

# Rights of Way - Frequently asked questions

## 1. What are Public Rights of Way?

Definitions:

All public rights of way are highways in law, a defined route over which the public have a right to pass and repass. In Flintshire there are 1056.2 km of public rights of way.

Public footpath (963.645km): a highway over which there is a right of way on foot only. These generally do not include the footway alongside a public road.

Public bridleway (109.046km): a highway over which there is a right of way on foot, on horseback or to lead a horse with or without the right to drive animals of any description along the highway. Bicyclists also have the right to use public bridleways, but they must give way to pedestrians and horse-riders. It is a criminal offence to drive a mechanically propelled vehicle on public footpaths and public bridleways unless: you are the landowner; you have the express consent of the landowner; or you have a private vehicular right of way that runs along the route.

Byway open to all traffic (BOATs) (11.917km): a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used. If you use a motorised vehicle on a byway, open to all traffic you must ensure that it is licensed and fit for use on public roads. As the driver, you must be licensed and insured.

## 2. What is the definitive map? / Where can I see the Definitive Map?

The definitive map and statement is the official record of rights of way. It provides conclusive legal evidence of every right of way that is recorded on it.

The 'working copy' contains all the handwritten amendments, incorporating all the legal changes, since the 'relevant date' of the map (31 October 1978). The definitive map is normally available for inspection between 9am and 5pm Monday to Friday at Entrance 3, County Hall, Mold, CH7 6NF. If you make an appointment we can ensure someone will be

#### 4. What do I do if someone tries to deter me from using a right of way, threatens, or intimidates me while I am using or attempting to use one?

You should contact the police. They have powers to deal with these problems. The County Council receives regular requests to extinguish (permanently close) public footpaths and bridleways where there have been problems of anti-social behaviour. We nearly always have to turn them down, because the legal tests for extinguishment orders cannot be met. Please see above.

#### 5. How do I move a public right of way on my land?

The only way this may be done lawfully is through a public path diversion order. There are a number of conditions that have to be met before an order can be made and there is an elaborate consultation process. The existing route must be kept open and available until any diversion order is brought into force. Orders cost approximately £5000 to process and there is no guarantee of success. For this reason, we would encourage anyone who wishes to apply for a diversion to think very seriously before they do so. Applicants may have to reconsider their proposals if there are any valid objections and they could still be charged some or all of the costs incurred. In many cases the best, if not the only, option is to leave the path where it is. If you would like further information, please contact the Rights of Way section.

#### 6. Can I apply to close a public right of way?

Permanent closures are known as Extinguishment Orders. Unless an alternative path is provided as a replacement for the path being extinguished, such orders can be highly contentious. We would therefore only consider applications for extinguishments in exceptional circumstances, where there was no other practical option. For instance, some housing estates have been built over public footpaths and bridleways, which have never been formally closed. Although the paths may have not been in use for many years, they do not cease to exist legally. The County Council has successfully extinguished paths in such circumstances. Further details may be obtained for the Rights of Way Section.

#### 7. Who do I need to contact if I wish to install a stile or gate across a public right of way on my land?

You should contact the Rights of Way Section to see if they can authorise it. There are strict conditions for authorising stiles and gates. The County Council not only has to be sure that the stile/gate will be on agricultural land and is needed to prevent the movement of animals, it also has to consider the needs of people with mobility problems. For this reason, the County Council will be more likely to authorise a gate rather than a stile,

extinguishment may be avoided. The outcome of any order is always uncertain and it may mean that permission has been granted but it cannot be implemented. A temporary closure may be required while works take place. Please contact the Rights of Way Section if you think you may need one.

## 9. Who has the responsibility of maintaining Public Rights of Way?

The duty for keeping public rights of way open and available for the public to use is divided between the county council, as highway authority, and the landowner/occupier of the land. Some examples of those rights and responsibilities are listed below.

Flintshire County Council is responsible for:

- x asserting and protecting the public's right to use and enjoy any public right of way;
- x securing the removal of obstructions (through the courts if necessary) on public rights of way;
- x signposting footpaths, bridleways and byways open to all traffic where they leave a metalled road and providing additional waymarking along the way if necessary;
- x

