

Landowners and **Farmers** guide to **Public Rights of Way**



What are Public Rights of Way?

Public Rights of Way (PRoW) are part of the highway network and protected in law.

The recording of a path on the Definitive Map of Public Rights of Way for the County is conclusive evidence of the path's existence. However, not all paths are recorded on the map, as some are claimed and added through historic evidence and/or use.

There are 4 types of **Rights of Way**:



Footpath

Where the public have right of way **on foot only**



Bridleway

Where the public have a right of way on **foot, horseback or bicycle**



Restricted Byway

Where the public have a right of way on **foot, horseback, bicycle** and using a **vehicle** other than mechanically propelled vehicles eg, horse and carriage.



Byway

Where the public have a right of way on **foot, horseback, bicycle**, using a **motorised vehicle** or **driving a carriage**

Things to help you

If you have a Public Right of Way crossing your land, as the owner or occupier you have a legal duty to ensure that:

- **Public Rights of Way** are not obstructed
- **You do not** intimidate the users of the PRoW either verbally or by notices
- **A legal order** to stop or divert Public Rights of Way over your land is obtained before any alterations are made
- **You obtain** the consent of the highway authority before putting in structures such as gates on a Public Right of Way
- **Stiles and gates** are kept in good repair, are easy to use and licensed structures
- **Dairy bulls** over ten months of age are not kept in fields through which a Public Right of Way passes (the following are the recognised dairy breeds Ayrshire, Jersey, Dairy Shorthorn, Kerry, British Friesian, British Holstein and Guernsey) and bulls of other breeds are kept in fields with Public Rights of Way only if accompanied by cows or heifers
- **Essex County Council** are contacted before carrying out works that impact on PRoW (other than cutting)
- All agents/contractors working on your behalf understand these requirements.



Issues relating to **cropping** and **ploughing**

| Cross-Field Path | Footpath | Bridleway | Byway |
|---|---|------------------|--------------|
| What is the minimum width of a cross-field path? | 1m | 2m | 3m |
| Can I plough cross-field paths? | Yes – only if it is not reasonably convenient to avoid doing so, and is in accordance with the rules of good husbandry | | No |
| What do I do after I have ploughed, cultivated and drilled the crop? | Within 14 days of the first disturbance in a cropping cycle: you need to reinstate the path so that it has a firm and even surface that is easy to use, and that the path is the minimum width or wider. Thereafter, any disturbance should be reinstated within 24 hours. | | N/A |

| Field Edge/Headland Paths | Footpath | Bridleway | Byway |
|---|--|------------------|--------------|
| What is the minimum width of a field edge/headland path? | 1.5m | 3m | 3m |
| Can I plough a field edge path? | No | No | No |
| Should I do anything to a hedge? | You must ensure that the hedge next to a field edge path is kept cut back to prevent it from obstructing the path | | |

These widths only apply if a PRoW does not already have a legally recorded width on the definitive statement.

| Cropping | |
|--|---|
| Crops have started to grow on the path that crosses my field. What should I do? | You must ensure that the minimum legal width of the path is kept clear from growing crops to prevent them obstructing the line of the path. This will also help to stop people wandering away from the path and trespassing on other areas of your land. |

If you are unsure of the routes of Public Rights of Way on your land please contact **Essex County Council**, contact details can be found at the back of this leaflet.

Essex County Council's main **responsibilities**

Essex County Council's main **responsibilities** are to:

- **Ensure** Rights of Way are free from obstruction and can be used by the public
- **Keep** the surface of Rights of Way in good repair and manage natural surface growth
- **Signpost** Rights of Way where they leave a metalled road and waymark routes
- **Authorise** structures where appropriate
- **Keep** the Definitive Map and Statement up to date

If a complaint is received by the Council

The Council will make reasonable attempts to resolve problems without recourse to the courts, but will make full use of its legal powers including prosecution, interview under caution or warning, serving notice or taking action under common law as it considers appropriate in each case.

In the majority of instances our officers will resolve any problems by speaking with the landowner/occupier or complainant and no further action is necessary.

If you wish to find out more, you can read our Enforcement Concordat available at **www.essex.gov.uk/prow**

Domesticated animals and rights of way

Livestock

Apart from the recognised breeds of dairy bulls over ten months of age mentioned on page three, it is not an offence to keep livestock on land crossed by a public right of way. However, if you are aware that one or some of the animals have a tendency towards causing injury then you may be liable for damages should a person sustain an injury.

Dogs

The above also applies to dogs. Additionally, any animals, but most likely dogs, may constitute a public nuisance by acting in such a manner as to be a deterrent to the legal use of a right of way even if the owner of the animal is confident that no actual injury will be caused. To do so the animal must have access to the right of way and be threatening and intimidatory, eg snarling, barking, baring teeth and/or circling members of the public. In such cases the owner may be prosecuted, fined and ordered to keep the animals enclosed in future.

Guard dogs

By law, guard dogs should either be secured so they are not at liberty to go freely about the premises they are guarding or should be under the capable control of a handler. All sites using a guard dog should also clearly display a notice containing a warning of such at each entrance to the premises and at no time should they be loose on a public right of way. Failure to comply with the above may again result in prosecution and a fine.

How can I get involved with looking after the rights of way on my land?

The County Council run a scheme called the Headland Management Scheme. This allows farmers/landowners to enter into a contract with Essex County Council to be paid to cut the paths on their land. The contract also asks that all cross-field paths are re-instated and that as well as cutting the grass, all public rights of way are kept in good order. If you are interested in joining the scheme, please call **0845 603 7631** and ask to speak to the Community Action Team.

How do I find out where the paths are on my land?

You can view the Definitive Map at your local parish council, district or borough council offices or at County Hall, Chelmsford. If you wish to view the maps at County Hall, please call **0845 603 7631** to make an appointment in office hours. A visit to County Hall is worthwhile as the maps are kept up to date and our officers can give you professional advice.

Can I declare that the definitive public rights of way on my land are the only paths?

A landowner may at any time deposit a statement indicating that no additional public rights of way (other than any specifically indicated in the declaration) are on their land, this is under Section 31 (6) of the Highways Act 1980. To find out more about this process, contact Essex Legal Services on **01245 506 600**.



Gates, Stiles and other Structures

Why and where are they needed?

Gates, stiles and similar structures on paths are the means by which the public can cross fencing, hedges or walls. They are deemed to be an obstruction unless authorised as follows:

- Recorded on the **Definitive Map and Statement** - deemed to be a **limitation** to the public rights at the time the path was dedicated for public use and accepted by the public as such. These may come about through Modification, Creation or Diversion Orders.
- Erected to contain animals on land in use or being brought in to use for agriculture, forestry, and the breeding or keeping of horses. Consent is given to authorise these obstructions under **Highways Act 1980 S 147** for the purpose of preventing the ingress or egress of animals. This includes agricultural pest control considerations (eg rabbit fencing).

Gates and stiles belong to the farmer/owner of the land on which the structure is located.

Any gate or stile in situ and not authorised as above is an illegal obstruction no matter how accessible and when such a structure is brought to the attention of the highway authority, action will be taken to either secure its removal or, if appropriate, grant consent.

The law does not allow for the provision of gates and stiles in other circumstances, eg they are not allowed when a landowner or householder makes an application simply to secure their boundaries. In this situation, either a gap should be left in the boundary fencing or the farmer/owner may seek a diversion at their own expense.

If you want to install a structure on your land:

Please contact **Essex County Council**, contact details can be found at the back of this leaflet.

If you are granted permission to erect a structure across a PRow the following conditions apply:

- **You will** be responsible for installing and maintaining the structure to the specified standards
- **You must not** erect any other type of structure other than the one you have permission for
- **Gates on bridleways** must be easy to open and close both from horseback and on foot
- **If the conditions** that allowed the structure to be erected change, the structure must be removed ie cattle are no longer kept in the field
- **If any** of these conditions are not met then Essex County Council may require the structure to be removed.

Once you have received permission to erect a structure:

Essex County Council will supply you with a technical drawing setting out the specifications for the structure that you can construct yourself.

Once the structure is built and installed a PRow Officer will need to inspect and issue consent for the structure.

Further information

Our officers are always available to help you with any access concerns or queries that you have. Please visit www.essex.gov.uk/prow or speak to your local Public Rights of Way Officer on:

| | | |
|------------|----------------------|---|
| East Area | 0845 603 7620 | Colchester & Tendring |
| West Area | 0845 603 7621 | Brentwood, Epping Forest, Harlow and Uttlesford |
| Mid Area | 0845 603 7622 | Braintree, Chelmsford and Maldon |
| South Area | 0845 603 7623 | Basildon, Castlepoint and Rochford |

Useful contacts

FWAG – Farming and Wildlife Advisory Group

Registered Office: Stoneleigh Park, Kenilworth, Warwickshire CV8 2RX

Tel: **0247 669 6699** Fax: **0247 669 6760** Email: **info@fwag.org.uk**

The Farming and Wildlife Advisory Group assists the people who manage the countryside with environmental management expertise, so food produced in the UK, our countryside and the native wildlife as we know it can be improved and protected for our future generations to enjoy.

CLA – Country Land and Business Association

16 Belgrave Square, London SW1X 8PQ

Tel: **0207 235 0511** Fax: **0207 235 4696** Email: **mail@cla.org.uk**

The Country, Land and Business Association is the membership organisation for owners of land, property and businesses in rural England and Wales. They speak for everyone who believes in a living and working countryside. Through the experience and expertise of members and staff, they promote their members' interests and influence decision makers to ensure the positive development of the rural economy.

NFU Countryside -

Agriculture House, Stoneleigh Park, Stoneleigh, Warwickshire CV8 2TZ

Tel: **0247 685 8500** Fax: **0247 685 8501**

The NFU Countryside champions British farming and provides professional representation and services to its Farmer and Grower members.

This information is issued by

**Essex County Council, Environment, Sustainability and Highways,
Public Rights of Way Team**

You can contact us in the following ways:

By email:

prow.web@essex.gov.uk

Visit our website:

essex.gov.uk/prow

By telephone:

0845 603 7631

By post:

**Essex County Council, ESH Public Rights of Way
PO Box 11, County Hall, Chelmsford, Essex CM1 1QH**

Read our online magazine at **essex.gov.uk/ew**

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