

Guidance Notes: A Landowner's Responsibility for the Network

Part III: A landowner's responsibility for the network

The Council will usually become responsible for the maintenance of the surface of any public right of way that has been diverted, but landowners have certain responsibilities for public paths which cross their land. We think it worth reminding prospective applicants of these, so that future liabilities can be taken into account when a new route is proposed.

Vegetation

A landowner must ensure that vegetation from land on either side of a right of way does not overhang or encroach onto the public path. If a path is to be enclosed by hedges, or is to run next to a hedge or woodland, the regular cutting back of vegetation will be an ongoing responsibility on the part of the landowner or occupier of the land on which they are planted. Care should also be taken to ensure that there is adequate headroom for users of the path. In the case of a bridleway, clear headroom of at least 3.6 metres (12 feet) must be maintained. Any tree or branch falling across a right of way should be cleared by the owner of the tree. If the landowner fails to keep back the vegetation then the Authority has the power to serve notice on him to do so, failing which the Authority can undertake the work and re-charge the cost of doing so (Section 154, Highways Act 1980).

Ploughing and cropping

There is a right to plough across a footpath or bridleway if it runs across a field, provided that it is not reasonably convenient to avoid disturbing the surface of the path. A footpath should be reinstated within 14 days to a minimum width of 1 metre and a bridleway should be reinstated to a minimum width of 2 metres within 14 days of the first disturbance for sowing of a crop, and within 24 hours in any other case. The potential disturbance to users caused by the ploughing of a right of way is a factor that we will take into account before approving a diversion, but where it has been approved, landowners should be aware that the right to plough comes with the responsibility to reinstate. It is an offence to disturb the surface of headland paths – the part of the field used for turning farm machinery used in its cultivation.

Any path running through a field of crops (other than grass) must be kept clear by cutting or spraying to the same widths.

Structures

Landowners and occupiers are responsible for the maintenance of gates and other structures on rights of way. They should be repaired or replaced when necessary to ensure that they are safe and easy to use. We can provide advice and assistance when structures need to be replaced. No new structures should be erected unless previously authorised by us.

Livestock

Livestock and the public do not always mix. All land managers are under a duty not to put at risk the health and safety of persons not in their employment. Specific rules relate to bulls: it is an offence to keep any bull in a field crossed by a right of way unless i) the animal is under 10 months old or ii) it is not of a recognised dairy breed and is at large with cows or heifers.

Obstructions

It goes without saying that rights of way should not be obstructed, even temporarily and it is also an offence to erect signs or act in a way intended to mislead or deter members of the public from using public rights of way.

We would remind landowners that the maintenance of free passage along public rights of way is a key farm activity that falls within the cross-compliance rules of Tir Gofal. The Council, as a relevant enforcement body, reports breaches to Tir Gofal who will then consider a reduction in Payment.

Extinguishments

A right of way can be extinguished only if

- **it is not needed for use by the public and**
- **in all the circumstances, it is expedient to close it.**

Extinguishment orders are made very infrequently. If you are considering applying for an order we recommend that you first speak with the appropriate Area Senior Rights of Way officer.

Creating new Rights of Way

It is important that our rights of way network meets the needs of the people who may wish to use them.

We will approach landowners in an attempt to secure dedications of new rights of way where a need is identified. We may also receive offers from landowners of dedications and will accept new rights of way that are of benefit to the public. We will pay the landowner's reasonable legal costs in connection with any voluntary dedications.

Once the dedication of a path has been accepted by the Council we will become responsible for signing and maintaining the path.

Where it is not possible to obtain the voluntary dedication of a right of way for which there is a proven need, the Council has the power to create a new right of way even if it is against the wishes of a landowner. Compensation may be payable to those owning the land over which the right of way is created. The Snowdonia National Park also have power to make creation orders within their area.

New rights of way can also come about through the planning process.

Planning and Rights of Way

Granting planning permission does not alter any pre-existing rights of way crossing the land. If a path needs to be moved or extinguished for development to take place, a legal order must be made under the Town and Country Planning Act 1990, before development is completed.

This order will be made by the appropriate Planning Authority. This could be Gwynedd Council or the Snowdonia National Park.

We must be consulted on any proposed development that builds on or is adjacent to a right of way that will affect the right of way.

We will try to ensure that adequate open space and other access facilities are provided by the development and if appropriate we will request the dedication of new or improved rights of way.

