



PUBLIC RIGHTS OF WAY ISSUES

ANIMALS

Aggressive animals: section 2 of the Animals Act 1971 makes the keeper of an animal liable for damages if it injures another person, provided that the keeper was aware of the animal's tendency to cause injury. This applies to all animals, including horses and dogs.

For example, if a farmer places an animal that he knew had dangerous characteristics in a field crossed by a public right of way and a walker is attacked, the farmer would be liable to be prosecuted under the Health & Safety at Work Act 1974, and could be sued for damages by the walker under the 1971 Act, if there is evidence of the farmer's knowledge.

Bulls: in general bulls must not be kept in any field crossed by a right of way. The exceptions are: 1) where the bull is under 10 months old 2) where the bull is not of a recognised dairy breed (recognised dairy breeds are Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey & Kerry) and is accompanied by cows or heifers. Any bull over the age of ten months is prohibited on its own, and any bull which is of a recognised dairy breed is prohibited, even if accompanied by cows or heifers.

Dogs: you may take your dog with you on a public right of way, provided that it is kept on a lead or is otherwise effectively controlled, remains on the path and does not worry livestock.

The law requires dog owners to keep their dogs under close control [which means walking at heel or on a short (2 metre) lead] when on a public right of way. Dogs should not be allowed to run loose in fields crossed by public rights of way or to roam off the path on extending leads. Don't allow your dog to run through arable crops or to flush out game from hedgerows or scrub. Such actions will not be appreciated by the landowner, and can easily harm wildlife, especially nesting birds.

If there is a problem with dog fouling you will need to contact your local District Council who are responsible for the removal of dog excrement.

It is an offence under the Dogs (Protection of Livestock) Act 1953 to allow a dog to attack or chase livestock. When on enclosed land where there are sheep, dogs must be kept 'on a lead or otherwise under close control'. A landowner can also shoot a dog that is apparently out of control and worrying sheep or other livestock, and the dog's owner will not be compensated.

Stiles are the responsibility of the landowner but there is no duty on landowners to make stiles suitable for dogs.

BRIDGES

Bridges on a right of way are usually our responsibility, although the Railway Authority or British Waterways may deal with maintenance and safety where railways and canals are being crossed. Where a bridge carries private and public rights, the responsibility is shared.

CROP SPRAYING

Spraying paths can endanger people and animals. If the product label states that people and animals should stay out of a treated crop, land managers should place warning signs at all points where paths enter the sprayed area. The signs should say 'Sprayed: please keep to the path' and be left in place until it is safe to remove them.

Land managers should cease spraying immediately if anyone steps onto a path which crosses or adjoins a field that is being sprayed. Land managers must allow people 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 land managers should check the product label. In general it is better to cut such vegetation than to kill it by spraying. Further guidance is available from DEFRA and the Health & Safety Executive.

ELECTRIC FENCES

An electric fence across a right of way is an obstruction, regardless of whether the current is live or not. Electric fences alongside a right of way should be adequately signed and give plenty of width to ensure there is no danger of users coming into contact with the fence.

INTIMIDATION & NUISANCE

It is an offence for anyone to put up any sign or notice containing false information that is likely to deter people from using a public right of way. It is also an offence for anyone to try and prevent you from using a public right of way by telling you to leave, by keeping a fierce dog close to the highway to deter you, or by any other form of intimidation or harassment. If you experience such a problem please notify us.

OBSTRUCTIONS

Occupiers should keep rights of way clear of any obstructions and warn users of potential dangers (e.g. slurry lagoons, cliffs) near rights of way. Typical examples are: padlocked gates, barbed wire, slurry, manure, electric fences, hedgerows and chained or loose dogs.

You may remove enough of an obstruction on a public right of way to get past or else you may take a short detour to get around it, but be careful not to trespass on another owner's land. Be aware however that if, for instance, you cut an illegal fence

or wire across a public right of way thereby allowing stock to escape onto a road or into a crop you could be liable for damages. If you come across an obstruction please notify us.

PLOUGHING & CROPPING

The 1990 Rights of Way Act states that you must not plough or disturb the surface of a footpath or bridleway that runs along a field edge. You must also avoid ploughing a cross-field path where possible. Byways Open to All Traffic (B.O.A.Ts) must not be ploughed at all.

If you cannot avoid ploughing or disturbing the surface of a cross-field footpath or bridleway when sowing or cultivating a crop, you must re-instate the path within fourteen days. This means that it must be rolled and the line of the path marked, so that it is apparent on the ground and it is reasonably convenient to use. If the surface of the path is subsequently disturbed, you must re-instate it within 24 hours, unless you have written agreement from us.

The full width of the path must be kept clear of all crops, other than grass (grass is defined as a crop commonly used for pasture, silage or haymaking). You must also not allow crops other than grass, to overhang a right of way at any time.

Widths of rights of way for ploughing and cropping purposes: if the width of the path is recorded in the Definitive Statement, then that is the minimum width. If there is no width recorded then the minimum width will be,

- footpaths : 1 metre across the field, 1.5 metres on the field edge
- bridleways : 2 metres across the field, 3 metres on the field edge
- byways : 3 metres across the field, 5 metres on the field edge.

If you are the occupier it is your responsibility to comply with the law, regardless of who carried out the work for you.

Responsibility for other vegetation on a public right of way: this depends where the vegetation is growing. We are responsible for clearing vegetation (other than crops) growing from the surface of a right of way. The landowner is responsible for any vegetation that is growing on their land but overhanging a right of way. Trees and hedges should be lopped or cut back to allow sufficient height for walkers on public footpaths, or a horse and rider on a public bridleway. If a tree previously growing beside a right of way falls over it, then it is the responsibility of the landowner to clear the obstruction.

SHOOTING

It is not a specific offence to shoot across a public right of way, but to do so could amount to a common law nuisance, wilful obstruction of the highway, a breach of the Health and Safety Act or intimidation and result in the loss of a gun licence. There are a number of measures that a landowner can take to overcome the problem,

- never shoot across or near a public right of way when it is being used
- 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
- if people are trespassing off a right of way into a shoot, you can waymark the path, or erect notices or fencing.

Do not attempt to divert a public right of way temporarily during a shoot. This is illegal and you cannot prevent people using the definitive path if they wish.

SIGNPOSTING & WAYMARKING

We have a duty to provide and maintain signs where rights of way meet metalled roads. We may also arrange for additional waymarking after consultation with landowners. We will always meet requests from farmers and other landowners who wish their rights of way to be adequately marked. It is an offence to destroy or damage a sign or waymark. Please contact us to obtain waymarks.

STILES & GATES

All stiles, gates and similar structures must be maintained in a safe condition, and must enable you to use the public right of way without difficulty. A stile that is out of repair, difficult to use or topped with barbed wire is unlawful.

Landowners or tenants must maintain stiles and gates to a safe standard, so that the public can negotiate them easily and without danger. We are responsible for 25% of the reasonable cost of repair or replacement of existing structures. You must agree payments with us before work takes place. In most cases we will provide a free kit for the landowner to install.

Occasionally, a Council approved and supervised volunteer group may be available to install stiles and gates. If you wish to replace an old or broken structure on your land, please contact us for paths in West Somerset District (excluding Exmoor National Park), Taunton Deane Borough and Sedgemoor District. If the path is located Mendip District, South Somerset District or the National Park please contact the relevant District Council/ National Park.

We can provide you with installation guidelines and drawings for stiles and gates. If you wish to install a new stile or gate, where there has not been one previously, you will need to obtain the authorisation of the County Council.

SURFACE

We have a duty to maintain nearly all rights of way. To allow us to do this, the surface (top two spade depths or so) is, in effect, owned by the Highway Authority. We, as the Highway Authority, are responsible for the maintenance of the surface of the highways and the control of vegetation (other than crops) on the surface of field-edge paths and those enclosed by hedges, fences or walls. Metalled footpaths are the responsibility of Somerset Highways.

Any proposed change to the surface must be agreed by us. Before carrying out any work which might affect a right of way, such as ditch digging, tree planting, building, or laying pipes and cables, we must be consulted so that the work can be approved

and, if necessary, a licence issued. Landowners should not carry out works on adjacent land that might adversely affect the drainage of rights of way.