

Public Rights of Way Your Questions Answered

1. What is a public right of way?

A public right of way is a route over which the public have a right to pass and re-pass. Public rights of way are more commonly known as:

- Footpaths: for use on foot only
- Bridleways: for use by people on horses, pedal cycles or on foot
- Restricted byways; for use by non motorised vehicles, people on horses, pedal cycles or on foot
- Byways open to all traffic: for use by motor vehicles, people on horses, pedal cycle or on foot

Rights of way can be found in towns, villages and the countryside. Some paths may be surfaced but many are ways across farmland. Public footpaths should not be confused with highway footways which are pavements to the side of the road.

2. How can I find out which paths are public rights of way?

You can purchase a range of Ordnance Survey maps from any good book shop which show public paths and roads. Shropshire Council also provide rights of way information on its website www.shropshire.gov.uk

Alternatively you may make an appointment to view the Definitive Map for Shropshire, which is the legal record of public rights of way, at the Shirehall in Shrewsbury, Monday to Friday between the hours of 9am to 4pm.

3. What section of the Council is responsible for public rights of way?

The Countryside Access Team is responsible for the protection, maintenance and signposting of Shropshire's 5500km of public rights of way. As the Highway Authority, the Council has a duty to erect signposts where a public right of way meets a metalled (tarmac) road. It also has the power (but is not under a duty) to sign public rights of way to assist users who are unfamiliar with the route.

4. What is a permissive path?

A permissive path (sometimes called a 'concessionary path') is that which the landowner permits the public to use, with the intention that it should not become a public right of way. The landowner may erect notices to that effect and, perhaps, close the path periodically to ensure that the public does not acquire a right of way. Landowners may also lodge what is known as a Statutory Declaration with the Council. This is a legal document that informs the Council (and the public) that they do not intend to dedicate any further rights of way on their land. *Please see Public Guidance Note 18 for further information about making a statutory declaration.*

It should also be noted that unofficial diversions of public rights of way made by landowners can be regarded as permissive paths, although if the above procedures are not used the new route may in time become a public right of way, in addition to the existing right of way.

5. Can I wander off a public right of way?

No, the legal right to pass and re-pass relates solely to the right of way.

Landowners can require you to leave land to which you have no right of access. However, you may take a short route around an illegal obstruction.

6. Who is responsible for cutting hedges growing alongside public rights of way?

The landowner, or occupier is responsible for controlling side and overhead vegetation from inhibiting the use of public rights of way. Shropshire Council, as the Highway Authority, has a duty to control surface vegetation, although this is distinct from cultivated crops which are covered by specific legislation. *Further information on obstructions to rights of way is available in Public Guidance Note 4.*

7. Can I cut back vegetation from a path or stile?

A pair of pocket secateurs may be carried in order to cut back only that vegetation which impedes progress along a path, providing that no more than necessary is done to enable you to make your way conveniently along the path. If more is done, for example you go out with the express intention of clearing a particular path, equipped with tools such as a saw, spade or pick-axe without the prior consent of the landowner, this risks going beyond what is necessary to enable convenient progress.

If you would like to get involved in helping to keep your local paths in a good condition Shropshire Council run a Parish Paths Partnership scheme where local volunteers can, with the support of the council, maintain and improve their local network.

8. Can I ride a horse, or a bike on a footpath?

No, not without the prior consent of the landowner or occupier, otherwise you would be committing trespass against them.

9. Can I take a pram, pushchair or wheelchair on a public right of way?

Yes, if it is practicable as they are considered in law to be a 'usual accompaniment'. Unfortunately many rights of way, particularly footpaths, are not suitable for such use due to stiles, narrow gates and uneven surfaces. Shropshire Council is dedicated to improving accessibility across the rights of way network wherever possible and can provide information on accessible routes across the county.

10. Can I take a dog on a public right of way?

Yes, a dog is considered a 'usual accompaniment' of a person on foot. Nonetheless this entitlement is confined to the line of the path and only exists whilst the dog is accompanied by its owner/ keeper. A trespass would be committed if the dog is allowed to run off the line of the path or if the owner/keeper stands at a gate and allows their dog to run free. *For more information see Public Guidance Note 3: Dogs on Public Rights of Way.*

11. Must a dog be kept on a lead whilst on a right of way?

The law does not demand that a dog be kept on a lead whilst accompanied on a public right of way, but rather that it must be kept under close control. The Dogs (Protection of Livestock) Act of 1953 makes it an offence to allow a dog to chase or attack livestock, or to be 'at large' in a field or enclosure in which there are sheep. 'At large' is defined as not on a lead, or otherwise under close control. *For more information see Public Guidance Note 3: Dogs on Public Rights of Way.*

12. Why are some rights of way not recorded on the Definitive Map?

When rights of way were first recorded legally in the early 1950s Parish Councils were asked to mark routes that they felt were rights of way and naturally some omissions were made. Other routes have also been created since this time (for instance through long use by the public) which have yet to be recorded legally. Other very old roads and rights of way fell out of use many years before this survey without ever having been legally stopped up and parish councils often did not record them. As highways do not cease to exist simply because they are not used evidence often comes to light that such historic rights still exist.

13. How can a right of way be added to the Definitive Map?

If the owner of the land accepts the public's right to use a route or wishes to give them this right they can agree to legally dedicate a footpath, bridleway or restricted byway.

If the public have used a route for a long period as of right and without interruption, or if documentary evidence of highway status is discovered, then an application may be made to record the route under the Wildlife & Countryside Act 1981. The public normally have to use a route as of right for 20 years for a new right to be created, however if the landowner takes action that actively encourages them to believe he is dedicating the route (for instance telling walkers that a non-definitive route is the public right of way) then this period could be significantly shorter.

Footpaths, bridleways, restricted byways and byways open to all traffic¹ can all be added using this process and as they are based on evidence additions made under these provisions can be made even where they are not supported by the owner of the land. *See Public Guidance Note 12 for detailed guidance on evidence based applications.*

14. Can the route of a right of way be changed?

Yes, footpaths, bridleways and restricted byways can be diverted under the Highway Act or the Town & Country Planning Act. The alteration of a byway open to all traffic must go before a Magistrate Court. *See Guidance Note 8 for detailed information about applying for Public Path Orders and Public Guidance Note 7 for information about rights of way and development.*

15. Can a right of way be closed permanently?

Yes, it is possible to extinguish a right of way under the Highways Act, the Town & Country Planning Act or delete it under the Wildlife & Countryside Act, however the tests for such applications are generally difficult to meet and they usually receive objections. As a result they are rarely successful. *See Guidance Note 8 for detailed information about applying for Public Path Orders and Public Guidance Note 7 for information about rights of way and development.*

16. Is a bull allowed in a field where a public right of way passes?

Yes but **not** if it is a dairy bull over 10 months old, or any other breed over 10 months old which is not accompanied by cows or heifers. Similarly, if there is any question about a bull's temperament, it should not be allowed in a field where a public right of way passes.

The recognised dairy breeds are Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry.

17. What if a public right of way is ploughed up?

Paths across fields may be ploughed for cultivation but the path must then be reinstated within a specified timescale and to a specified width. *For more information see Public Guidance Note 5: Ploughing and cropping on public rights of way.*

18. What if there are crops on a public right of way?

It is an offence to allow planted crops to obstruct the highway. Grass is not considered a crop for the purposes of this legislation. Where crops are planted over rights of way they are usually allowed to grow a few inches before they are sprayed or rolled out. If the crops are allowed to grow to a height where they cause a nuisance this should be reported to the Countryside Access Team via the Customer Service Centre. *For more information see Public Guidance Note 5: Ploughing and cropping on public rights of way.*

¹ As a result of the Natural Environment and Rural Communities Act 2006 Byways open to all traffic can now only be added where certain exceptions are satisfied.