

# WALKERS ARE WELCOME TOWNS NETWORK

Towns and villages with something special to offer walkers



## Fact Sheet – Re-opening and Claiming Paths

### Introduction

Public paths are highways in law and we have the right to use and enjoy them, regardless of whether they are shown on the definitive map of rights of way which is held by the highway authority (county or unitary council) and regardless of whether they are obstructed. This fact sheet gives tips on how to reopen and claim paths.

### Why a path may be closed

A path may be unavailable for a number of reasons. It may be

- obstructed temporarily
- obstructed for a considerable time and thus falling out of use
- omitted from the definitive map but with evidence of highway status, which is documentary evidence and/or evidence of 20 years' use.

### Definitive paths

Check first with your highway authority whether the path is on the definitive map. (Many rights of way authority have their definitive map sections on line on layer maps for ease of use.) If so, you need to report the obstruction. The council has a legal duty under section 130 of the Highways Act 1980 to deal with obstructions. You might also inform your parish or community council which has a power, under section 130(6) of the Highways Act 1980, to require the highway authority to act.

### Non-definitive paths

If the path is not shown on the definitive map, you may need to claim it as a public highway before the council will act since, with present funding cuts, councils are likely, more than ever, to focus on definitive paths.

You need to produce documentary evidence that the path is a public highway, and/or evidence of use dating back 20 years from the time it was obstructed. Such use must have been without challenge or permission.

You can find books and leaflets to help with this, at

- Open Spaces Society <http://www.oss.org.uk/wp-content/uploads/2009/02/A6-Claiming-a-public-path2.pdf>
- Rights of way, restoring the record <http://www.restoringtherecord.org.uk>
- Ramblers [www.ramblers.org.uk](http://www.ramblers.org.uk)

You will need to ensure you submit your claim before 2026, the date on which the definitive map is set to be closed to new claims for routes not currently in public use.

### Dedication

It may be worth asking the landowner if he will dedicate a permissive path as a registered public right of way which will protect its legal status for ever and save you having to go through the claim process. Ideally, the council would take over the maintenance of the path.

**Our thanks go to St Dogmaels for sharing their experience.**

### **Protecting Your Public Paths Network by Registration**

The village of St Dogmaels in Pembrokeshire, West Wales, has a reputation for caring for, protecting and registering its paths. Twenty years ago one resident put gates across Water Street, historically said to be the route the monks used to get to the river but used daily by residents to reach the village green. This path was not registered as a public right of way with the council, but someone obstructing it caused outrage. One resident uprooted these gates and deposited them outside the county council offices. Many residents completed evidence forms in order to show they had for decades used the path as of right (i.e. no permission asked/given) to show it was a public path. An inquiry was held where many people gave evidence and eventually the path was registered as public right of way PP87/55. Thus it is now recognised as a highway. The legal maxim is 'Once a highway, always a highway' and the route is protected.

### **Extending and protecting the local path network**

Eight years ago members of our local footpath association suggested that I, as secretary stood for the local community council (parish council in England) so when planning applications were made any issues relating to public rights of way (PROW) could be immediately raised and the community council could notify the county council.

One of my first experiences of the planning process related to an architect's drawing. When one scaled from the drawing on site it showed the planned extension completely obstructed a path used for generations. On site other obstructions e.g. shed and newly planted trees were also apparent. Neighbours told me that a previous occupant some 50 years ago had obstructed this same path and the community council responded by meeting the owner and requiring him to reinstate the path to its original width. I checked in the historic community council minutes and was impressed to find how clearly words and actions were recorded.

I became hooked on the old minutes and found minutes recording the community council's attempts to register five other paths as PROWs in the 1960s and 1990s. All this evidence was apparently lost with county boundary changes and office moves. Fifty years on, these paths are still under threat by encroaching development. We have provided new evidence for these paths to be registered so they can be added to the definitive map before the shut-off date of 2026.

The Community Council minutes gave vital clues to be used as evidence for these being public paths. For one path, meetings with an electricity company were documented on the best site for lighting to ensure public safety. In our evidence we were able to provide a photo of the bracket for the light which is still in situ on a house. On another path, neighbours had banded together to oppose the construction of a garage across a path. Excellent evidence was provided by a local builder who still had his ledger entries showing payment for construction and then the demolition of the same garage.

On yet another path, local residents asked why their path was not maintained like all the other paths nearby. I explained that the other paths were registered as PROWs by the county council and this gave the paths extra protection and an obligation for the county council to ensure maintenance of the path. I explained we needed a minimum of six (there is no fixed minimum, and quality is more important than quantity) and preferably twenty people to complete witness evidence forms to show the path had been used as of right continuously for twenty years or more. The response was overwhelming. 'We've walked it every day since 1925' and more than thirty people wanted to complete forms.

We have been through the process of trying to register five paths. The Open Spaces Society provided invaluable information and Pembrokeshire County Council has been very helpful, providing the relevant forms (English and Welsh), copies of old maps from the 1800s onwards

where appropriate, identifying one track as an old road that had never been officially closed, so under the rule 'Once a Highway always a Highway' it was still a PROW (this sorted out one unpleasant character who claimed the land and threatened users of the path).

In contrast my brother who is trying to register paths as PROW finds the Countryside Officers of his council (in England) obstructive and ignorant of the law. The local walking organisation's representative did not have adequate knowledge of the issues, while the Department for Environment, Food and Rural Affairs (Defra) and Natural England pointed him in the direction of an off-road driving group who were very knowledgeable. In other words, the government effectively admitted the expertise nowadays rests entirely in the voluntary sector! Best help was from the clear and concise wording on the Institute of Public Rights of Way and Access Management (IPROW) website which says what rights-of-way professionals are supposed to do and from the Oxford Fieldpaths Association – a tiny group of dedicated and expert amateurs.

Gathering the evidence is sometimes entertaining, such as the time when someone screamed at me to get off their land. I expressed puzzlement saying I had been asked by residents to protect this path and had got copies of all landowners' title plans and title register from Land Registry. According to Land Registry I was definitely not on their land - was Land Registry in error? Said person disappeared.

In contrast, another landowner when I tentatively asked about their feelings on registering a track partly on their land said "It's about time. It is the only vehicle access to the houses - if it is not protected from incomers extending their houses how is a fire engine going to get down there next time. Give me forms, I'll get them sorted."

Many people find the forms difficult to complete and do not see the point of the seemingly repetitious questions. Many are unfamiliar with maps and the need for accuracy, a signature and date on the map. I have found it easier and quicker in the long run to sit with each person individually and check their understanding is recorded adequately, highlight the route and mark it 'A' and 'B' at each end. I also add a box for signature and the date onto the map to assist adequate completion.

It is always wise to approach the landowners. They may be helpful and offer to dedicate the path as a PROW which saves everyone time, energy and cost. Our county council is using this approach on one path, but we have 23 witness evidence forms as backup. One landowner took such offence that he was not approached directly about registering a track as a PROW that he went out of his way to prevent its registration and people were pressured to withdrawing their witness evidence forms and felt intimidated. I met him years later, he told me that if he had been asked he would have dedicated the path as a PROW 'but he would not even give that woman (me) the drippings off the end of his nose now'

Our county council in Pembrokeshire, has put a huge effort into our local PROWs. Each year our footpath association submits a list of paths to be registered, PROWs to be re-opened or paths to be re-aligned along their definitive route where a dangerous/inconvenient/unconsidered illegal detour has been created by a landowner. I am heartened by progress.

Sometimes if land is being administered by a solicitor this may be an appropriate time to re-open a path as a solicitor cannot support an illegal obstruction. I also inform Estate Agents where they fail to show a correct path or PROW information in sale particulars and I ask the county council to write to the estate agent. Copies of such correspondence are invaluable if there is an eventual need for a site meeting with new landowners.

The time for consultation on planning applications is getting shorter and most details are only

available on-line - often with key documents missing. Being a councillor gives me the opportunity to try and prevent illegal obstructions of paths and PROWs, or works that could destabilize paths, create hazards or do not comply with appropriate guidance e.g. that provided by the British Horse Society. It can feel uncomfortable objecting to planning applications but I focus on 'the primary purpose of a footpath is the welfare of walkers and the primary purpose of bridleways is the horse and rider' and planning applications must accommodate these needs fully.

I worry that the time taken to register paths is so long that witnesses may not survive the process to attend an inspector's inquiry. It may be appropriate for witnesses to make statutory declarations which would give greater weight to their evidence in an enquiry. From experience, I also now make multiple copies of documentation/submissions in case papers are lost in the registering process.

### **Improving a section of the Pembrokeshire Coast National Trail and creating a Day Circular Route:**

The creation of a day walk encompassing the Teifi estuary, Poppit Sands, Cemaes headland, Pembrokeshire Coast Path cliff walking together with a short cross country return from Moylegrove to St Dogmaels would bring an economic benefit to both villages. Two sections along the route have challenges that require surmounting to create this wonderful day circular walk.

The first section, between Moylegrove and St Dogmaels requires re-establishment of PROWs washed away in floods 20 years ago. St Dogmaels Footpath Association has arranged a site meeting with the Chairman of the Pembrokeshire Coast National Park and the appropriate National Park officer to highlight the problems and the steps needed to reinstate this footpath connection.

The second section, from St Dogmaels to Poppit Sands, is part of the Pembrokeshire Coast Path/Wales Coast Path. Feedback from many walkers is that the on-road walking from St Dogmaels to Poppit Sands beach is really unpleasant. The road is narrow and in places dark, overhung with trees with poor lines of sight for both pedestrian and vehicular use of the road.

Local families walking with pushchairs on the road to the beach, and children cycling between the village/school and the beach find this section of narrow road intimidating. Parents in the village have suggested a campaign to have an off-road route created that is safe for families walking and children cycling.

To achieve this, the footpath association, community council and county councillor are jointly campaigning with village parents. We are linking our campaign to the national policy guidance of the Welsh Government on 'Safe Routes in Communities' and the 'Walking and Cycling Action Plan 2009-2013'. The campaign has organised an electronic petition and numerous beach cleaning events/activities and met with the local Welsh Assembly member to gain support and publicity for the campaign. St Dogmaels Footpath Association is progressing well with a national radio/TV programme to walk with us and give publicity to the campaign – watch this space.

*While the WAWTN has made every effort to ensure the information obtained in this factsheet is an accurate summary of the subject as at the date of publication, it is unable to accept liability for any misinterpretation of the law or any other error or omission in the advice in this paper.*

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