

# Local Highway Panels Members' Guide

## 9 Public Rights of Way



# 1. Introduction



There are 3927km of Public Rights of Way (PROW) in Essex, and it is one of the most extensive networks in the country.

Although public rights of way are the lowest category of highway, exactly the same legal principles apply as with all roads and footways: Once a highway, always a highway; the status, width and position can only be altered by legal order.

The [Definitive Map](#) of Public Rights of Way, together with a document called the Definitive Statement, lists the precise location of all PROWs within Essex. The County Council is responsible for the maintenance and update of the Definitive Map and Definitive Statement. This is divided into Districts and Parishes, with each path being identified by a number which is unique to that Parish.

Although the right of way itself is protected and accessible to all, in most cases the surrounding land and the sub-soil of the public right of way will usually be privately owned, and often working farmland. The landowner may have private access rights, such as the right to use a tractor or car on a route.

## Types of Right of Way

There are four types of right of way which have different access rights. Different coloured symbols are used to differentiate between the different types of highway.

### Footpaths

Footpaths represent 84% of the total public rights of way network

A footpath is a highway over which the public has a right of way on foot only. A footpath should be at least 1 metre wide across a field where crops are growing, and 1.5 metres wide where it passes around the edge of a field. Footpaths are marked by a yellow arrow with a white surround.



### Bridleways

Bridleways represent 12.3% of the total public rights of way network.

A bridleway is a highway over which the public has a right of way on foot, horseback and on all types of bicycle. There may also be a right to drive animals along a bridleway, and this will be made clear within the Definitive Statement. Bridleways are marked by a blue arrow with a white surround.



## Byways

Byways represent 3.8% of the total public rights of way network.

A byway Open to All Traffic (BOAT) is a highway over which the public is entitled to travel on foot, horseback or pedal cycle and by motorised vehicle of all kinds, including horse-drawn vehicles. Although legally open to all vehicles, a BOAT is used mainly by the public for walking or riding. Most byways do not have a sealed surface and may not be suitable for certain vehicles. Vehicles that use a byway must be taxed, insured and have passed their MOT check just as they would be on the road. Byways are marked by a red arrow with a white surround.



## Restricted Byway

Restricted Byways represent 0.01% of the total public rights of way network. A restricted byway allows right of way on foot, on horseback; leading a horse, riding a bicycle or using any other vehicle that is not mechanically propelled.

Restricted byways are marked by a purple arrow with a white surround.

## Common Land

This is not the same as a Public Right of Way. It is governed by different legislation and changes to common land and its usage can be very difficult.

Common land is in private ownership and the rights of access differ depending on the rights pertaining to that common, for example, grazing rights. The only general public rights to access is where it is on urban common or crossed by a public right of way. The Countryside and Rights of Way Act 2000 increased access to common land (known as access land) and extended rights in relation to common land. Details of all designated common land or village greens are held by Essex Legal Services.

## 2. Typical Problems

'Can we stop vehicles using the Right Of Way?'

'I can't use the ROW as there are bulls in the field'

'We want the surface upgraded'

'The ROW is blocked'

'The footpath is very overgrown'

'We want to make the Right Of Way accessible for pushchairs and wheelchairs'

## 3. Things to Consider

The request to the LHP will come from residents who want improved access or are concerned about the state of a particular right of way. Any new right of way will add to the overall asset which in turn will increase the pressure on the finance budget. Similarly, upgrading a surface will significantly increase the future maintenance burden.

Changes to the Right Of Way network will require agreement with the land owner and must follow the required legal process, which can be lengthy and expensive.

A metalled surface requires more expensive maintenance than an unmade surface. If the intention is to upgrade a surface of a Right Of Way consideration needs to be made to the future maintenance burden.

Essex County Council's statutory document the "Rights of Way Improvement Plan (RoWIP) 2009/2019" sets out the County's priorities for its rights of way network. This is currently being updated. The ROWIP has assisted in identifying important missing links and bringing about improvements to the rights of way network. The updated ROWIP will set out future challenges for rights of way and countryside access to 2030 in the form of updated statements of action.

When considering changes to the Public Rights of Way the Authority must maintain a balance between the differing needs of all legitimate users, especially on byways.

### Report a Problem

Where you receive complaints or concerns about a Right of Way this should be reported via the website [Report-a-highway-problem](#)

There is a dedicated PROW Enforcement Officer as well as dedicated PROW Maintenance Gangs and countywide volunteers who undertake work on the network however the maintenance work is prioritised to deliver an efficient service and maintain a usable network.

### Enforcement

The County's network of Public Rights of Way are protected in law, and all members of the public have a right to their use and enjoyment. Legislation places certain duties and responsibilities on farmers and landowners in respect of Public Rights of Way that cross land within their ownership and control.

It is illegal to obstruct a Public Right of Way. Landowners may apply to temporarily or permanently alter a PROW, or even remove a PROW, but they are not allowed to simply block or interfere with a route.

The PROW Enforcement Officer works with land owners and tenants to enforce the definitive PROW network. This may be simply sending a reminder to reinstate footpaths across fields or to maintain a structure owned by the landowner or tenant.

Illegally obstructing a route is a criminal offence. Essex County Council takes the issue of illegal obstruction seriously, and the [Public Rights of Way Concordat](#) outlines the council's policy and procedure.

## Maintenance

Vegetation cutting of the natural seasonal growth on our PROW network is undertaken between April and October. It can only be funded by the revenue budget.

Maintenance Teams have an established annual cutting programme, which allows for the most cost-effective programming of routine work. Not all paths are part of the schedule. The district maps on the website show the cutting schedule. These paths will be cut during June and July, if conditions permit. Volunteers deliver maintenance works under the Parish Paths Partnership Scheme undertaking locally important improvements on the network.



Where cutting is requested on a path not contained in the programme an assessment will be made on site as to whether it should be added to future programmes or cut on an ad hoc basis.

## Localism Schemes

- **Parish Councils** may enter into a service level agreement with ECC to maintain the vegetation on their priority routes. Any new applications should be made in December with a schedule of paths for which the Parish wishes to take responsibility.
- **Community Groups** can volunteer through the Parish Paths Partnership scheme to clear seasonal growth and undertake other maintenance tasks on the network. Groups identify paths that need attention and organise a work party to clear the vegetation. The volunteers are supported by our PROW Inspectors.
- **Landowners and Farmers** also cut paths on their land or land within their control under the headland management scheme.

## User Satisfaction

The PROW Team makes use of user satisfaction information to plan and prioritise its work. Residents should be encouraged to complete the survey which will help inform the council of the concerns.

## 4. Typical Measures

Examples of the types of schemes that the LHP budget can deliver are shown below.



The provision of some form of levelling and surfacing, commonly tarmac (blacktop), for urban footpaths and road planings capped with granite dust for byways or bridleways in more rural settings.

Kissing gates.....



Bridges may be required to link up separate rights of way. This may require the creation of a new section of right of way to join the two existing routes.



## 5. Scheme Investigation

Before allocating LHP money to a Public Right of Way scheme it should be checked against the PROW capital programme to identify if the scheme is already programmed. When investigating a scheme the following would need to be considered:



- Landowners and any existing private access rights.
- Landowner access approval (possibly seasonal around harvests) and vehicle access on both sides of the river/crossing is critical for bridges.
- Environmental approvals from Environment Agency (EA).
- Environmental considerations e.g. Sites of Special Scientific Interest (SSSI) or protected species habitats such as badger setts or otter holts.
- Implications of the Equality Act 2010.
- Other locally relevant considerations.

## 6. Costs and Timescales

The Essex County Council contract with Ringway Jacobs is a target cost contract and not a fixed price contract. This type of contract was chosen as the best type of contract to deliver savings and efficiencies and also to promote partnering between ECC and Ringway Jacobs.

An explanation of the process and indicative costs and timescales can be found in [Appendix 1](#)

## 7. Glossary of Terms

<b>AVL</b>	Automatic Vehicle Location (similar to RTPI)
<b>CMA</b>	Cabinet Member Action
<b>CMB</b>	Cabinet Member Briefing
<b>EA</b>	Environment Agency
<b>ECC</b>	Essex County Council
<b>EH</b>	Essex Highways
<b>LHP</b>	Local Highways Panel
<b>NEPP</b>	North Essex Parking Partnership
<b>PP</b>	Parking Partnership
<b>RTPI</b>	Real Time Passenger Information
<b>S106</b>	Section 106 (Money provided by a Developer to County Council to implement infrastructure as an obligation of the planning permission)
<b>S278</b>	Section 278 (Infrastructure required to be implemented by the Developer as an obligation of the planning permission)
<b>SERP</b>	Safer Essex Roads Partnership
<b>SID</b>	Speed Indicating Device
<b>SEPP</b>	South Essex Parking Partnership
<b>SLO</b>	Speed Limit Order
<b>SSSI</b>	Site of Special Scientific Interest
<b>TRO</b>	Traffic Regulation Order
<b>TSRGD</b>	Traffic Signs Regulations and General Directions
<b>VAS</b>	Vehicle Activated Sign