

# Public Right of Way Route - The Process

The route of a public right of way should not be moved unless the change has first been authorised by a legal order, known as a diversion order. This guidance explains how to apply to Gwynedd Council for permission to move a footpath, bridleway or restricted byway. Different rules apply to the diversion of a byway open to all traffic.

## **When can a path be diverted?**

A diversion will only be granted if the proposal meets certain requirements, which are set out in the Highways Act 1980. The proposed diversion must be in the interests of the owner, occupier, or lessee of the land crossed by the right of way, or in the interests of the public and the new route must not be substantially less convenient to the public. Above all, it must be expedient to have the diversion. In deciding whether it is expedient, we will take into account the public's enjoyment of the whole path and the effect of the diversion on other land. The Snowdonia National Park also has power to divert paths to enable development to take place within their area.

We can also make diversion orders to improve school security and to reduce crime, but we would like these to be discussed with us before an application is made, as different considerations apply.

## **Who can apply?**

Anyone can apply for a diversion, but we would be most unlikely to agree to a diversion without the consent of the owners and occupiers of the land crossed by the old and new routes, and evidence of that consent will be required with the application.

## **How long does it take?**

We hope to make our decision on an application within six months (it takes this long because we need time to consult others about the proposal). Even where we agree to make an order, it will take at least a further six months before the legal processes are complete. If the order is contested, it can take considerably longer.

## **What does it cost?**

The diversion cannot be completed until the new path is put into good condition. We will specify any work that needs to be done before we make a diversion order but, if the diversion proceeds, the applicant must carry out the work, to our satisfaction, at his own expense. We have the power to do the necessary work and recover the cost from the applicant if he fails to do so.

We charge the applicant for the time we spend processing an application before an order is made as listed below and for the actual cost of advertising the diversion in the local press (approximately £1,000, depending in the length of the advertisement and the newspaper concerned).

## **Current fee structure**

An applicant may be required to pay compensation to anyone whose land is devalued as a result of the diversion.

We can require an applicant to enter into an agreement with us to pay these costs and expenses.

## **Who decides whether a path should be diverted?**

Initially, we do. The case officer will make a recommendation to the Council under the Delegation scheme who

will decide whether or not a diversion order should be made. However, the making of an order is a public process, and if we receive objections to the order we may decline to take the matter further, or we may refer it to the Secretary of State for a decision. This may result in a public inquiry, or hearing, or be dealt with by way of written representations.

Please note that we do not have to make a diversion order, even if it complies with the requirements of the legislation. We hope that, by providing advice in Part II of this guidance, applicants will be encouraged to propose diversions which improve the network, or offer the public better access opportunities. We reserve the right not to agree to diversions that do not do so. We will, however, consider all applications and give reasons for our decision.

## First steps

**Applicants are strongly advised to discuss their case with the Rights of Way Office in the first case.**

1. We recommend that anyone thinking of moving a public right of way first finds out the correct, legal line of the path (this may not be exactly how the path is used in practice). The most up to date information about the rights of way network is available at our offices in Caernarfon and Dolgellau. Each public right of way is uniquely referenced by the name of the Community in which it is located, and a number. We will need this information to process an application.
2. The proposed new line of the path should be planned using the Part II guidance. We can provide informal advice at this stage in order that an application has the best possible chance of success. We can also advise at an early stage if the proposal is unlikely to succeed. The initial contact is the Senior Rights of Way Officer for the appropriate Area.
3. It makes sense to consult with local residents and users of the route before submitting a formal proposal to the Council, so that their views can be canvassed at an early stage, thereby reducing the chances of objections after the application fee has been paid.
4. Erect a notice beside the section to be diverted, explaining the proposed diversion and seeking comments and suggestions from those who use the route. Include a large scale plan showing the current rights of way network in the area (we may be able to assist in this respect).
5. Contact local representatives of interest user groups and ask for their input. We will be able to supply contact details for representatives of the Ramblers' Association, the Open Spaces Society and the Community Council, and also the British Horse Society and Cyclists Touring Club (in the case of bridleways) and the British Driving Society (in the case of restricted byways).

## The application

We will provide copies of the application form\*\*\*, which should be sent to us once the proposal has been finalised, together with a map showing the proposed diversion.

## The process

The diagram\*\*\* illustrates the procedure involved after receipt of the application.