

Rights of way law

Quick guide

As a rights of way volunteer, you'll often be dealing with issues around rights of way law. This guide covers the basics you'll need to get started. It explains who's responsible for recording rights of way, and the ways they can be created, diverted or removed.



This guide assumes you already know the basics about what rights of way are and how you can use them.

For more information, check out **Walking on rights of way - Quick guide** on Assemble.

Also see **Problems with rights of way maintenance - Quick guide** for advice on problems with blocked/unsafe paths.

Who's responsible for rights of way?

When looking at rights of way issues, you'll often hear people talking about the **highway authority**.

Depending on what type of council structure is in your area, the highway authority will either be the **unitary authority** or the **county council**.

How are rights of way recorded?

Rights of way have special legal protection which other paths may not have, so it's important to understand whether the path you're dealing with is a right of way.

The **definitive map** and **definitive statement** maintained by local authorities (but not inner London boroughs) is the official record of rights

of way. Most local authorities now have an **online version** of their definitive map (just search for "[your local authority] definitive map"), but if you want to look at the paper version you can book an appointment at their offices. Sometimes local libraries also have copies.

Rights of way are **numbered** on the definitive map, which can be useful for referring to them in planning or legal cases.



Ordnance Survey maps use information about rights of way from the definitive map, but they aren't legal proof of a right of way.

Path widths

A path is more than just a line on a map – the public need to be able to use it! Unfortunately, path widths are often not well recorded on the definitive statement, and this can occasionally cause problems.

- The width of a path is not usually formally defined, and is often simply the width the path has **normally been in the past**.
- Some **orders** and **agreements** (for example a diversion order) can formally define a path width, and this may be recorded on the definitive statement.
- The **legal width** of the right of way can be wider (or sometimes narrower) than the physical path on the ground.



If you're not sure if a path is too narrow, a good rule of thumb is: "a path should be wide enough for two people to pass".



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Not all paths are public rights of way

Although most paths used by walkers will be recorded as rights of way on the definitive map, there are some exceptions – usually because public access has been provided some other way. Examples include:

- Canal or river **towpaths**
- Off-road **cycle paths** with pedestrian access
- Paths across **National Trust, Forestry Commission** or **Access Land**
- Paths crossing **public parks, commons** or **open spaces**.
- **Permissive** routes (paths where access is provided by permission of the landowner).

For these paths, it's especially important to check whether they are rights of way when dealing with any issues.

What happens if someone wants to change a right of way?

Rights of way come with special legal protection that other paths don't have. This means that if someone wants to permanently close or divert them, they must follow a fixed procedure and there's a chance for the Ramblers to object.

We're a **statutory consultee**, which means the local authority must inform us every time they propose a change.



If you need to object to an order on behalf of the Ramblers, check out **Responding to path orders - How to guide** on Assemble.

New rights of way

These can be created in the following ways:

- If the landowner formally 'dedicates' a path for public use (this is rare).
- More commonly, if a path has been **used by the public for 20 years** without

interference from the landowner, or if there's documentary evidence that it's been used as a right of way, it can be presumed to be 'dedicated'.

- By **agreement** between the landowner and the highway authority.
- By **compulsory order**, subject to confirmation by the Secretary of State for Environment, Food and Rural Affairs, or by the National Assembly for Wales.

Closing or diverting rights of way

Only the **local authority** or central government may close or divert a right of way, and only if certain criteria apply:

- A path can be closed if it's **no longer needed** for public use.
- It can be **diverted** as long as the new route isn't less **convenient** or **enjoyable** for the public than the existing route.
- Path closures and diversions (temporary or permanent) are also allowed so that **development** can happen when planning permission has been granted.

For both closures and diversions:

- A **notice** of the proposed change must be placed at both ends of the path and published in a local paper.
- **28 days' notice** must be given, and any **objections** raised during this time must be heard by an inspector from the **planning inspectorate**.
- This may be at a public inquiry, a more informal hearing, or in writing if the objectors agree.

More information

The Ramblers and Open Spaces Society have published a definitive guide to rights of way in England and Wales – the **Blue Book**. (The full title is *Rights of Way: A Guide to Law and Practice*).

Extra information referenced in the blue book and updates on changes to the law are available online at

ramblers.org.uk/rightsofwaybook/.