local authorities could still use this mechanism on other forms of ‘open country’ defined by the 1949 Act (and extended by the Countryside Act 1968), namely cliff and foreshore, woodland, rivers, canals, expanses of water through which rivers flow and land adjacent to them, or to secure ‘higher rights’ over CROW access land. In practice, it is likely that authorities will prefer landowners to dedicate land for access under section 16 of the CROW Act and to relax some of the general restrictions that would otherwise apply.

Under the 1949 Act, local authorities may also make access orders to secure public access over certain other types of land whether or not the landowner is in agreement. The orders need to be confirmed by the Secretary of State. Adequate notice must be given to the landowner and

the authority must pay compensation. In most cases where they might have been used, access has been secured through an agreement, following negotiations. Much of the land that would have been subject to access orders and agreements is now CROW access land.

Local authorities have powers under section 39 of the Wildlife and Countryside Act 1981 (as amended) to enter into management agreements ‘for the purpose of conserving or enhancing the natural beauty or amenity of .... any land .... or promoting its enjoyment by the public’. Such agreements apply to any land, not simply open country. They can also link public enjoyment with land management in a positive way. If you are managing a SSSI and in the process of negotiating a management agreement, this provision may be of interest. Raise it with English Nature, as it may affect the management of the land subject to the agreement.

### **Inheritance tax exemptions**

Under the Inheritance Tax Act 1984, the Inland Revenue can designate land of outstanding scenic, historic or scientific interest for conditional exemption from capital tax or to benefit from a Maintenance Fund (a trust fund set up to maintain the outstanding land). In return the landowner agrees to undertake specific actions to maintain the land, preserve its character, provide reasonable public access, and publicise the access and the undertakings.

Agreeing the provision of reasonable public access needs to take into account the existing network of public rights of way and permissive paths, conservation of the outstanding interest, good land management practice, security, privacy and commercial requirements. Additional permissive access for walking or riding may be required in some cases. For further information see [www.countryside.gov.uk/heritagelands](http://www.countryside.gov.uk/heritagelands)

### **Informal arrangements**

Some landowners open their land to the public either on specific days in the year or for longer periods. It may not always be appropriate or necessary to put in place formal arrangements. You can seek advice from the local highway authority or National Park authority about the options.



# Chapter 10

## Providing for sports and other formal activities

### Possible opportunities

A wide range of popular sports make use of the countryside and need special facilities. There is sometimes potential for landowners to meet the demand for new facilities, making new use of both land and buildings and bringing a reasonable financial return.

Whilst providing for sports can be profitable, it is essential to consider all the implications for the existing business and your quality and way of life before making any commitments. Professional advice should be taken. Not all sports can be accommodated alongside existing customary activities and there could also be environmental or conservation implications, particularly in relation to designated sites (such as SSSIs), where written permission from English Nature is likely to be required before introducing new recreational activities.

However, once a non-farming enterprise has been introduced on a farm, additional opportunities may arise. These could include the provision of camping facilities, refreshments, the sale or hire of equipment, storage facilities, or on-farm accommodation.

Every farm is different and resources such as land, labour and capital should be assessed. Accessibility, local demand and availability of public transport are also important factors

### Opportunities for providing formal facilities include:

- **Land-based:** adventure games, archery, clay-pigeon shooting, small-bore or pistol shooting, golf, cycling, motorsports (eg. trail riding, off-road driving, autocycling), orienteering, skiing, tennis, bird watching, climbing.
- **Water-based:** angling, canoeing, diving, jet skiing, dinghy sailing, water-skiing, wind-surfing, mooring and marina developments.
- **Air-based:** hang-gliding, paragliding, model aeroplane flying, gliding, hot-air ballooning, microlighting, parachuting.
- **Equestrian enterprises:** pony trekking, livery, cross-country courses, riding schools, toll-rides.
- **Indoor sports (using existing buildings):** bowls, badminton, indoor cricket.
- **Camping and caravanning.**

Advice on diversification and other aspects of land management is available through organisations such as Business Links; the CLA can also provide advice about diversification to its members.

### Planning permission requirements

Agricultural businesses benefit from rights to change the use of their land, in some circumstances, without the need for express planning permission, including rights for temporary uses. For example, most agricultural buildings can be constructed without express planning permission (although details of the scheme may need to be approved by the local planning authority). These concessions are called permitted development rights.

### Limits to activities

Under the permitted development rights, some uses can be carried out for 28 days per year without requiring express planning permission, whereas other activities can be carried out for only 14 days. Express planning permission is required to change the use of land to non-agricultural use for more days than allowed under the permitted development rights, for example to use land for a caravan site<sup>9</sup>, for motor sports, for clay pigeon shooting or for any war game.

<sup>9</sup> Unless use is carried out under an exemption certificate issued to caravanning organisations by Defra under the Caravan Sites and Control of Development Act 1960

**Some applications require an environmental impact assessment, including those that involve the intensification of use of natural and semi-natural vegetation, such as by ploughing. Developments that are subject to environmental impact assessment do not benefit from permitted development rights and require express planning permission.**

### Limits on development of environmentally sensitive sites and protected areas

Owners and occupiers have to obtain English Nature's written consent before they are able to carry out any potentially damaging operations within SSSIs. However, English Nature's consent is not necessary on an SSSI if an applicant has received approval for the work from another authority – for example, express planning permission from the local planning authority.

Where development is proposed on a European site ('Special Areas of Conservation' and 'Special Protection Areas') or Ramsar site, or which is likely to have a significant effect on one of these sites and is not directly connected with or necessary for the management of the site, the local planning authority should be notified.

They will need to make an appropriate assessment of whether or not the proposal will adversely affect the site. Developments that adversely affect a European site's integrity will normally be allowed only where there are no alternative solutions and the project is of overriding public interest.

Planning policies are similarly restrictive in areas designated for the quality of their landscape such as National Parks, the Broads and Areas of Outstanding Natural Beauty. Here, major development should only take place in exceptional circumstances when it can be demonstrated to be in the public interest.

### Local authority plans

The Planning and Compulsory Purchase Act 2004 modified the planning system to allow much more flexibility at local level. You should refer to your planning authority's local development documents, which set out their policies on recreational and other developments in the countryside. Policies set out in Local Transport Plans, Rights of Way Improvement Plans and Local Biodiversity Action Plans may also have implications for your plans.

Also talk to your local planning authority for advice on submitting planning applications. A planning consultant or land agent will prepare planning applications (for a fee) though you can also do the work yourself – contact the NFU or CLA for further advice.

When considering planning applications, the authority will take into account a range of factors including the:

- relevant national, regional and local planning policies;
- effects on traffic, such as turning on and off public roads;
- impact on nature conservation, landscape, cultural heritage and archaeology;
- the environmental and landscape impacts resulting from any proposed widening/highway works;
- effects on existing public rights of way;

- impact of increased traffic on local residents and neighbouring farmers;
- disturbance, including noise, time of day when in use, pollution risks;
- the visual impact of the proposed development;
- whether services (electricity, water, sewerage etc.) are available.

Any comments from local residents, interested individuals or organisations will also be considered.

Detailed guidance for farmers and landowners on the planning system and on how to go about presenting proposals to the best effect is contained in ‘A Farmers’ Guide to the Planning System’ (see ‘Further information’ on page 70’).

## **Other considerations**

### **Risk assessment**

Make sure the new activities are included within a suitable and sufficient risk assessment and management measures adopted accordingly. This should include revision of your existing risk assessment.

### **Insurance**

Check the requirements at an early stage. A standard farming insurance policy is unlikely to provide adequate cover for public liability, construction work etc., for non-agricultural activities.

### **Taxation**

Income should be declared and trading costs offset when determining the profit of the business. Professional advice should be sought on whether sports facilities can gain ‘roll-over’ relief, if the funds come from selling other assets.

### **Landlord’s Consent**

Most written tenancy agreements contain clauses that require a tenant to seek permission from the landlord before carrying out any non-agricultural activities on the holding. Any agreement should be checked and any necessary written consent obtained beforehand.

### **Business Rates**

Most forms of farm diversification will be liable for business rates even if the land is used for agriculture for part of the year. The local valuation office will be able to give further information.



# Chapter 11

## Public safety and liability

### Introduction

Deciding exactly what duty of care one person owes to another depends on the facts of the individual case. This chapter can be taken as a guide but you may need to seek legal advice. It is important to be clear as to the type of public access on the land and the liability regime that governs it.

This duty may have implications for public liability insurance, and all landowners are advised to have this type of insurance. Meeting the duty of care is a civil duty (ie. it governs whether you could be sued, for example by an injured person). Statutory duties could also arise under the Health and Safety at Work etc. Act 1974 and associated regulations, and such duties govern whether you could be prosecuted for any offence.

### The duty of care

#### The Occupiers' Liability Act 1957

The Occupiers' Liability Act 1957 sets out the duty of care to people who come on to land by invitation of the owner or occupier or who are permitted to be there. The duty is to take care over the state of the land so that visitors (who could include children) will be reasonably safe in using it for the intended or permitted purposes. For example, farmers should take steps to protect visitors from hazards, such as slurry lagoons located close to access tracks or public rights of way.

The 1957 Act provides that this duty does not impose any obligation on an owner or occupier to a visitor who willingly accepts risks. This is a statutory confirmation of the common law principle that a willing person cannot be injured in law. Climbers and mountain walkers, for example, voluntarily accept the risks of their sport or recreation. If a climber or hill walker is injured in a climbing accident any claim against the owner or occupier is likely to be defeated by the defence that the injured person willingly accepted the risks.

## The Occupiers' Liability Act 1984

The Occupiers' Liability Act 1984 extends the duty of care to trespassers and others not invited onto the land, but only if three conditions are fulfilled:

- that the owner or occupier knows of dangers on his or her premises;
- that he or she knows or suspects that people might come near that danger;
- that the risk is one against which he or she might reasonably be expected to offer some protection.

Again, the duty of care does not apply towards a person who willingly accepts a risk. In addition, an owner or occupier may discharge the duty by warning of the danger and discouraging people from taking risks. Warning notices should indicate both the dangers and where the liability lies, for example: 'These quarries are dangerous. Persons who climb on them or go near them must accept risks of injury to themselves and others'.

## The duty of care on CROW access land

The 1957 Act does not apply at all to people exercising access rights over CROW access land and the duty of care is in some respects lower than that owed to a trespasser under the 1984 Act. When the access rights are available (and no restrictions or exclusions are in force), the occupier has no duty of care towards users of CROW access land for risks arising from:

- natural features of the landscape or any river, stream, ditch, pond or tree;
- a person passing over, under or through any field boundary, except by proper use of a stile or gate.

These exemptions do not apply to any risk created deliberately or recklessly by the occupier.

In addition, although the occupier could be sued by someone exercising their access rights on CROW access land in respect of injury or damage caused in other ways, the courts must take particularly into account, when assessing the extent of any duty owed under the 1984 Act, the following:

- the burden (financial or otherwise) on the occupier of doing more than he did;
- the importance of maintaining the character of the countryside (including features of historic or archaeological interest);
- relevant guidance from the Countryside Agency, such as the Countryside Code, which tells the public they are primarily responsible for their own safety when visiting the countryside.

Dedicating land as CROW access land (see page 10) provides reduced duty of care over the dedicated land.

## Health and safety legislation

The Health and Safety at Work etc Act 1974 sets out the general duties that employers have towards employees and members of the public and employees have to themselves and to each other. These duties are qualified in the Act by the principle of ‘so far as is reasonably practicable’. In other words, an employer does not have to take measures to avoid or reduce the risk if they are technically impossible or if the time, trouble or cost of the measures would be grossly disproportionate to the risk. The law simply requires good management and common sense, that is, assessment of the risks and undertaking sensible measures to tackle them.

The Management of Health and Safety at Work Regulations 1999 generally make the Act’s requirements more explicit. Like the Act, they apply to every work activity. Their key requirements are that:

- employers and the self-employed have a duty to conduct their undertakings so as to avoid risks to employees, visitors and others (including volunteers and trespassers);
- a risk assessment is required;
- the risk assessment must be reviewed if circumstances change significantly;
- the risk assessment must be recorded in writing where the business employs five or more employees. Employers with fewer than five employees still have to do a risk assessment but do not need to record it – although this is still good practice.

Breach of these regulations is a criminal offence. Breaches of the Management of Health and Safety Regulations 1999 may also be indicative of a breach of the civil duty of care and, in the event of an accident, could result in civil claims for damages being lodged against the occupier by injured parties.

In practice, most risks from business activities to members of the public enjoying their access rights are very small. But, by conducting a risk assessment and recording and periodically reviewing its findings, a land manager is likely to be complying with the law and be safe from prosecution and, in the event of being sued, able to provide an adequate defence.

If a serious incident occurs as a result of land management activities, for example, one in which someone has to be taken to hospital, then the business operator is required by the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 to report the incident to the Health and Safety Executive.

Many organisations have produced model risk assessments to help business operators work systematically through risks associated with their business activities. The NFU has a model risk assessment specifically designed for land managers that covers risks to members of the public. Risk assessments will highlight where measures may be

If a landowner agrees to land being used for an event – such as orienteering or a music concert – a risk assessment is needed. Charities and clubs are not always covered by the same legal obligations to do a risk assessment. The landowner and event organiser should be clear about who has responsibility for doing the assessment and for implementing the risk management measures required.

needed to help reduce risks, such as through erecting signs. Signs might be used to warn of risks associated with, for example, slurry lagoons, buildings, farm machinery and some farming operations (eg. spraying of pesticides). The Countryside Agency has produced guidance on the use of signs on access land, including warning signs (see ‘Further information’ on page 69’).

### Mines and quarries legislation

The Mines and Quarries Acts 1954 and the Quarries Regulations 1999 serve mainly to secure the safety, health and welfare of employees at mines and quarries, but some provisions protect other categories of person as well. For example, a quarry operator has a duty to ensure the health and safety of those in the immediate area of the quarry who are directly affected by the activities of the quarry. Thus owners of working quarries would be justified in excluding all recreational ‘visitors’. The new rights of access under CROW Part I will not apply to working quarries within areas mapped as CROW access land, because they are classed as excepted land.

Where mines and quarries are abandoned or disused, there is scope for the district council to require physical measures such as capping or barriers to be used to prevent injury to the public. Whether such measures are deemed necessary will depend on all the circumstances, for example the proximity to where people live or visit, whether the danger is obvious, etc. Any enforcement action would normally be against the person entitled to work the mine or quarry. Defra can provide more guidance.

### Animals Act 1971

The Animals Act 1971 makes the keeper of an animal ‘strictly liable’ in most cases for injuries caused by their stock. ‘Strict liability’ means that the keeper is responsible for such injuries even if it is not the keeper’s fault. For example, if a gate is left open and stock escape on to a road, the keeper of the animal would probably be liable for damages if a road traffic accident occurred and injuries were sustained.

If one of your animals injures someone or causes damage, you may be liable if:

- it was likely to cause that kind of injury or damage unless restrained; **or**
- any injury or damage it caused was likely to be severe; **and**
- the characteristics of the animal that made this likely are abnormal in that species, or are abnormal in the species except at particular times or in particular circumstances; **and**
- those characteristics were known to the owner or the person responsible for the animal.

**The Wildlife and Countryside Act 1981 sets out the law about keeping bulls in fields with public rights of way. Chapter 12 provides advice about this and keeping cattle in areas with public access.**

There will be no liability where the damage or injury:

- was wholly the fault of the person suffering it;
- arose from a risk willingly accepted; or
- occurred to a trespasser.

### **Liability on defined routes**

Where a highway is maintained at public expense, the highway authority has liability for users who are injured because the way is in disrepair. However, a highway authority could take action against a landowner or occupier who had created any source of danger on or near a highway or who had failed to keep back vegetation encroaching on a highway from the sides or above. Similarly, the landowner is likely to be held liable for injuries caused by a faulty or dangerous stile or gate, unless provided by the highway authority.

On a privately-maintainable highway, or on a permitted (or ‘permissive’) path or toll ride, the landowner or occupier is responsible for the surface of the path and therefore could be held to be liable for any accident. Landowners who wish to establish permitted (‘permissive’) paths or toll rides should bear this responsibility in mind, and ensure they have appropriate insurance.



# Chapter 12

## Access issues and solutions

### Introduction

People visiting the countryside generally prefer to follow a visible route, to use appropriate access points such as gates and want to act responsibly. The Countryside Code provides advice to the public and to land managers, on rights and responsibilities – visit [www.countrysideaccess.gov.uk](http://www.countrysideaccess.gov.uk) for more information.

There are also several other codes produced by different organisations. The Moorland Visitor's Code, produced by the Moorland Access Advisory Group, for example, can be used to provide more information for visitors in the uplands about enjoying their visit in a considerate way. Many user groups have produced codes for their own members.

This chapter looks at the more common issues connected with countryside access that you might encounter, and provides advice on how to resolve them.

### Dogs in the countryside

#### Worrying of livestock

It is an offence under the Dogs (Protection of Livestock) Act 1953 to allow a dog to worry or attack livestock on agricultural land. Under the 1953 Act, when on enclosed land where there are sheep, dogs must be kept 'on a lead or otherwise under close control'. 'Close control' has not been legally defined, but a dog attacking any livestock on agricultural land would clearly be out of control.

If you see a dog chasing your livestock, try to speak to the dog's owners and explain the law to them. You can report the owner to the police and ask them to prosecute. You can claim compensation for damage to livestock from the dog's owner. You are also legally entitled to shoot a dog (reporting the incident to the local police within 48 hours) if there is no other way to stop it worrying your stock.

## On public rights of way

You can also ask your local authority to make an order under section 27 of the Road Traffic Act 1988 requiring dogs to be kept on leads on specific rights of way. If an order is made, you can put up notices saying ‘Dogs must be kept on a lead at all times on this path’.

If the authority is unwilling to make an order you can put up a sign requesting a particular action. The public are more likely to obey a sign which relates to a particular area and time, and explains the reason (for example, ‘Lambing time - please keep your dog on a lead in this field’) than general, permanent signs.

## On CROW access land

Users of CROW access land must keep their dog on a fixed lead of no more than two metres in length at all times between 1st March and 31st July and also all the year round near farm animals. They may also be barred from taking their dogs on grouse moors or lambing enclosures (see page 10) Additional restrictions may be sought from the relevant authority if these are necessary. These restrictions do not apply to public rights of way across access land, although many dog owners will keep their dogs on leads at sensitive times if requested.

## Dog fouling

The Environmental Health Department of your local authority may be able to offer advice on combating dog fouling. The Dogs (Fouling of Land) Act 1996 allows local authorities to designate areas where dog owners are required to clear up after their dogs, although agricultural and common land cannot be designated under this Act.

If you belong to a farm assurance scheme, the scheme protocols may say something like ‘Dogs and cats must be wormed regularly according to veterinary advice’. If so, you should check the scheme requirements do not apply to the public’s dogs. In any event, it might encourage dog owners to worm their dogs if you mention, when speaking to them, the conditions imposed on you.

**The Kennel Club works with local authorities and other bodies to promote the benefits of responsible dog ownership, and can offer general advice and guidance to reduce conflict.**

## Cycling

Cyclists have a right, under section 30 of the Countryside Act 1968, to ride any bicycle on bridleways. This right is subject to the condition that they give way to walkers and horse-riders. They can also cycle on restricted byways (when they are introduced) and byways open to all traffic.

Cyclists do not have a right to ride on footpaths. Landowners may sue for trespass anyone who does so, or take out an injunction against a persistent offender. The local authority may also be prepared to take action against such trespass where the path surface is being damaged. If you are experiencing difficulties, contact local cycling organisations who are often helpful in promoting good practice amongst their members.

You could dedicate a public footpath as a bridleway or request the

highway authority to make a cycle track order to regularise public use where the path is suitable.

## Motor vehicles

Licensed motor vehicles may be driven on byways open to all traffic. Drivers must also be licensed, insured and fit to drive, and are expected to drive with due care and consideration for other road users, just as on any other highway.

It is an offence under section 34 of the Road Traffic Act 1988 (as amended by the CROW Act) to drive a mechanically-propelled vehicle (including motor cycles), without the permission of the landowner or without lawful authority or excuse, on a highway recorded on the definitive map as a footpath, bridleway, or restricted byway (unless there is evidence that the route is mis-recorded on the map and higher rights for vehicles exist).

It is also an offence to drive on any land which is not a road, including common land, unless there is evidence that the route is wrongly recorded on the definitive map and that public rights for use by mechanically-propelled vehicles exist.

If disagreements arise over whether vehicular rights exist over a particular track, first check the position with the local authority. If necessary, ask vehicle users to submit their evidence to the highway authority (and to copy it to you) for investigation.

**Mobility vehicles driven by people with disabilities have been excluded from the definition of mechanically propelled vehicle, so their use on a public right of way is not an offence under the 1988 Act. They can also be used on CROW access land.**

## Persistent problems

If you have persistent problems, keep a log, record registration numbers or take photographs to help identify those responsible. The following contacts may be able to help:

- The national vehicle user organisations have codes of conduct to promote responsible use. The organisations can be contacted through the Motoring Organisations' Land Access and Recreation Association (LARA). They may be willing to police their own members, help to reduce incidents of misuse by non-members and voluntarily agree to restrain use (eg. avoiding use in winter or limiting the types or numbers of vehicles).
- The highway authority may be able to help promote a better understanding of everyone's rights and responsibilities, repair surface damage where it occurs and require vehicle owners who were responsible for such damage (where this can be proved) to contribute to the costs.
- The police can be asked to investigate offences relating to mechanically-propelled motor vehicles. The police also have powers under the Police Reform Act 2002 (section 59) to seize vehicles (usually following a warning) if they are causing a public nuisance.
- The publication 'Making the best of byways' (see 'Further

information' on page 71) provides further useful information on managing vehicles on public rights of way.

- If, despite these measures, use by motor vehicles remains a serious problem, ask the local authority to make a Traffic Regulation Order under the Road Traffic Regulation Act 1984, to restrict or prohibit use by motor vehicles (see page 29).

## Dealing with trespass

There are three types of trespass, which are explained below.

### Civil Trespass

Civil trespass derives from common law and is a matter between private individuals or organisations. People may trespass inadvertently while seeking to follow public rights of way or when wanting to enter or leave CROW access land. This problem can be greatly reduced if public rights of way are clearly waymarked, kept free of obstructions, and provided with gates or stiles where they cross fences, walls etc. In some circumstances, signs showing the boundary of CROW access land may be needed.

If you come across someone who is not where they have a right to be, the best approach is to ask "Can I help?" rather than being confrontational. You may ask trespassers to leave your property immediately or return to a public right of way. Allow them to do so freely. Keep a record of any damage e.g., by taking photographs.

Some users whom you consider to be trespassers may believe they have a right to use a particular route or area. If so, ask them to raise the issue with the local authority and to copy their evidence to you, for their claim to be investigated.

Ensure that you, other members of your family and your employees are aware of the public rights of way and roads across your land. Use the procedures available under section 31 (6) of the Highways Act 1980 if you want to prevent a private track from becoming a public right of way through future use (see page 23).

If the same person persistently trespasses, you may apply to the county court for an injunction to prevent them continuing. Avoid taking the law into your own hands if a serious confrontation occurs. If necessary contact the police. Use of excessive force could result in civil or criminal proceedings being taken against you or anyone acting on your behalf.

### Criminal Trespass

In some situations, trespass is classed as a criminal offence and could lead to arrest and prosecution. Examples include trespass onto MOD land when military byelaws are in force, or walking on railway corridors.

It is unlikely that anyone straying onto privately-owned land will be committing criminal trespass, except in the circumstances mentioned below.

**A common example of civil trespass is somebody walking over land over which they have no right of access, or without permission. Another is a horse rider using a route on which no bridleway rights exist.**

## **Aggravated Trespass**

The Criminal Justice and Public Order Act 1994 provides that anyone trespassing on land in order to intimidate someone engaged in a lawful activity or to disrupt lawful activity is committing the offence of ‘aggravated trespass’. If you think that aggravated trespass is occurring on your land, you should call the police. It is an offence for anyone to ignore the directions of a uniformed police officer to leave the land, when the officer believes that the person is committing or about to commit aggravated trespass.

## **Illegal encampments and raves**

The Criminal Justice and Public Order Act 1994 also enables the police and local authorities to take action to remove or stop illegal encampments, illegal rave parties and people disrupting lawful activities on land.

The powers contained in the 1994 Act have been strengthened by the Anti-Social Behaviour Act 2003. The senior police officer present at the scene is able to direct people to leave land and to remove any vehicles and property with them, if it appears that they were planning to reside on the land for some time and alternative caravan pitches are available. The officer must check with each local authority in the area on the availability of alternative pitches.

The Anti-Social Behaviour Act 2003 strengthened the powers available to the police to control raves; the minimum number of people before the relevant power can be used has been reduced from 100 to 20. Where this minimum number is exceeded, a senior police officer can direct people to leave the scene, and failure to obey is an arrestable offence.

If you foresee a problem occurring, consult your solicitor and the police. An injunction may be the best way of preventing trespass. Have up-to-date details of all your land to hand eg. maps and copies of title deeds and any tenancy or grazing agreements.

Further advice is available from the NFU and the CLA.

## **Use of promoted routes**

There are many guidebooks that publicise routes in the countryside. If you feel that a guidebook is wrong or misleading, obtain the name of the author and publisher to tell them about the error. Check the guidebook against the definitive map of public rights of way (at highway authority offices), and the maps of CROW access land (at [www.countrysideaccess.gov.uk](http://www.countrysideaccess.gov.uk)). The Outdoor Writers’ Guild has developed a code of practice for guidebook writers. Contact them if you still feel the information is incorrect.

## **Organised events and competitions**

The Countryside Agency, the Ramblers’ Association, the Long Distance Walkers’ Association and the Institute of Fund-Raising all have codes of practice for organisers of sponsored events and competitions in the

**If you take preventative action (eg. fencing off land or stopping-up an access with boulders, sand, etc.) do not obstruct public rights of way or other rights of public access.**

**If a route is promoted by a highway authority, ask them to signpost and waymark it clearly if they have not already done so.**

countryside. These codes encourage organisers to plan early, consult widely, obtain permission and be sensitive to landscapes, habitats and also respect the needs of farming and forestry. They should also arrange adequate insurance and contingency cover. If an organiser seeks permission to stage an event on your land, ask whether they are intending to follow the relevant good practice code.

### **Car parking**

Motorists do not need to seek permission from the adjacent landowner to park their vehicles on the highway, but they must not obstruct the highway or any exit onto it.

Grass verges beside roads are usually part of the highway. Although parking on verges may not be desirable (as it can cause erosion and block their use by horse-riders), no permission is needed to park on them. Any concerns over parking on road verges should be discussed with the local authority and police.

Landowners can obtain a licence from the local authority for maintaining highway verges adjacent to their property under section 142 of the Highways Act 1980.

Polite notices, for example ‘No parking please – gate in use’, can be used to discourage inconsiderate parking in front of gates.

You could provide a car park at certain times of the year if the demand exists, for example near a local beauty spot. Find out from the planning department of your local authority whether planning permission is required and whether your rates will be affected if you make a charge. You should also check the situation with regard to public liability.

Consideration should be given, when creating or providing a car park, to potential obligations under the Disability Discrimination Act 1995 and disabled people’s parking requirements.

### **Shooting and carrying firearms**

#### **Offences**

It is an offence, under section 19 of the Firearms Act 1968, for a person to carry a firearm (including an imitation firearm), air weapon, or ammunition, in a public place without lawful authority (such as landowner’s permission) or a reasonable excuse. CROW access land is likely to be regarded as a public place.

Section 1(1) of the Prevention of Crime Act 1953 makes it an offence for a person to have an offensive weapon with them in a public place. An offensive weapon can be anything that is made, adapted or intended to cause harm.

Section 139(1) of the Criminal Justice Act 1988 makes it an offence to possess, in a public place, anything that has a blade or a sharply pointed instrument (other than a small folding pocket-knife with a

**Placing stones or other obstructions to prevent parking on road verges that form part of the highway is illegal and potentially dangerous.**

blade of less than 3 inches). However, section 139(5) provides that it is a defence for a person who is charged with an offence under section 139(1) to prove that he had the article with him for use at work, for religious reasons, or as part of a national costume.

It is an offence under section 161 of the Highways Act 1980 to discharge a firearm without legal authority or excuse within 15 metres (50 feet) of the centre of a highway if any highway user is injured, interrupted or endangered as a result. Shooting across or near a public right of way when it is being used could also amount to a common law nuisance, wilful obstruction, intimidation or a breach of the Health and Safety at Work etc. Acts 1974 and Regulations. Such an action could result in the loss of a shotgun certificate or firearms licence.

### **Good practice**

The user of a firearm is responsible for its safe use. Remember the following:

- Check whether a right of way exists on or near any area where shooting is to occur. Be aware of path users; cease shooting as they pass and let them get well clear before starting again.
- Do not seek to divert a public right of way temporarily during a shoot; this is illegal and you cannot prevent people using the highway if they wish.
- Consider legally creating a new public right of way to help to avoid conflict on shooting days and disturbance to game.
- If people are trespassing off a public right of way into a shoot, you can waymark the path, or erect notices or fencing (but check with your local authority before doing so).
- If you plan to shoot over CROW access land, there are several measures you could follow. The booklet ‘Access, conservation, game management and shooting’ (published jointly by the British Association for Shooting and Conservation (BASC) and English Nature) provides helpful advice. You can also use your powers to restrict access under section 22 and 23 of the CROW Act 2000 (see Chapter 1), or if you have already used your 28 day allowance, apply for a restriction from the relevant authority under either section 24 or 25(1)(b).

### **Metal detecting**

Disturbing the ground without the owner’s permission may be trespass, criminal damage or theft. Use of metal detectors may also be prohibited in local byelaws. The Treasure Act 1997 regulates the use of metal detectors. Users of the CROW access right may not carry or use them.

On the site of a Scheduled Ancient Monument, it is an offence under section 42 of the Ancient Monuments and Archaeological Areas Act 1979 to use a metal detector to detect or locate objects of archaeological or historical interest without written consent from the Secretary of State through English Heritage.

If a suspected breach of the law occurs, you could:

- challenge alleged offenders if you consider it is safe to do so and report them to the police as necessary;
- contact the National Council for Metal Detectors for advice. It has a code of practice for members;
- report any infringements on Scheduled Ancient Monuments and on other archaeological sites to English Heritage;
- negotiate a formal written agreement with local groups or individuals. The CLA has an advisory handbook and agreement covering this issue and NFU may be able to offer advice.

### Fruit and plant picking

Fruit picking is often a local custom. Try to accept this where you can, but you could restrict the activity in more sensitive locations by erecting notices.

People picking wild mushrooms or fruit from plants growing wild (eg. blackberries) on any land are not guilty of theft unless they do so for commercial purposes.

Many plants have special protection and must not be picked, uprooted or destroyed without the permission of the landowner.

Some plants are specially protected and must not be picked, uprooted or destroyed by anybody (including landowners) unless licensed to do so. Anyone contravening this may be guilty of an offence under the Wildlife and Countryside Act 1981.

### Keeping cattle on land with public access

Breeds of bull that must not, in any circumstances, be kept in fields crossed by public rights of way are Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry. Bulls of all other breeds are also banned from such fields unless accompanied by cows or heifers, but there are no specific prohibitions on other cattle.

The Health and Safety Executive advise before you put cattle (including bulls), in fields with public access, that you:

- consider carefully whether the cattle should be kept in that field, or whether a better alternative is available;
- consider whether it is reasonably possible to temporarily fence the public right of way so that cattle cannot gain access from the field (but care will be needed not to obstruct the right of way);
- never keep an animal known to be aggressive (including any bull of whatever breed) in a field to which the public has any access.

Suckler cows with calves at foot can pose a risk to people with dogs, so try to avoid putting them in fields with public access if you can. If you have a bull on lease, hire or loan, check that it is suitable to keep in a field with public access, such as by keeping it under observation in a field with no access for a few days and only letting

it into the publicly-accessible field when you are reasonably certain that it is not going to be aggressive.

**On CROW access land, consider if there are any risks to people from your cattle. Plan your grazing management with this in mind and where necessary obtain a restriction or exclusion to the area of land, such as small enclosures containing stock known to be dangerous.**

Where you have to keep cattle in a field crossed by public rights of way, the Health and Safety Executive advise the following:

- check that fences, gates, stiles etc. are safe and fit for their purpose;
- check that paths are clearly marked so that users do not enter fields without public access. Display warning notices when a bull is present in a field;
- make arrangements for regularly checking both the cattle and the fences etc. surrounding the field;
- plan how to safely move the cattle (either individually or as a herd);
- ensure that adequate cattle handling facilities are available.

### Gates and stiles

#### Seeking consent

You must seek consent from the highway authority under section 147 of the Highways Act 1980 before erecting any stile or gate across a public right of way (where one has not existed before). Speak to your highway or national park authority if you want to improve access onto CROW access land.

#### Design

Chapter 8 explains the law regarding disabled access to the countryside. Highway authorities will increasingly look for the 'least restrictive option' when authorising new structures.

- Use self closing gates wherever possible, or kissing gates as a less preferred option, and stiles only in exceptional circumstances.
- Avoid barbed wire, or electric fencing capable of giving a shock within one metre of the structure or manoeuvring space around it.
- Make sure that your gates open and shut easily and that gates on bridleways should be negotiable by riders on horseback. Ask the local authority for advice on suitable fastening devices.
- In some locations, you could provide a stile alongside a gate, but a gate across a public right of way should remain unlocked.
- Where necessary fit 'dog-latches' to existing stiles which may prevent damage to mesh fencing nearby. The latch lifts to allow a dog through and then drops, keeping the stile stock-proof. The local authority may be able to advise on suitable designs or to supply and fit dog-latches.

**In areas where gates and stiles have a distinctive character or local design, try to retain these local characteristics as far as possible.**

## Field boundaries

- Public rights of way cannot legally be diverted to erect fencing. There are circumstances (for example, public safety) where public rights of way can be diverted for other operations and for which fencing might be needed.
- Obtain permission from the local authority before erecting fences of any sort across a public right of way, even if only temporary. Permission is usually given for the purposes of forestry and agriculture. If you are temporarily diverting a footpath or bridleway for safety reasons, a fence may be useful in ensuring that the diverted route is made easy to follow.
- Barbed wire fences should always have the wire fastened on the side of the posts facing away from the public right of way. Ensure that there is no barbed wire on gates that need to be opened or on posts that users might hold onto for support. Barbed wire fences alongside narrow public rights of way can also constitute a nuisance.
- Avoid siting electric fences alongside footpaths and bridleways: horses can bolt if they touch them. Make sure that any electric fences carry clear markings. CLA can give advice on use of electric fences where their use may affect public access.
- You can erect fences on CROW access land. On common land (under the Law of Property Act 1925 section 194) the prior consent of the Secretary of State is required for the construction of any building or fence, or any other work that would prevent or impede any person's access to or over a common or its surface. It would always be wise to provide crossing points.

## Spraying

- In general, public rights of way and other highways should not be oversprayed. Pesticides and herbicides should be confined to the adjacent crop. Spraying paths can endanger people and animals and is wasteful.
- Always follow instructions on the product label. If they say that people and animals should stay out of a treated crop, place warning signs at all points where paths enter the sprayed area, including any points where you know people pick wild fruit. The signs should say 'Sprayed: please keep to the path'. They should be left in place until it is safe to remove them.
- You should cease spraying immediately if anyone steps onto a path which crosses or adjoins a field that is being sprayed. Allow them adequate time to get clear before recommencing spraying.
- Some herbicides are approved for use in killing vegetation growing on public rights of way (eg. crop seedlings growing on a cross-field path which has been cultivated and restored). Before using any spray for this purpose you should check the product label. In

- general it is safer to cut vegetation than to kill it by spraying.
- If you intend to apply spray to CROW access land, and you need to restrict public access, you can apply to the relevant authority for necessary restrictions.

Further guidance is available from Defra and the Health and Safety Executive. See, in particular, the Code of Practice for the Safe Use of Plant Protection Products (information is available from HMSO publications and the Pesticides Safety Directorate's website). Contact details are found in 'Further information' on page 70.

### Trees and woodland management

- Check the condition of trees on your land adjacent to public rights of way periodically, and after bad storms, to ensure that they pose no danger to the public. If you are unsure, seek professional advice.
- When felling trees near public rights of way or in areas accessible to the public, always be aware of your responsibilities to the public under Health and Safety at Work legislation.
- On CROW access land, a tree is classed as 'a natural feature of the landscape' and so the occupier owes no duty of care in relation to them. However, anyone undertaking tree management operations would need to comply with the Health and Safety at Work etc. Act 1974 and Regulations. There are various measures you can take (such as using barrier tape in the immediate vicinity of the works) but, if you feel you need to restrict access, you can apply to the relevant authority for restrictions.
- Always ensure that permission to fell trees has been obtained from the Forestry Commission (a felling licence may be necessary) and local authority (if trees are covered by a Tree Preservation Order or are within a Conservation Area).
- Warning signs should be erected at any points of entry into land where deer are being culled. A brief explanation that deer are being culled for the benefit of the woodland will help to reduce public concern.

### Litter, waste and pollution

- It is an offence to dump rubbish other than at an authorised tip or drop litter whilst using a public right of way. Avoiding a build up of litter by rapid removal is one way of limiting it.
- Report fly-tipping or pollution of watercourses to the Environment Agency on its Freephone Emergency Hotline: 0800 807060. The Government proposes to strengthen powers for controlling fly-tipping.
- Some authorities may help people to remove rubbish, particularly large items such as abandoned vehicles. Where the vehicle is removed from private property, the landowner may have to pay for this service.

- Businesses that transport waste may be required to obtain a licence or risk prosecution.

Further advice is available from Defra.

## Crime

- Contact your local police Crime Prevention Officer for advice on securing your premises and discouraging crime. Many police forces organise schemes to help tackle particular forms of crime, eg. Neighbourhood Watch, Country Watch, Farm Watch, Horse Watch and Poacher Watch.
- As a rule, those intent on theft will use any means of access to a target site, regardless of whether or not they have a right of access.
- Improved security measures are likely to be far more effective than diverting a public right of way away from farm or estate buildings. Ensure that, wherever possible, machinery and implements are locked away, especially portable items such as chain saws.
- Thieves can be deterred where paths are well-used. Walkers, riders and motor vehicle users can play an important role in reporting suspicious behaviour.
- If you have land in a designated high crime area and believe that the existence of a public footpath, bridleway or restricted byway is a factor in criminal activity on your land and property, the local authority may be willing to make a crime prevention order to divert or extinguish the public right of way.

# Further information

## Countryside Agency Publications

[A guide to definitive maps and changes to public rights of way](#) (2003). Ref CA 142

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[Land Managers' Guidance Pack: A guide for people who own and manage access land](#) (2004). Ref CAX 150F, containing:  
[Statutory restrictions on access land: A guide for land managers](#) (2004)  
[Positive access management: A guide for people who own and manage access land](#) (2004)

[Open access and public liability: A guide for people who own and manage access land](#) (2004)

[Signs on access land in England: Guidance for land managers](#) (2004)  
[Mapping Access Land](#) (2000). Ref CRN 7

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[Moorland Visitors' Code](#) (2004)

[Out in the Country: where you can go and what you can do](#) (2002). CA 9

[Paths Without Prejudice](#) (2001). Ref CAX 57

[Sense and Accessibility](#) (2000). Ref CAX 26

[Waymarking Public Rights of Way](#) (2002). Ref CA77

All the above are available free from Countryside Agency Publications,  
PO Box 125, Wetherby, West Yorkshire LS23 7EP.

Tel: 0870 120 6466 Fax: 0870 120 6467

Email: [countryside@twoten.press.net](mailto:countryside@twoten.press.net)

The Countryside Code. [www.countrysideaccess.gov.uk](http://www.countrysideaccess.gov.uk)

Greenways Handbook.

[www.quiet-roads.gov.uk/site/greenwayhandbook](http://www.quiet-roads.gov.uk/site/greenwayhandbook)

### CA Publications expected in 2005:

Creating public rights of way: code of practice for local highway authorities.

Guidelines for public access authorities on the implications of the Disability Discrimination Act 1995, and Disability Discrimination Bill 2003.

### Other Sources of Information

[Access, conservation, game management and shooting](#); published jointly by the British Association for Shooting and Conservation (BASC) and English Nature. Obtain from BASC, Marford Mill, Chester Road, Rossett, Wrexham, Clwyd LL12 0HL.

Tel: 01244 573000 Fax: 01244 573001 [www.basc.org.uk](http://www.basc.org.uk)

[Accessibility and the needs of people with disabilities](#) (2003). City of York ROWIP Exemplar Project Final Report. [www.prowgpg.org.uk](http://www.prowgpg.org.uk)

[Code for Riding and Driving Responsibly](#) (1993). British Horse Society, Stoneleigh Deer Park, Stareton Lane, Kenilworth, Warwickshire CV8 2XZ. Tel: 08701 202244.

[Countryside For All – Standards and Guidelines](#). A good practice guide to disabled people's access in the countryside.

Fieldfare Trust, 67A, The Wicker, Sheffield, South Yorkshire S3 8HT.  
Tel: 0114 270 1668 Fax: 0114 275 7900 [www.fieldfare.org.uk](http://www.fieldfare.org.uk)

[Draft Code of Practice for the Safe Use of Plant Protection Products](#) (2004). Pesticides Safety Directorate, Millard House, Kings Poole, 3 Peasholme Green, York YO1 7PX.

[www.pesticides.gov.uk](http://www.pesticides.gov.uk) Email: information@psd.defra.gsi.gov.uk

[Farmer's Guide to the Planning System](#). Office Of The Deputy Prime Minister, 26 Whitehall, London SW1A 2WH. Tel: 0207 944 4400  
[www.odpm.gov.uk](http://www.odpm.gov.uk) Email: enquiryodm@gsi.gov.uk

[Foot and Mouth Contingency Plan](#). Defra. Tel: 0845 0504141  
[www.defra.gov.uk/footandmouth/contingency/contplan.pdf](http://www.defra.gov.uk/footandmouth/contingency/contplan.pdf)

[Gaps, Gates and Stiles](#) (2001). BS 5709:2001. Available from British Standards Institute (cost £40 to members, £80 to non-members).

Tel: 0208 996 9001

[www.bsi-global.com](http://www.bsi-global.com) Email: cservices@bsi-global.com

[Guidance note on the dedication of land under section 16 of the Countryside and Rights of Way Act 2000](#) (2004). Defra.

Tel: 08459 556 000, quoting reference PB9253.

[www.defra.gov.uk/wildlife-countryside/cl/guidance-crow.pdf](http://www.defra.gov.uk/wildlife-countryside/cl/guidance-crow.pdf)

**Health and Safety Agricultural Information Sheets** – Health and Safety Executive, Caerphilly Business Park, Caerphilly CF83 3GG.  
HSE Infoline: 0871 545500 Fax: 02920 859260  
[www.hse.gov.uk/pubns/agindex.htm](http://www.hse.gov.uk/pubns/agindex.htm)

**Management for People** – National Trust for Scotland, Forestry Commission Scotland, Fife Council (2004). [www.snh.org.uk](http://www.snh.org.uk)

**Making the best of byways** (1997). (DETR) Defra, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB.  
Tel: 0117 372 8204 Fax: 0117 372 8587

**Managing visitor safety in the countryside – principles and practice.** (2002) Visitor Safety in the Countryside Group. [www.vscg.co.uk](http://www.vscg.co.uk)

**UK Charity Challenge events leaflet: Summary Code of Practice.** Institute of Fundraising, Market Towers, 1 Nine Elm Lane, London SW8 5NQ.  
Tel: 0207 627 3534 [www.institute-of-fundraising.org.uk](http://www.institute-of-fundraising.org.uk)

**Our Common Land: the law and history of common land and village greens** by Paul Clayden. Open Spaces Society, 2003. ISBN 0 946574 200.  
Price £14 to members, £25 to non-members. Open Spaces Society,  
25A Bell Street, Henley on Thames, Oxfordshire RG9 2BA.  
[www.oss.org.uk/publications](http://www.oss.org.uk/publications)

**Public Rights of Way Good Practice Guide.** Produced jointly by the Countryside Agency, Institute of Public Rights of Way Officers, County Surveyors Society and the Local Government Association.  
[www.prowgpg.org.uk](http://www.prowgpg.org.uk)

**Rights of Way: A Guide to Law and Practice** by John Riddall and John Trevelyan, Open Spaces Society and Ramblers' Association, 2001 (3rd Edition). Price £20 (paperback version).  
Credit card order: 0207 339 8500 [www.ramblers.org.uk](http://www.ramblers.org.uk)

**See it Right:** pack offers practical advice on planning, designing and producing accessible information. Available from RNIB priced £20.00.  
Tel: 0845 7023153 email: [cservices@rnib.org.uk](mailto:cservices@rnib.org.uk)

**Sign Design Guide** (2000): PR11401: Written by the Sign Design Society and the JMU Access Partnership, available from RNIB  
[www.rnib.org.uk](http://www.rnib.org.uk)

**Single Payment Scheme – Cross Compliance Handbook for England**  
2005 edition, Defra publications, Admail 6000, London SW1A 2XX  
Tel: 08459 556000 Fax: 020 8957 5012 [www.defra.gov.uk/farm/capreform/pubs/pdf/Cross-compliance-3011.pdf](http://www.defra.gov.uk/farm/capreform/pubs/pdf/Cross-compliance-3011.pdf)

**Sport and Challenge events in the countryside** – Guidelines for organisers. [www.nationaltrail.co.uk/penninebridleway/pdfs/event\\_guidelines.pdf](http://www.nationaltrail.co.uk/penninebridleway/pdfs/event_guidelines.pdf)

**Sporting and challenge events in the countryside** (1998). Ref CCC 146. Countryside Council for Wales and the Sport Council for Wales. Available from Countryside Council for Wales, Maes-y-Ffynnon, Penrhosgarnedd, Bangor, Gwynedd LL57 2DW. ISBN 186169 048 7. Tel: 08451 306 229

**Treasure Act 1996 Code of Practice** (Revised). England and Wales, produced by the Department of Culture, Media & Sport. Part 2 contains (at Appendix 6) the National Council for Metal Detecting Code of Practice. [www.culture.gov.uk/global/publications/archive\\_2002/treasure\\_code.htm](http://www.culture.gov.uk/global/publications/archive_2002/treasure_code.htm)

**Walks, rides and areas of open access provided under the Countryside Stewardship and Environmentally Sensitive Areas Schemes.** Defra.  
<http://countrywalks.defra.gov.uk>

**Wild Birds and the Law: A Plain Guide to Bird Protection Today** (2003). RSPB Investigations Section. RSPB, The Lodge, Sandy, Bedfordshire SG19 2DL. Tel: 01767 680551 [www.rspb.org.uk](http://www.rspb.org.uk)

## Useful contacts

[Association for Areas of Outstanding Natural Beauty](#),  
The Old Police Station Cotswold Heritage Centre, Northleach,  
Gloucestershire GL54 3JH. Tel: 01451 862007 **www.aonb.org.uk**

[Black Environment Network](#), 9 Llainwen, Uchaf, Llanberis,  
Wales LL55 4LL. Tel: 01286 870715 Fax: 01286 870715  
Email: ben@ben-network.demon.co.uk

[British Association for Shooting and Conservation Ltd](#), Marford Mill,  
Chester Road, Rossett, Wrexham, Clwyd LL12 0HL. Tel: 01244  
573000 Fax: 01244 573001 **www.basc.org.uk**

[British Driving Society](#), 27 Dugard Place, Barford, Warwick CV35 8DX.  
Tel: 01926 624420 Fax: 01926 624633  
**www.britishdrivingsociety.co.uk**

[British Horse Society](#), Stoneleigh Deer Park, Kenilworth, Warwickshire  
CV8 2XZ. Tel: 08701 202244 Fax: 01926 707800 **www.bhs.org.uk**

[British Mountaineering Council](#): 177-179 Burton Road, West Didsbury,  
Manchester M20 2BB. Tel: 0870 010 4878 Fax: 0161 445 4500  
**www.thebmc.co.uk** Email: office@thebmc.co.uk

[British Orienteering Federation](#), Riversdale, Dale Road North, Darley  
Dale, Matlock, Derbyshire DE4 2HX. Tel: 01629 734042  
Fax: 01629 733769 **www.britishorienteering.org.uk**  
Email: bof@britishorienteering.org.uk

[British Trust for Conservation Volunteers](#), 36 St Mary's Street,  
Wallingford, Oxfordshire OX10 0EU.  
Tel: 01491 839766 Fax: 01491 839646 **www.btcv.org**

[British Waterways](#), Willow Grange, Church Road, Watford,  
Hertfordshire WD17 4QA. Tel: 01923 226422 Fax: 01923 201400  
**www.british-waterways.co.uk**  
Email: enquiries.hq@britishwaterways.co.uk

[Business Links](#). Operated on a regional basis – call 0845 600 9006 for  
local contact details. **www.businesslink.gov.uk**

[Byways and Bridleways Trust](#), PO Box 117, Newcastle upon Tyne  
NE3 5YT. **www.bbtrust.org.uk**

[Campaign to Protect Rural England](#), 128 Southwark Street, London SE1 0SW. Tel: 020 7981 2800 Fax: 020 7981 2899  
**www.cpre.org.uk** email: info@cpre.org.uk

[Central Council of Physical Recreation](#), Francis House, Francis Street, London SW10 1DE. Tel: 020 7854 8500 Fax: 020 7854 8501  
**www.ccpr.org.uk** email: info@ccpr.org.uk

[Community Forest contact details at:](#) **www.countryside.gov.uk/countrysidefortowns/countrysidearoundtowns/CF\_contact.asp**

[Council for British Archaeology](#), St Mary's House, 66 Bootham, York YO30 7BZ. Tel: 01904 671417 Fax: 01904 671384  
**www.britarch.ac.uk**

[Council for National Parks](#), 246 Lavender Hill, London SW11 1LJ. Tel: 020 7924 4077 Fax: 020 7924 5761 **www.cnp.org.uk**

[Countryside Council for Wales](#), Maes-y-Ffynnon, Penrhosgarnedd, Bangor, Gwynedd LL57 2DW. Tel: 0845 1306229 **www.ccw.gov.uk**

[Country Land and Business Association](#), 16 Belgrave Square, London SW1X 8PQ. Tel: 020 7235 0511 Fax: 020 7235 4696  
**www.cla.org.uk** Email: mail@cla.org.uk

[Cyclists Touring Club](#), Cotterell House, 69 Meadow, Godalming, Surrey GU7 3HS. Tel: 0870 873 0060 Fax: 0870 873 0064  
**www.ctc.org.uk** Email: cycling@ctc.org.uk

[Defra \(Department for Environment, Food & Rural Affairs\)](#), Farming Division, 17 Smith Square, London SW1P 3JR. Tel: 020 7238 6000  
**www.defra.gov.uk/farm/farmindx.htm**

[Defra Countryside \(Recreation and Landscape\) Division](#), Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB. Tel: 0117 372 8204 Fax: 0117 372 8587  
**www.defra.gov.uk/wildlife-countryside/issues/index.htm**

[Defra Conservation Management Division](#), Agri-Environment Policy Team, Area 4c Ergon House, Horseferry Road, London SW1P 2AL. Tel: 020 7238 5993  
**www.defra.gov.uk/wildlife-countryside/issues/common/index.htm**

**Defra Common Land Branch**, Zone 105, Temple House Quay,  
2 The Square, Temple Quay, Bristol, BS1 6EB. Tel: 0117 372 8006  
Fax: 0117 372 8969 [www.defra.gov.uk/wildlife-countryside/  
issues/common/index.htm](http://www.defra.gov.uk/wildlife-countryside/issues/common/index.htm)

**Defra Pesticides Safety Directorate**, Mallard House, Kingspoll,  
Peasholme Green, York YO1 7PX. Tel: 01904 455775  
[www.pesticides.gov.uk](http://www.pesticides.gov.uk) email: information@psd.defra.gsi.gov.uk

**Disabled Ramblers**, Dr M Bruton, 14 Belmont Park Road, Maidenhead,  
Berkshire SL6 6HT. Tel: 01628 621414  
<http://website.lineone.net/~disabledramblers>

**English Heritage**, Customer Services Department, PO Box 569,  
Swindon, Wiltshire SN2 2YP. Tel: 0870 333 1181 Fax: 01793  
414926 [www.english-heritage.org.uk](http://www.english-heritage.org.uk)  
Email customer services: customers@english-heritage.org.uk

**English Nature**, Northminster House, Peterborough PE1 1UA.  
Tel: 01733 455000 Fax: 01733 568834 [www.english-nature.org.uk](http://www.english-nature.org.uk).  
English Nature's Licensing Department can be contacted on  
01733 455101, or via the website.  
Email: enquiries@english-nature.org.uk

**Environment Agency**, Rio House, Waterside Drive, Almondsbury, Bristol,  
BS32 4UD. Tel: 01454 624400 [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk).  
Freephone emergency hotline 0800 807060.

**Fieldfare Trust**, 67a The Wicker, Sheffield, South Yorkshire S3 8HT.  
Tel: 0114 270 1668 Fax: 0114 276 7900 [www.fieldfare.org.uk](http://www.fieldfare.org.uk)

**Forestry Commission England**, Great Eastern House, Tennison Road,  
Cambridge CB1 2DU. Tel: 01223 314546 Fax: 01223 460699  
[www.forestry.gov.uk](http://www.forestry.gov.uk) email: nationaloffice@forestry.gsi.gov.uk

**Game Conservancy Trust**, Fordingbridge, Hampshire SP6 1EF.  
Tel: 01425 652381 Fax: 01425 655848 [www.gct.org.uk](http://www.gct.org.uk)

**Health and Safety Executive**, HSE Infoline, Caerphilly Business Park,  
Caerphilly CF83 3GG. Tel: 08701 545500 Fax: 02920 859260

**Institute of Public Rights of Way Officers**, PO Box 78, Skipton,  
North Yorkshire BD23 4UP. Tel: 07000 782318 Fax 07000 782319  
email: iprow@iprow.co.uk [www.iprow.co.uk](http://www.iprow.co.uk)

**The Kennel Club**, 1-5 Clarges Street, Picadilly, London W1J 8AB.  
Tel: 020 7518 1020 Fax: 0207 5181028 [www.the-kennel-club.org.uk](http://www.the-kennel-club.org.uk)

**Land Access and Recreation Association** (LARA), PO Box 20,  
Market Drayton, Shropshire TF9 1WR. Tel: 01630 657627  
Fax: 01630 658928 [www.laragb.org](http://www.laragb.org) email: hq@laragb.org

**Local Government Association**, Local Government House, Smith Square,  
London SW1P 3HZ. Tel: 020 7664 3131 Fax: 020 7664 3030  
[www.lga.gov.uk](http://www.lga.gov.uk) email: info@lga.gov.uk

**Long Distance Walkers Association**, c/o Brian Smith, 10 Temple Park  
Close, Leeds LS15 0JJ. Tel: 01532 642255 [www.ldwa.org.uk](http://www.ldwa.org.uk)

**MENCAP**, 123 Golden Lane, London EC1Y 0RT.  
Tel: 0207 454 0454 Fax: 0207 696 5540 [www.mencap.org.uk](http://www.mencap.org.uk)  
email: information@mencap.org.uk

**Ministry Of Defence (for MOD Policy queries)**, c/o Senior Countryside  
Policy Adviser, DE ES&P, Room 14, K Block, Bath BA1 6BA.  
Tel: 01225 449173

**Ministry of Defence (for Operational and site related queries)**,  
c/o Environmental Adviser (Access & Recreation) DE EST,  
Land Warfare Centre, Warminster BA12 0DJ. Tel: 01985 222913  
[www.mod.uk/access](http://www.mod.uk/access)

**Moorland Association**, 16 Castle Park, Lancaster LA1 1YG.  
Tel: 01524 846846 Fax: 01524 382247  
[www.moorlandassociation.org](http://www.moorlandassociation.org)

**National Association of National Park Authorities**, 126 Bute Street,  
Cardiff CF10 5LE. Tel: 029 2049 9966 Fax: 029 2049 9980  
[www.anpa.gov.uk](http://www.anpa.gov.uk)

**National Community Forest Partnership**, Ayton House,  
Roberts End, Hanley Swan, Worcester WR8 ODX. Tel: 01684 311880  
Fax: 01684 311370 [www.communityforest.org.uk](http://www.communityforest.org.uk)

**National Council for Metal Detectors**, General Secretary,  
51 Hilltop Gardens, Denaby, Doncaster, DN12 4SA.  
[www.ncmd.co.uk](http://www.ncmd.co.uk) email: trevor.austin@ncmd.co.uk

**National Farmers' Union**, Agriculture House, 164 Shaftesbury Avenue,  
London WC2H 8HL. Tel: NFU CallFirst 0870 845 8458  
[www.nfuonline.com](http://www.nfuonline.com) email: nfu@nfuonline.com

[National Forest Company](#), Enterprise Glade, Bath Lane, Moira, Swadlincote, Derbyshire DE12 6BD. Tel: 01283 551211  
Fax: 01283 552844 [www.nationalforest.org](http://www.nationalforest.org)

[National Trust](#), 36 Queen Anne's Gate, London SW1H 9AS.  
Tel: 0870 609 5380 Fax: 020 7222 5097 [www.nationaltrust.org.uk](http://www.nationaltrust.org.uk)

[Office of the Deputy Prime Minister](#), Eland House, Bressenden Place London SW1E 5DU. Tel: 020 7944 4400 [www.odpm.gov.uk/planning](http://www.odpm.gov.uk/planning)

[Open Access Contact Centre](#), PO Box 725, Belfast BT1 3YL.  
Tel: 0845 100 3298 [www.openaccess.gov.uk](http://www.openaccess.gov.uk) Email:  
[openaccess@countryside.gov.uk](mailto:openaccess@countryside.gov.uk)

[Open Spaces Society](#), 25a Bell Street, Henley-on-Thames, Oxfordshire RG9 2BA. Tel: 01491 573535 [www.oss.org.uk](http://www.oss.org.uk) Email: [hq@oss.org.uk](mailto:hq@oss.org.uk)

[Ordnance Survey](#), Customer Service Centre, Romsey Road, Southampton SO16 4GU. Tel: 0845 605 0505 Fax: 0238 030 5030  
[www.ordnancesurvey.co.uk/oswebsite](http://www.ordnancesurvey.co.uk/oswebsite)  
Email: [customerservices@ordnancesurvey.co.uk](mailto:customerservices@ordnancesurvey.co.uk)

[Outdoor Writers Guild](#), PO Box 118, Twickenham TW1 2LR.  
[www.owg.org.uk](http://www.owg.org.uk)

[Ramblers' Association](#), 2nd Floor Camelford House, 87-90 Albert Embankment, London SE1 7TW.  
Tel: 020 7339 8500 Fax: 020 7339 8501 [www.ramblers.org.uk](http://www.ramblers.org.uk)  
Email: [ramblers@london.ramblers.org.uk](mailto:ramblers@london.ramblers.org.uk)

[Rights of Way Law Review](#), The Granary, Charlcutt, Calne, Wiltshire SN11 9HL. Tel: 01249 740273 [www.rwlr.dial.pipex.com](http://www.rwlr.dial.pipex.com)  
Email: [rwlrd@dial.pipex.com](mailto:rwlrd@dial.pipex.com)

[Royal Association for Disability and Rehabilitation \(RADAR\)](#), 12 City Forum, 250 City Road, London, EC1V 8AF. Tel: 0207 250 3222 Fax: 0207 250 0212 [www.radar.org.uk](http://www.radar.org.uk) Email: [info@radar.org](mailto:info@radar.org)

[Royal National Institute of the Blind](#), 105 Judd Street, London W1CH 9NE. Tel: 0207 388 1266 [www.rnib.org.uk](http://www.rnib.org.uk)  
Email: [helpline@rnib.org.uk](mailto:helpline@rnib.org.uk)

[Royal Society for the Protection of Birds](#), The Lodge, Sandy, Bedfordshire SG19 2DL. Tel: 01767 680551 [www.rspb.org.uk](http://www.rspb.org.uk)

**Royal Town Planning Institute**, 41 Botolph Lane, London EC3R 8DL.  
Tel: 020 7929 9462 [www.rtpi.org.uk](http://www.rtpi.org.uk)

**Scottish Executive**, Rural Affairs Department, 47 Robb's Lane,  
Edinburgh EH6 6QQ. Tel: 0131 556 8400 [www.scotland.gov.uk](http://www.scotland.gov.uk)  
Email: ceu@scotland.gsi.gov.uk

**Scottish Natural Heritage**, 12 Hope Terrace, Edinburgh EH9 2AS.  
Tel: 0131 447 4784 Fax: 0131 446 2277 [www.snh.gov.uk](http://www.snh.gov.uk)  
Email: enquiries@snh.gov.uk

**Sport England**, 3rd Floor Victoria House, Bloomsbury Square,  
London WC1B 4SE. Tel: 08458 508 508 Fax: 020 7383 5740  
[www.sportengland.org](http://www.sportengland.org) Email: info@sportengland.org

**Sustrans**, 2 Cathedral Square, Bristol, BS1 5DD.  
Tel: 0117 915 0134 Fax: 0117 915 0124 [www.sustrans.org.uk](http://www.sustrans.org.uk)

**Tenant Farmers Association**, 7 Brewery Court, Theale, Reading,  
Berkshire RG7 5AJ. Tel: 0118 930 6130 Fax: 0118 930 3424  
[www.tenant-farmers.org.uk](http://www.tenant-farmers.org.uk) Email: tfa@tenant-farmers.org.uk

**Town and Country Planning Association**, 17 Carlton House Terrace,  
London SW1Y 5AS. Tel: 020 7930 8903 [www.tcpa.org.uk](http://www.tcpa.org.uk)  
Email: tcpa@tcpa.org.uk

**VisitBritain**, Thames Tower, Black's Road, London W6 9EL.  
Tel: 020 8846 9000 Fax: 020 8563 0302 [www.visitbritain.org](http://www.visitbritain.org)

# Glossary

A quick guide to many terms used in this publication

**Name**

Access agreement

**What Is It?**

Usually an agreement concluded under the National Parks and Access to the Countryside Act 1949 to provide access to a specific area of open countryside.

Access authority

Highway authority or, in National Parks, the National Park authority has some duties and powers in relation to CROW access land in its area.

Bridleway

A public right of way for walkers, users of mobility vehicles and those on horseback or leading a horse, but not a way at the side of a road (see highway verge). Bicyclists also have a right of way, but must give way to walkers and horse-riders. A bridleway can run along a way where certain individuals have a right to drive other vehicles, such as a farm access drive.

Byway open to all traffic

A particular type of way shown on a definitive map. Although motorists are entitled to use them, the predominant use of byways open to all traffic is normally by walkers, horse-riders and cyclists. A highway has to be used, or be likely to be used, mainly by walkers and horse-riders to be eligible to be added to the definitive map as a byway open to all traffic.

Common land

Land over which people other than the owner have (or had) ‘taking’ rights, such as rights to graze animals. Common land (both urban and rural) has been registered on maps held by commons registrations authorities.

CROW access land

Land where the public normally have a right of access on foot under the Countryside and Rights of Way Act 2000. It includes open country, registered common land and land dedicated for the purpose by its owner (see dedicated land). (Note: The term ‘access land’ may also be used, for example by Ordnance Survey, to describe other land to which there is open public access, though not necessarily by right.)

Cycle route	A term used to describe a continuous route being promoted for cyclists. Such a route is likely to be made up of roads, cycle tracks, cycle lanes and shared-use routes.
Cycle track	A public right of way on pedal cycles with or without a right of way on foot. A cycle track may run alongside a carriageway or it may be off-road.
Dedicated land	Land over which the landowner has voluntarily established access rights over and above those established by the Countryside and Rights of Way Act 2000. Land of any type may be dedicated in this way.
Definitive map	The legal record of public rights of way (footpaths, bridleways, roads used as public paths, restricted byways and byways open to all traffic).
Definitive statement	A statement that accompanies the definitive map.
Footpath	A public right of way for walkers and mobility vehicle users but not at the side of a road (see Footway).
Footway	The legal term for what is usually referred to as a pavement – a right of way on foot at the side of a road or carriageway.
Green lane	A descriptive term for a way. It is normally used where the way is bounded by hedges or stone walls, and where the surface is not, or does not appear to be, metalled or otherwise surfaced (sometimes there is an old surface under the grass or mud).
Higher rights	A term used to describe the actual, alleged or claimed existence of additional rights over a way shown in a definitive map. An example would be where it is claimed that a way shown on the map, as a footpath is really a bridleway – it is claimed that ‘higher rights’ exist over the way. The term is also used to describe additional rights to use CROW access land for example horse riding rights under a dedication.
Highway	Any way over which the public have a right to pass and re-pass.
Highway authority	The authority that has the responsibility for managing public rights of way. Highway authorities are also usually the surveying authority for their area and have responsibility for maintaining the definitive map and statement. These are: London borough councils, county councils (where there is both a county and district), unitary authorities (which may be variously called either a county, district, borough or city council).
List of streets	A list that a highway authority is required to maintain and keep up to date, recording all the highways in its area (including footpaths, bridleways, etc) which it is liable to maintain at public expense.

Local access forums	Advisory bodies established by the local highway authority under the Countryside and Rights of Way Act 2000 to advise on the improvement of public access to land for the purpose of open-air recreation and enjoyment of the area.
Local authority	The highway authority and also any district council and National Park authority in its area.
Local council	A parish or town council.
Local planning authority	The local authority with responsibility for determining planning applications and issuing express planning permission. For most types of development, these are the district, unitary, metropolitan councils and national park authorities.
Mechanically-propelled vehicle	Any vehicle propelled by a motor, which excludes invalid carriages and electrically assisted pedal cycles.
National Park	National Parks are designated by the Countryside Agency under the National Parks and Access to the Countryside Act 1949. One of their primary purposes is to promote their areas for public enjoyment and as a result have a wide range of access opportunities, although the legislation is the same as outside National Parks.
National Trail	A long-distance walking or riding route approved by the Government and developed and supported by the Countryside Agency in conjunction with the local authorities through which the route passes.
Open country	A term in the Countryside and Rights of Way Act 2000 to describe the areas of mountain, moor, heath and down that are generally available for access under the Act.
	A term used in the National Parks and Access to the Countryside Act 1949, as extended by the Countryside Act 1968, to describe land types over which access agreements could be made. Here the term includes not only mountain, moor, heath and down, but also coastal land, water and watersides, and woodland.
Other routes with public access	A term sometimes seen on Ordnance Survey maps. OS uses the symbol to depict those routes on a highway authority's list of streets that are not shown as rights of way or as coloured roads on its maps.
Permissive path	A route that is not a public right of way but where the landowner has granted permission to use the way (or does not object to its use).

Public right of way	Legally the same as highway, with the main difference in use being that highway is used to refer to the physical feature and right of way to the right to walk, ride or drive over it.
Relevant authority	The authoritiy responsible for the administration of, and issuing directions for, exclusions and restrictions on CROW access land. This is the National Park authority (in a national park), the Forestry Commissioners (for dedicated woodland), or the Countryside Agency elsewhere.
Restricted byway	A public right of way for walkers, horse-riders and non-mechanically propelled vehicles (such as carriage-drivers and pedal cyclists). Restricted byways will be created when provisions in the Countryside and Rights of Way Act 2000 are brought into operation. See Road used as public path (RUPP).
Rights of Way Improvement Plan	A plan that a highway authority is required to produce under the Countryside and Rights of Way Act 2000. It will enable highway authorities to plan for the improvement of the local rights of way network.
Road used as a public path (RUPP)	A particular type of way shown on a definitive map. The test for adding a way to the definitive map as a RUPP (in the 1950s) was that its predominant use by the public was by walkers and horse-riders, even though it was not a footpath or bridleway. When provisions in the Countryside and Rights of Way Act 2000 are brought into operation, all remaining RUPPS will automatically be re-designated as restricted byways.
Surveying authority	The local authority responsible for keeping the definitive map and statement of public rights of way up to date. They are the same authorities as the highway authorities.
Towpath	A way alongside a canal or river created to facilitate the towing of boats by people or horses. It is not necessarily a public right of way.
Traffic regulation order (TRO)	An order made by a traffic authority to restrict or regulate traffic on a road. TROs are most commonly used to regulate or restrict motor traffic, for example through speed limits or waiting restrictions, but can be used to regulate cyclists, horse-riders and walkers. A TRO may be permanent, temporary or experimental.

Unclassified road

Roads names ‘A’, ‘B’ or ‘C’ by the highway authority are regarded as classified roads – others are regarded as unclassified, and are sometimes given a reference beginning with ‘U’. The term ‘unclassified county road’ (UCR) means an unclassified road that the county council is liable to maintain.

White road

A term used to describe a way shown as a track (double lines) on an Ordnance Survey map but without the infill colouring used by OS to show either ‘A’ or ‘B’ roads or roads of a certain width and surface, and where it is not recorded on the definitive map as a right of way.



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