

Public Guidance Note 5

Ploughing & Cropping on Public Rights of Way

Ploughing and Cultivating Cross Field Public Rights of Way

Section 134 of the Highways Act 1980 permits landowners or occupiers to plough or disturb the surface of cross field Public Footpaths and Public Bridleways for the purpose of agriculture, but only if it is not reasonably convenient for them not to plough or disturb the surface, and so long as certain conditions are adhered to.

It is an offence to plough any cross field Restricted Byway or Byway Open to All Traffic.

Any cross field Public Right of Way that has been lawfully ploughed or had its surface disturbed, must be re-instated by the landowner or occupier **within 14 days** from the date of the initial disturbance. This is so the highway is apparent and does not inconvenience those wishing to use it.

This can be achieved by using a roller, cultivator or similar. Tractor tyre marks alone may not be sufficient and the surface between these tyre marks may need to be levelled.

If the surface of the highway is further disturbed, a landowner or occupier must re-instate the highway **within 24 hours** of that subsequent disturbance, unless written authorisation has been granted by us as the Local Highway Authority.

If the Public Right of Way has a width legally recorded in the Definitive Statement (DMS), then that width must be reinstated. The Rights of Way Team can let you know if a width is legally recorded for that highway and if so, what that width is.

If the highway does not have a legally recorded width in the DMS, then the minimum width given in Schedule 12A of the Highways Act 1980 must be reinstated. Those widths are:

| Type of highway | Minimum Width |
|------------------|---------------|
| Public Footpath | 1.0 metres |
| Public Bridleway | 2.0-metres |

Ploughing and Cultivating Field Edge Public Rights of Way

Field edge or headland Public Rights of Way **cannot** be ploughed or have the surface of them disturbed for the purpose of agriculture. This applies to all four categories of Public Rights of Way.

Headland Public Rights of Way are excluded from s.134 of the Highways Act 1980. Because of this, it is a straight offence to plough or disturb the surface of any headland Public Right of Way.



If the Public Right of Way has a width legally recorded in the Definitive Statement (DMS), then that width must be left undisturbed in full. The Rights of Way Team can let you know if a width is legally recorded for that highway and if so, what that width is.

If the highway does not have a legally recorded width, then the minimum widths given in Schedule 12A of the Highways Act 1980 must be left undisturbed. Those widths are:

| Type of Highway | Minimum Width |
|---|---------------|
| Public Footpath | 1.5 metres |
| Public Bridleway | 3.0 metres |
| Restricted Byway or Byway Open to All Traffic | 3.0 metres |

Interference of Public Rights of Way by Sown or Planted Crops

Section 137A of the Highways Act 1980 places a duty on landowners or occupiers to ensure that Public Rights of Way are kept clear of all sown or planted crops, other than grass.

It is an offence to allow any crop, other than grass, to grow up from the surface of a Public Right of Way, or to encroach into the highway from the sides, so as to inconvenience the public or prevent the width of the highway from being apparent to those wishing to use it.

A sown or planted crop, other than grass, becomes an unlawful obstruction of the highway when it reaches a height of 6" or more.

If the Public Right of Way has a width legally recorded in the Definitive Statement (DMS), then that width must be reinstated. The Rights of Way Team can let you know if a width is legally recorded for that highway and if so, what that width is.

If the highway does not have a legally recorded width, then the minimum widths given in Schedule 12A of the Highways Act 1980 must be reinstated. Those widths are:

| Type of Highway | Minimum Width |
|---|---------------|
| Public Footpath (cross field) | 1.0 metres |
| Public Footpath (headland) | 1.5 metres |
| Public Bridleway (cross field) | 2.0 metres |
| Public Bridleway (headland) | 3.0 metres |
| Restricted Byway or Byway Open to All Traffic | 3.0 metres |

Certain crops such as oilseed rape, maize and miscanthus have the potential to obstruct Public Rights of Way during their later stages of growth. Where these and other similar crops are grown, it is advisable to leave a greater width than is normally required. This is to accommodate this later crop growth and ensure that it does not encroach into the Public Right of Way.



The Penalties for not Complying

If a landowner or occupier fails in their statutory duty, then we may serve notice on them to complete any work that is necessary to reinstate the Public Rights of Way.

Failure to comply with such a notice can see us complete any work that is necessary to reinstate a Public Right of Way up to the legally defined maximum width. We can recharge the landowner or occupier for the costs that we incur during this process.

It should also be noted that we can notify the Rural Payments Agency if Public Rights of Way are not open and accessible. The wilful obstruction of a Public Right of Way is a breach of Cross Compliance GAEC 7b. This could affect future payments that the landowner or occupier receives.

If required, we can also seek to prosecute the landowner or occupier.

It should be noted, if a contractor undertakes field work on behalf of a landowner or occupier, and that contractor fails to comply with the duties regarding ploughing & cropping, as stated above, then the landowner or occupier will be held responsible.

Please note any person can bring a prosecution against a landowner or occupier if they fail to carry out their duties, as stated above.

Further Information

Additional or site-specific advice on the law relating to ploughing and cropping matters and Public Rights of Way can be provided by the Rights of Way Team. Contact details are given at the bottom of each page of this public guidance note.

