

Carmarthenshire County Council

# A Landowner's Guide to Public Rights of Way

Roles and Responsibilities



## 1 | Introduction

Public Rights of Way (PRoW) are a part of the Public Highway Network and are protected in law.

Landowners and County Councils have a shared responsibility to maintain the PRoW network as open, accessible, and safe for public use.

The County Council also has a duty to assert and protect the public's right to use and enjoy the PRoW network.

### There are four types of Public Right of Way:

1. **Footpath** - where the public have a Right of Way on foot only, with a mobility aid where appropriate.
2. **Bridleway** - where the public have a Right of Way on foot, on a horse or bicycle.
3. **Restricted Byway** - where the public have a Right of Way on foot, on a horse or bicycle and in non-mechanically propelled vehicles e.g. a horse and carriage.
4. **Byway** - where the public have a Right of Way on foot, on a horse, a bicycle or in a vehicle both horse drawn and motorised including motor cycles.



The Definitive Map and Statement is conclusive evidence of the existence of Public Rights of Way. These documents are held at the Countryside Access Offices and are available to view by appointment. Email [prow@carmarthenshire.gov.uk](mailto:prow@carmarthenshire.gov.uk)

A digital map of Carmarthenshire's PRow network is available on our website, <https://prow-carms.esdm.co.uk>

Dogs (under close control), pushchairs and prams are permitted on all types of PRow, they are classed as usual accompaniments to a lawful PRow user.



## 2 | Landowners' Principal Responsibilities

Landowners can expect that visitors on their land will treat it with respect and follow the Countryside Code. (<https://naturalresources.wales/days-out/thecountryside-codes/?lang=en>).

There are expectations on the landowner as well.

If you have a Public Right of Way crossing your land, as an owner or tenant you have a legal duty to ensure that they are accessible to the public.

### This means:

- **free from obstruction** such as locked gates, hedges, electric fencing, overhanging trees, crops (other than grass) or intimidating behaviour that prevent the public from gaining access to public rights of way.
- **free from misleading or intimidating signs** that might deter the public.
- **well managed path furniture** such as stiles and gates that are appropriate for the type of PRow, easy and safe to use, and properly maintained.
- **no dairy bulls over ten months** of age kept on land crossed by a PRow (recognised dairy breeds include: Ayrshire, Jersey, Dairy Shorthorn, Kerry, British Friesian, British Holstein, and Guernsey)\*
- **lawful bull breeds only** kept on land crossed by a PRow if accompanied by cows or heifers\*
- **free from any dangerous or aggressive animals** that might deter the public and/or pose a danger.

Clearly waymarked, well-maintained PRoWs will prevent the public from getting lost, ensuring they keep to the correct route and away from areas not managed for public access.

\*HSE Guidance in respect of the safe management of livestock and public access can be found here Cattle and public access in England and Wales

<https://www.hse.gov.uk/pubns/ais17ew.pdf>.



### 3 | Frequently asked questions

#### **Who is responsible for Stiles and Gates on Public Rights of Way?**

Countryside furniture (eg. Gates and stiles) are sometimes needed by landowners for the purposes of farm management and stock control. These structures are the responsibility of and owned by the landowner/occupier.

New gates and stiles should conform to British Standard designs – further information on the current British Standard for stiles and gates can be provided by the Countryside Access team, email [prow@carmarthenshire.gov.uk](mailto:prow@carmarthenshire.gov.uk)

The County Council's Public Rights of Way Furniture Charging Policy outlines the level of assistance landowners can expect for PRow furniture on their land. Landowners can claim 25% towards the cost of maintaining PRow furniture, this can be increased at the discretion of the Council. It is advisable to contact the Council to discuss any contribution towards PRow furniture prior to incurring costs.

Local Authority consent is required before putting in any new structure such as a gate or stile across a PRow. Permission for new path furniture can only be granted under certain circumstances, please contact the Countryside Access team for further information.

Landowners are liable for any injury caused by dilapidated, inappropriate, missing or poorly maintained countryside furniture on the PRow network.

### 3 | Frequently asked questions

#### **Who is responsible for Bridges on Public Rights of Way?**

Bridge structures solely for the purpose of access along a PRow are the County Council's responsibility.

If a bridge serves both public and private access, then responsibility is shared between the County Council and the private user(s).

In these cases, the County Council will work with the landowners/occupiers who lawfully access the bridge in a private capacity and will make a proportionate contribution to maintenance to ensure the structure is fit for purpose.



## **What fencing is permitted near a Public Right of Way?**

Landowners/occupiers must ensure that fences do not obstruct or encroach on the width of a PRow (see width of PRow below).

Barbed wire is a hazard to PRow users and is not acceptable on or near PRows where it is likely to cause injury. Barbed wire should never be fixed on the PRow side of adjacent fencing or around posts which form part of a stile or gate. Landowners/occupiers are liable for any damage/injury caused by barbed wire inappropriately erected on or near a PRow.

Electric fencing, whether or not it is electrified, is subject to the same rules as other fencing, it should not encroach on the width of a PRow and should not be erected across a PRow without authorisation from the local Authority. Where consent is granted, a suitable gate should be installed and insulated for public safety. Clear warning signs should be displayed at regular intervals indicating a fence near a PRow is electrified.

Where an existing fence is obstructing a PRow or a new fence is needed that will cross a PRow, public access must be safeguarded.

A British Standard compliant structure should be installed in the fence line can adequately maintain public access however authorisation from the local Authority is required (see Gates, Stiles and Other Structures).



## **How wide is a Public Right of Way?**

There is no common width that applies to all PRowS unless it is recorded in the Definitive Statement, each route needs to be considered individually.

There is a presumption that the width of a PRow which follows a defined path or lane extends to the full historical width, from boundary to boundary or, in the absence of boundaries, to the width measured at scale on historical mapping.

Where width cannot be defined by either method above or by any other means, we aim to maintain at least these widths along all PRowS in Carmarthenshire.

### **Cross field PRow:**

**Footpath 1m.      Bridleway 2m.      Byway 3m.**

### **Field Edge PRow.**

**Footpath 1.5m.      Bridleway 3m.      Byway 3m.**

If a landowner/occupier wishes to fence a PRow from surrounding land, we request the allocation of an additional 0.5m width. The additional width allowance means that encroaching vegetation does not have to be closely and regularly managed year-round for the path to remain accessible.

### 3 | Frequently asked questions

#### **Who should maintain the surface of a Public Right of Way?**

Public rights of way are normally over private land however the path surface is 'vested' with the County Council. This means that the County Council will usually be responsible for maintaining the surface of PRowS in a suitable condition for their public status.

Exceptions to this are where the route of the PRow is also a private access, such as the access road to a house or farm. In these cases, the County Council will work with landowners/easement holders and make a proportionate contribution to maintenance to ensure the surface is fit for purpose.

It is an offence to disturb the surface of a PRow, other than ploughing without authorisation from the Authority, see (Can I plough and grow crops across a Public Rights of Way). Any proposed works to the surface of a Public Right of Way should be done with the agreement of the local Authority as the surface is legally vested with us.

If you need to carry out work that involves disturbing or resurfacing a PRow, the landowner, or contractor on their behalf, should contact us to outline the proposals so that we can approve the type and specification prior to the commencement of works. A discussion in advance also allows us to deal with any temporary closure requirements whilst works are ongoing, please contact [prow@carmarthenshire.gov.uk](mailto:prow@carmarthenshire.gov.uk)

### 3 | Frequently asked questions

#### **Who should maintain hedgerows?**

The landowner/occupier should cut back all vegetation encroaching onto adjacent PRowS.

Regular maintenance to ensure that encroaching vegetation, overhanging or fallen trees, bramble or scrub do not obstruct or encroach on the width of a PRow (see width of PRow).

#### **Can I plough and grow crops across a Public Rights of Way?**

If it is not reasonably convenient to avoid ploughing or cropping a Public Right of Way crossing a field then the Public Right of Way has to be reinstated within 14 days, with a firm and even surface. Thereafter any further disturbance should be reinstated within 24 hours.

A Public Right of Way should be kept clear of growing crops to prevent the line of the Right of Way becoming obstructed.

#### **Can I change the Route of a Public Right of Way?**

In the event a landowner/occupier wishes to alter the alignment of a PRow to better suit their circumstances they may apply to the local Authority for a Public Path Diversion Order.

No PRow may be moved without a legal Order. Please contact the Countryside Access team (or visit our website) for further information and the necessary forms. Email [prow@carmarthenshire.gov.uk](mailto:prow@carmarthenshire.gov.uk)

## **Can I remove a Public Right of Way from my land?**

A right of way can be extinguished if it can be proved that it is not needed for use by the public and that it is appropriate to close it.

This is very difficult to prove, and extinguishment orders are made very infrequently. If you are considering applying for an order the first step is to contact the Countryside Access team. Email [prow@carmarthenshire.gov.uk](mailto:prow@carmarthenshire.gov.uk).

## **Can I challenge the accuracy of the Definitive Map and Statement?**

The appearance of a path or way on the Definitive Map and Statement is conclusive proof of its existence in law, however the map and statement are subject to continuous review to ensure the legal record remains accurate.

If a landowner/occupier believes that they have sufficient evidence to support making a change to the legal record by either adding, removing or altering a recorded public right of way across their property they can make a Definitive Map Modification Order (DMMO) application.

DMMO applications involve completing a number of forms and there are a numerous steps, some with set durations, that must be completed by the Local Authority before the application can be determined. The Council must be satisfied that the relevant legal tests under the Wildlife and Countryside Act (1981) have been met before a DMMO can be made and confirmed.

No change may be made to the Definitive Map and Statement without a legal Order. Please contact the Countryside Access team (or visit our website) for further information and the necessary forms.

## **Can I protect my land from the addition of more Public Rights of Way?**

Regular use by the public of an informal path may result in it being recognised as an official Public Right of Way.

To prevent this, you need to show that, at the relevant time, you did not intend that the path should become a Public Right of Way.

In these circumstances, any apparent action that makes members of the public aware that you do not intend to dedicate an official Public Right of Way can protect land from the addition of further PRowS.

Actions such as making a section 31(6) deposit under the Highways Act (1980) or erecting and maintaining signage indicating that an informal path is not a public right of way would both be effective ways of demonstrating a lack of intention to dedicate an additional PRow.

All agents/contractors working on behalf of the landowner or tenant must understand these legal responsibilities.

Where landowner obligations are not being upheld the Council will make all reasonable attempts to resolve any problems without recourse to the courts or other appropriate legal action but will, where necessary, make full use of its legal powers.

### 3 | Further information

Further information on Public Rights of way can be found on Carmarthenshire County Councils website Public Rights of Way (gov.wales)

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If you are unable to access the website or the information you need is not available, you can contact the County Councils Access Officers by email at [prow@carmarthenshire.gov.uk](mailto:prow@carmarthenshire.gov.uk)

If you wish to contact the Council to report a maintenance issue on a PRow which we are responsible for please report it online at <https://prow-carms.esdm.co.uk>, email us at [prowmaintenance@carmarthenshire.gov.uk](mailto:prowmaintenance@carmarthenshire.gov.uk) or call 01267 234567

#### Welsh Government Guidance

Public rights of way | GOV.WALES  
<https://gov.wales/public-rights-way-guide>

#### Natural Resources Wales

Public Rights of Way in Wales  
<https://naturalresources.wales/days-out/recreation-and-access-policy-advice-and-guidance/managing-access/public-rights-of-way/?lang=en>

## **Natural Resources Wales Managing Access Guidance**

Natural Resources Wales / Definitive Map and Statement  
<https://naturalresources.wales/days-out/recreation-and-access-policy-advice-and-guidance/managing-access/definitive-map-and-statement/?lang=en>

## **Ramblers Association Advice**

Rights of way law - Ramblers  
<https://www.ramblers.org.uk/advice/paths-in-england-and-wales/rights-of-way-law.aspx>

