

Surface Maintenance of Public Rights of Way

Introduction

Most public rights of way in Shropshire cross land which is privately owned. However Shropshire Council, as highway authority, is responsible for ensuring the suitability of the surface for public use as appropriate to a route's status.

A path which carries footpath status only is required to be suitable for the public to use on foot whilst suitably attired for walking in the countryside. A route with bridleway status is required to be maintained to a standard suitable for pedestrians and users on horseback (but not cyclists¹). No duty is placed on the highway authority to improve the surface, although it may exercise a power to improve where appropriate.

Is the council responsible for the surface of all rights of way?

Most highways are maintainable at public expense but some may be privately maintainable. Responsibility for maintenance is sometimes vested in an individual or body for example by way of tenure (as a liability attached to a property) or under a special enactment.

What will the council do?

The council has a duty to maintain the surface of rights of way to ensure that it is safe and convenient for legitimate public use. Where a route is damaged or eroded by natural weathering or by legitimate public use the council will usually carry out the repairs needed.

If a surface is damaged through use or activities that are not related to the public rights that exist over it (for example, where building works change a drainage system leading to damage on a footpath), the council is still responsible for ensuring the route is repaired, but the repair will typically be the responsibility of those who carried out the activity. The council will require those responsible to make good the damage or can repair the damage directly and recover the costs of the repair.

What if I access my property along a public right of way?

Where routes serve private vehicular access to land or property, over and above the public rights that exist, there is no public duty to maintain or improve the surface of the route to a standard suitable for the private use. The council will have a duty to ensure that the route is suitable for public use but if damage is caused by private vehicular use then the maintenance burden will rest with those exercising their private right.

You must obtain written consent from Shropshire Council prior to any works being undertaken which may affect the surface of a right of way. It is a criminal offence to wilfully obstruct or interfere with the surface of a public right of way without lawful authority. The council will need to be satisfied that the new surface will be appropriate and that it will not have a detrimental impact on the public's enjoyment. Depending on the nature of the work a temporary closure or diversion may also be required. See Public Guidance Note 21 for more information on temporary closures.

¹ Cyclists became entitled to use bridleways as a result of the Countryside Act 1968 but the Act did not create any obligation to maintain routes to a standard suitable for such use