

# RIGHTS OF WAY REVIEW COMMITTEE PRACTICE GUIDANCE NOTES

---

## PRACTICE GUIDANCE NOTE 1 CONSULTATION ON CHANGES TO PUBLIC RIGHTS OF WAY AND DEFINITIVE MAPS

*Fourth edition, December 2007*

### FOREWORD

*The Rights of Way Review Committee is a non-statutory committee which reviews matters relating to public rights of way in England and Wales with the aim of agreeing, by consensus, proposals for action. It brings together a wide range of organisations. The Chairman is John Grogan MP. The Countryside Council for Wales and Natural England provide Vice-Chairmen.*

*The following bodies are represented on the Rights of Way Review Committee : Association of National Park Authorities, British Driving Society, British Horse Society, Byways and Bridleways Trust, Central Council of Physical Recreation, County Surveyors' Society, Country Land and Business Association, Countryside Council for Wales, Cyclists Touring Club, Disabled Ramblers, Institute of Public Rights of Way Management, Land Access and Recreation Association, Local Government Association, National Association of Local Councils, National Farmers Union, National Federation of Bridleway Associations, Natural England, Open Spaces Society, Ramblers' Association, Riding for the Disabled Association, Welsh Local Government Association. Observer status : Department for Culture, Media and Sport, Department for Environment, Food and Rural Affairs, National Assembly for Wales, Department for Transport.*

*The purpose of these Practice Guidance Notes is to offer practical advice on aspects of rights of way legislation and to recommend working practices that will enhance the overall protection and good management of the rights of way network. They are advisory, derived from extensive discussions between the principal interest groups, and represent a consensus that has been endorsed by the Rights of Way Review Committee. We hope that they will be welcomed by everyone concerned with the practical management of rights of way and be a valuable aid in that important work.*

*Notes in the series are :*

- PGN1 : Consultation on changes to public rights of way and definitive maps*
- PGN2 : Deemed dedication of public rights of way : section 31(6) of the Highways Act 1980*
- PGN3 : Minimising representations and objections to definitive map modification orders*
- PGN4 : Securing agreement to public path orders*
- PGN5 : Investigating the existence and status of public rights of way*
- PGN6 : Planning and public rights of way*

*If you have any comments about these notes please write to the Secretary, Rights of Way Review Committee, 15 Lansdown Park, Bath BA1 5TG; or [suetoland@hotmail.com](mailto:suetoland@hotmail.com).*

## **CONSULTATION ON CHANGES TO PUBLIC RIGHTS OF WAY AND DEFINITIVE MAPS**

### **I. Introduction**

1. Most authorities with powers to make orders affecting public rights of way agree that the time, cost and possible conflict involved in processing such orders can be reduced if informal consultation is carried out with interested parties prior to the orders being made. The Rights of Way Review Committee has therefore prepared the following code of practice. The code is advisory. Failure to comply with the code will not invalidate any subsequent order, nor does compliance with the code discharge order-making authorities from fulfilling the statutory order-making requirements.

### **II. Application of the code**

2. The code applies to proposals affecting public rights of way made by local authorities (county and district councils, unitary authorities, London borough councils, and National Park authorities) for :

- a. side roads orders made under section 14 or 18 of the Highways Act 1980.
- b. creation, diversion or extinguishments orders made under sections 26, 118, 118A, 118B, 119, 119A, 119B and 119D of the Highways Act 1980.
- c. definitive map modification orders made following an event under section 53(3)(b) or (c) of the Wildlife and Countryside Act 1981.
- d. definitive map modification orders made under section 54 of the Wildlife and Countryside Act 1981.
- e. extinguishment orders made under section 32 of the Acquisition of Land Act 1981, section 294 of the Housing Act 1985 or section 258 of the Town and Country Planning Act 1990.
- f. orders made under section 257 of the Town and Country Planning Act 1990.
- g. traffic regulation orders made under section 1 of the Road Traffic Regulation Act 1984 to restrict or regulate use of footpaths, bridleways or unsurfaced carriageways.
- h. Gating orders made under sections 129A-G of the Highways Act 1980.

The code also applies to :

- i. creation agreements made under section 25 of the Highways Act 1980, especially where these are part of a package involving diversion or extinguishment orders.
- j. applications by local authorities to magistrates' courts under section 116 of the Highways Act 1980 for the diversion or stopping up of a public right of way.

### **III. Rights of way affected by planning permission for development**

3. Under section 257 of the Town and Country Planning Act 1990, an order can be made to divert or extinguish a public footpath, bridleway or restricted byway to enable development

to be carried out in accordance with planning permission. In view of the need to process planning applications quickly and within strictly defined time limits, local authorities should follow the advice in PGN6 when there is not enough time to apply this code.

#### **IV. Consultees**

4. The organisations to be consulted will vary, both between and within authorities. Authorities should compile a list of consultees for each local authority district and keep this list up to date by checking it annually - by sending it to the organisations listed on it. Organisations to be included on this list include :

- a. Local access forums.
  - b. Other local authorities, including parish or community councils, chairmen of parish meetings and National Park authorities.
  - c. Statutory undertakers.
  - d. Prescribed organisations (see Annex).
  - e. Local organisations. Those local bodies which appear to the authority to have an interest in public rights of way in the district concerned.
  - f. The Countryside Council for Wales and Natural England. These bodies must be consulted before an order is made under sections 118, 118A, 118B, 119, 119A, 119B and 119D of Highways Act 1980 with respect to any part of a footpath, bridleway or restricted byway in a National Park.
5. The owner and occupier of any land affected by a proposal should be consulted unless the proposal has originated from him or he is otherwise given notice of the proposal. Authorities should bear in mind that a proposal may have a wider effect on owners and occupiers than those whose land is directly affected and so they should consult accordingly.
6. As authorities may not be aware of all the organisations in their area with an interest in rights of way, they should advertise in local newspapers at intervals of, say, four years, to explain that a list of consultees exists and to invite applications for inclusion on the list from organisations with an interest. This should not preclude local authorities from adding organisations to the list at any time but it would give authorities the protection of having invited and responded to requests so made. Advice should also be sought from local access forums.
7. The regional office of the Countryside Council for Wales or Natural England must be notified of proposals affecting a national trail, so that they can consider whether an order is needed to vary formally the line of the approved route. Organisations representing users of the route such as Offa's Dyke Association or the South West Way Association should also be consulted.

#### **V. Procedure**

8. The request to consultees on a proposed order or agreement should include :
- a. A plan or map, to a scale of not less than 1:10,000 in rural areas or 1:2,500 in built-up areas with Ordnance Survey grid references and sheet number of the relevant OS

Landranger or Explorer series map. It would also be helpful to show the definitive map ROW reference number.

- b. A statement of reasons for the change.
- c. Where appropriate, details of any limitations or conditions to which any proposed new route would be subject, or of any works which would be carried out on such a route.
- d. The date by which comments should be received by the authority. This should be 90 days from the date of the request.
- e. An indication of whether consultees can inspect the line of any proposed new route or the name, address and telephone number of the person or organisation from whom such permission should be sought.
- f. A request that the consultee acknowledges the consultation on receipt.

**See also :** [www.defra.gov.uk](http://www.defra.gov.uk) – access/rights of way pages

### Cancellation

The third edition of this PGN is cancelled.

### ANNEX - PRESCRIBED ORGANISATIONS

<b>Notices about Highways Act 1980, Wildlife and Countryside Act 1981 and Town and Country Planning Act 1990 orders</b>	
<i>All notices</i>	
Auto Cycle Union	Wood Street Rugby CV21 2XY
British Horse Society	Stoneleigh Deer Park Stareton Lane Kenilworth CV8 2XZ
Byways and Bridleways Trust	PO Box 117 Newcastle upon Tyne NE3 5YT
Cyclists' Touring Club	Cotterell House 69 Meadow Godalming GU7 3HS
Open Spaces Society	25A Bell Street Henley on Thames RG9 2BA
Ramblers' Association	2nd Floor Camelford House 87-90 Albert Embankment London SE1 7TW
<i>Notices about orders affecting land in Dacorum borough, the districts of Chiltern, Wycombe, South Bucks, Aylesbury Vale, Three Rivers, North Hertfordshire and South Oxfordshire</i>	
Chiltern Society	White Hill Centre White Hill Chesham HP5 1AG
<i>Notices about orders affecting land in Cheshire, Derbyshire, Greater Manchester, Lancashire, Merseyside, South Yorkshire, Staffordshire and West Yorkshire</i>	
Peak and Northern Footpaths Society	Taylor House 23 Turncroft Lane Offerton Stockport SK1 4AB
<b>Notices about Wildlife and Countryside Act 1981 orders</b>	
British Driving Society	83 New Road Helmingham IP14 6EA
<b>Notices about orders creating footpaths, bridleways or restricted byways on land adjacent to operational railway lines</b>	
Network Rail	40 Melton Street London NW1 2EE

Unless authorities have been notified otherwise by the head office of the prescribed organisation, they should send copies of notices to the addresses in the table above (the head offices).