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Guidance

Public rights of way: local highway authority responsibilities

As a local highway authority (usually a county council or national park authority) you have statutory duties to record and keep public rights of way open.

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Recording routes and locations

Highway authorities must keep a record of public rights of way and make sure they are open for public use.

The legal record of a highway authority's rights of way network is known as the 'definitive map and statement'.

Rights of way circular (1/09) (<https://www.gov.uk/government/publications/rights-of-way-circular-1-09>) explains the highway authority's statutory duty to record, manage and maintain, protect and change public rights of way.

The guide to definitive maps and changes to public rights of way

(<https://www.gov.uk/government/publications/definitive-maps-of-public-rights-of-way-change-the-legal-records>) has more detail about your legal duty to record public rights of way.

Maintaining and protecting public rights of way

The highway authority must:

- keep the surface of public rights of way which are maintained at public expense in a fit state for public use

- make sure obstructions are removed
- maintain some bridges over natural watercourses, including farm ditches
- provide at least a 25% contribution to landowners' costs for replacing and maintaining structures for the control of animals, eg gates or stiles, on completion of the work to a standard the highway authority is satisfied with
- make sure there are no notices that prevent or discourage the use of a public right of way
- add signs where a public right of way leaves metalled roads
- make sure the public's rights to use a public right of way are protected
- make sure landowners carry out their duties, and take action if they don't

Removing obstructions

It's an offence to obstruct or block a public right of way. Anyone can report an obstruction to the local authority and request that it is removed.

You must:

- respond to all requests within 1 month to confirm receipt
- contact the person who complained to tell them what action you're taking
- make sure the obstruction is removed, either by the local authority or the person responsible for it (you can charge them a fee to remove it)

If you haven't removed the obstruction within 2 months of you writing to the person who complained they can apply for a court order to have it removed. The magistrates' court may then take out an order against the local highway authority for the removal of the obstruction.

Guidance on maintaining public rights of way

Read the following guides to help with maintaining public rights of way:

- Rights of way circular (1/09) (<https://www.gov.uk/government/publications/rights-of-way-circular-1-09>)
- Waymarking public rights of way (<https://www.gov.uk/government/publications/signs-on-public-rights-of-way>)
- Definitive maps and changes to public rights of way (<https://www.gov.uk/government/publications/definitive-maps-of-public-rights-of-way-change-the-legal-records>)

Rights of way improvement plans

Most highway authorities will already have a rights of way improvement plan. You must review the plan every 10 years. You should also monitor your progress towards implementing it and meeting targets you have set. Read the guidance on rights of way improvement plans (<https://www.gov.uk/guidance/local-authority-rights-of-way-improvement-plans>) for information on how to prepare, publish, assess and review your plans.

Protecting wildlife and habitats

While carrying out maintenance or improvements, you must have regard for the conservation of biodiversity. Read section 6.32 of rights of way circular (1/09) (<https://www.gov.uk/government/publications/rights-of-way-circular-1-09>) for more detail.

A highway authority has the power to divert a public right of way from a Site of Special Scientific Interest (SSSI) if public use of it is causing damage to the special features of the SSSI. For further information, read the guide on SSSI: public body responsibilities (<https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities>).

Access and equality for disabled users

You must consider the needs of people with mobility problems and other disabilities. Section 5.4 of the rights of way circular (1/09) (<https://www.gov.uk/government/publications/rights-of-way-circular-1-09>) gives more detail about the requirements.

There are no mandatory requirements for how to approve structures on a public right of way, but you must comply with the Equality Act 2010 (<http://www.legislation.gov.uk/ukpga/2010/15/contents>).

Improvements

You should make improvements to public rights of way so they are accessible to all users, eg stiles should be replaced with gaps or gates, wherever possible.

Before making improvements you should consider the:

- historical character of existing structures and the landscape
- needs of other users, eg parents with children in pushchairs
- accessibility of the route as a whole
- needs of the landowner - you should negotiate with the landowner to make improvements to existing structures

New structures

When creating a new public right of way or diverting an existing one you should:

- keep the number of structures to a minimum - there must be a reason for each one
- use the most accessible type of structure available, eg a gap or gate rather than a stile
- detail each type (standard and design) of structure clearly in the legal documentation - you might need to refer to this in future if the use of the land changes or if you need to prove why certain structures were used

You must record any new structures on the definitive map and statement.

Policies

You should develop a policy about structures on public rights of way either as part of your Rights of Way Improvement Plan or as part of a wider policy on the Equality Act. Make sure that the policy states that structures on public rights of way must be built to the most accessible standard possible.

Recording historical public rights of way (pre-1949)

Your duty to keep public rights of way open and record their location also applies as much to historical public rights of way.

A stakeholder working group on unrecorded public rights of way, commissioned by Natural England, made a range of agreed recommendations to government in 2010 (<http://publications.naturalengland.org.uk/publication/40012?category=211280>).

The recommendations are intended to:

- find out where pre-1949 public rights of way exist and prevent them from disappearing
- make the procedure for recording historical public rights of way simpler and easier to understand
- make procedures more flexible to reduce any conflict with modern land use

- set a high level of performance for all local authorities
- reduce unreasonable objections
- encourage authorities to look for ways to integrate the management and administration of the highways network

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1. 7 December 2015 Amendments to 'Maintaining and protecting', including removal of sub-section on 'Surfaces for shared routes'. Amendment to Improvements sub-section of 'Access and equality for disabled users'.
2. 11 September 2014 First published.

Related content

- Sites of special scientific interest: public body responsibilities (<https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities>)
- Signs on public rights of way (<https://www.gov.uk/government/publications/signs-on-public-rights-of-way>)
- Definitive maps of public rights of way: change the legal records (<https://www.gov.uk/government/publications/definitive-maps-of-public-rights-of-way-change-the-legal-records>)
- Local authority rights of way improvement plans (<https://www.gov.uk/guidance/local-authority-rights-of-way-improvement-plans>)
- Local Access Forums: participate in decisions on public access (<https://www.gov.uk/guidance/local-access-forums-participate-in-decisions-on-public-access>)
- Rights of way and accessing land (<https://www.gov.uk/right-of-way-open-access-land>)

Detailed guidance

- Public rights of way: landowner responsibilities (<https://www.gov.uk/guidance/public-rights-of-way-landowner-responsibilities>)

Explore the topic

- Access and rights of way (<https://www.gov.uk/topic/outdoor-access-recreation/rights-of-way-open-access>)