

Guidance for landowners and occupiers

As an owner of land or occupier of land crossed by public rights of way (PROW) you need to:

- Know where rights of way cross your land.
- Keep all rights of way free from obstructions such as locked gates, barbed wire, slurry manure, electric fences, chained or loose dogs etc.
- Keep dangerous or aggressive animals segregated from the public.
- Cut back any encroaching vegetation.
- Keep rights of way clear of crops and reinstate cross-field paths within 14 days of ploughing.
- Ensure that authorised gates and barriers are in a good state of repair.
- Not erect misleading or intimidating notices.

The following information offers a general guide to your responsibilities:

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What are public rights of way (PROW)?

All public rights of way (PROW) are highways and have the same status and protection in law as public roads.

Footpaths allow access for people on foot and in mobility vehicles, bridleways allow access for people on foot, mobility vehicle, horse and cycle (although access may be restricted by surface conditions, stiles and gates on some PROW).

Fences

You must ensure that fences do not obstruct or encroach on the width of a public right of way ([See width of public rights of way](#)). Sometimes there may be situations when you may need to install a stile or gate, for example if you want to put up a new fence that crosses a PROW. There are ways by which these new structures can be authorised, but you must apply for permission from the Council prior to commencement of work, and this can only be granted under certain circumstances ([see gates, stiles and other barriers](#)).

Barbed wire can be a particular hazard to PROW users and is not acceptable on or near a public right of way if it is likely to be injurious to persons or animals using the highway. This is especially important on bridleways where horses need space to safely pass each other and to turn when going through gates.

Barbed wire should not be fixed on the public right of way side of the fence. It should always be on the field side. In addition, barbed wire should never be wrapped around any post which forms part of a gate or stile. Barbed wire can also cause damage to clothing and other accessories if a public right of way is narrow and weather conditions are windy.

Electric fences, either temporary or permanent, are subject to the same rules as other fencing. It should not be erected across a public right of way without prior authorisation from the Council. If permission has been granted for a gate, then insulating a short section of the fence may be necessary to ensure that the fencing does not pose a risk to those using the right of way (e.g. that they are not likely to come into contact with an electrified section of the fence accidentally).

However, if the fencing runs parallel to the right of way there should not be any need to insulate the fence provided there is sufficient space for users to exercise their rights without coming into contact with the fence and clear warning signs are displayed indicating that the fence is electrified.

Any section of electric fence crossing or running close to a public right of way should be insulated (e.g. with a section of hose) and must also be marked with clear warning signs at regular intervals to alert the public to the potential danger.

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Gates, stiles and other barriers

Gates and stiles are sometimes needed by landowners to allow them to carry out essential farm management (for example to enable them to control livestock and enclose land). However they do create a barrier to free passage by the public along the public right of way. Therefore it is the responsibility of the landowner to maintain any gates or stiles that occupy rights of way on their land.

The Council has powers to ensure that this is done and has a duty to make a minimum 25% contribution towards the cost of repair or replacement. The contribution can be increased at the Council's discretion. It is advisable to ensure that structures are safe and easy to use as, should a member of the public injure themselves, the landowner could be liable in a private action ([see liability](#)).

When authorising new stiles and gates the Council has to consider the needs of individuals with mobility problems; consequently, authorisations will not ordinarily be granted for new stiles. However, each case will be considered on its own facts, so, if there are exceptional reasons which mean a stile should be authorised in a particular case those circumstances will be taken into account when a decision is made. If you believe that there are such circumstances in your particular situation you should make this clear in your application so that the Council is aware of those facts.

Guidance for landowners about their role in providing gaps, gates and stiles across their land.

These guidance notes refer to your responsibilities as the occupier for the provision and maintenance of gaps, gates and stiles on public rights of way where they cross your land.

Remember:

- as the landowner you are responsible for maintaining stiles and gates in a safe condition
- poorly maintained stiles and gates may leave you liable for any injury sustained by the public attempting to use them
- well maintained and clearly waymarked stiles and gates will help prevent people becoming lost and will mean less damage to boundary fences and walls.

Lawful stiles and gates:

A stile or gate, although on a public right of way, is not a part of it. Such structures are for the advantage of the landowner, to permit enclosure of the land and to control the movement of livestock, rather than for the benefit of the public.

Therefore, stiles and gates cannot be erected on a public right of way at a landowner's or occupier's discretion.

The public's free passage can only be interrupted by such structures in certain circumstances:

- where a stile or gate traditionally existed in a held boundary for many years and pre-dates recording the right of way
- where we can authorise a new stile or gate. Under the Highways Act 1980, section 147, our powers as a council are limited to authorising stiles and gates only where they are necessary for preventing the ingress or egress of animals on land that is used, or being brought into use, for agriculture or forestry.
- note under s147ZA we have to have regard to the needs of people with disabilities when authorising structures

All gaps, gates, kissing gates and stiles should conform with **British Standard 5709** where possible.

Please note: agriculture includes horticulture, fruit growing, keeping livestock, grazing land, meadow land, market gardens and woodlands.

Existing stiles and gates:

Do I have to maintain the stiles and gates on my land?

Yes. The landowner/occupier is responsible for maintaining all such structures on public rights of way in a safe and usable condition (Highways Act 1980, s.146). If you are a tenant the landowner may have passed the practical responsibility to you. If in doubt you should contact your landlord.

Can I replace an existing gate on a public footpath with a stile?

No, as this would normally result in undue inconvenience for the public. Generally the replacement of a gate with a stile will be more inconvenient because people will have to climb over a stile as opposed to opening a gate. If you are experiencing particular problems with people leaving gates open please contact the Public Rights of Way officer.

Remember: You can replace a normal stile with a gate. Gates give much better access for the public and can be made stock proof.

If I remove a gate or stile and leave a gap instead do I retain the option to restore it at a later date?

Yes, Stockport Council encourages the removal of stiles and gates where they are no longer needed for controlling animals.

Will Stockport Council contribute towards the cost of maintaining existing stiles and gates?

Yes, a landowner is entitled to recover 25 per cent of reasonable costs incurred, but the work must be agreed beforehand. Stockport Council's contribution may be in the form of labour to carry out the work using your materials.

Remember: Before you carry out any work you must contact a Stockport Public Rights of Way officer to discuss your plans.

Can I lock a gate on a right of way?

In most circumstances a locked gate would be an obstruction on a right of way and therefore cannot be permitted.

Can I put a new gate or stile next to an existing gate?

You can do so, but it is an additional facility for the public. The existing gate remains on the definitive legal line of the path and must therefore be kept unlocked and available for the public at all times.

To what standard should my gates and stiles be maintained?

All stiles and gates must be maintained in a safe condition, so that they are easy for all users to negotiate, this includes the elderly and the less agile. Please read the 'practical tips' section below.

The British Standard for public rights of way gaps, gates and stiles is BS5709:

Remember: There are many local variations which form part of the rural fabric of Stockport. As long as they meet the basic criteria we would not expect them to be replaced with a more modern design. Traditional features, such as stone stiles, should be retained whenever possible.

Is there a minimum width for existing gates on public rights of way?

Yes, on a bridleway it is 5 ft. and on a restricted byway or byway open to all traffic (BOAT) it is 10 ft. There are no defined widths for gates or stiles on footpaths, however the public must be able to negotiate them easily.

Please note: The width is measured between the gate posts and is not the measurement of the gate itself. We may require you to widen a gate to the minimum width, or remove it, if it is found to cause problems for the public.

New stiles and gates:

Can I erect a new stile or gate across any right of way?

The Highways Act 1980 allows for a stile (on a footpath) or a gate (on a footpath or bridleway) to be erected in certain circumstances (see 'lawful stiles and gates' above). In addition, we will only consent to a new stile or gate which does not unduly inconvenience the public. The basic criteria set out in the 'practical tips' section below are examples of best practice which will enable your new stile or gate to receive approval.

Remember: you must obtain authorisation before any work is carried out. Please contact a Stockport Council Public Rights of Way Officer to discuss your proposals. Unauthorised or unsuitable stiles and gates are unlawful obstructions. You must consider the needs of people with disabilities when planning access.

What can I do if permission is not granted?

We will only refuse you permission to erect a new stile or gate if the conditions are not met. In this case there is no right of appeal.

Remember: new stiles and gates are only permissible on public footpaths and bridleways. There is no authorisation procedure whereby a new structure can be erected across a byway open to all traffic (BOAT) or a restricted byway.

What are my obligations for any new stile or gate?

You will normally be expected to meet the full cost of installation. In addition, authorisation will normally be subject to the condition that you are fully responsible for subsequent maintenance. If the structure is not maintained it will be deemed unlawful and may be removed at your expense (Highways Act 1980, s.143 and s.147 [4]).

Remember: when considering any new fencing requirements, especially horse paddocks, you should contact a Public Rights of Way officer prior to any work being started. The path must be fully provided for within the scheme.

Our enforcement powers and policy

We seek to work with landowners, tenants, the National Farmers' Union (NFU) and the Country Land and Business Association (CLA) to ensure that the requirements set out in the legislation are met. The majority of farmers maintain stiles and gates on their land in a safe and reasonable condition. However, we will take firm action when conciliation fails to resolve cases of unlawful obstruction or failure to maintain.

What powers do the council have to take action?

We can take direct default action if you ignore requests to comply with your duties as explained in these advisory notes. Action is taken by serving a statutory notice under the Highways Act 1980. If you then still fail to carry out the necessary work the notice gives the authority power to enter upon your land, carry out the work and recover its costs from you.

What is a statutory notice and what should I do if I receive one?

A statutory notice is a written warning issued when default action is to be taken. It will be sent to the owner if the matter relates to maintenance of a structure. If the matter concerns an obstruction by an unauthorised stile or gate then it may be sent to the owner and / or the occupier. If neither are known then the notice can be posted on the structure itself.

The notice and accompanying papers will indicate:

- the structures to which it relates
- what action you have failed to take
- details of the means of access and the work to be carried out
- an estimate of costs of the work to be recharged to you
- the time and date the power to take default action comes into effect.

If you receive a notice you may wish to seek professional advice from the NFU, CLA or another source. If you genuinely and immediately intend to take action, you should advise the Public Rights of Way Officer at once by telephone.

Similarly, if there is good reason why you cannot undertake the work you should contact the Public Rights of Way Officer without delay to discuss the problem. Should you fail to notify the Public Rights of Way Officer you may still be liable for any direct costs incurred by Stockport Council, even if the work has been carried out.

Is it possible that I could be prosecuted?

It is expected that you will carry out what the law requires, as outlined in these advisory notes. If not you are committing a criminal offence and repeated failure to comply will result in Stockport Council having to consider prosecution as an alternative to serving a statutory notice. In addition to the fine it would be usual for the authority to be awarded costs against you.

Practical tips for stile building

The following tips are general guidance on best practice so that stiles are safe and convenient for the public to use (**but consider replacing with a gap or a gate as less injury to users is likely to occur**):

- if it is necessary to run barbed wire across a stile it must be covered with rails, plastic pipe etc., or have the barbs removed
- leave one post longer than the other to act as a hand post. The public will find it easier to use the stile if the lower post is cut flush with the fence line
- as a minimum any stile should have at least one step for convenience
- if you need to use two steps they should be arranged in a cross rather than side by side
- the height for any step should be no more than 300 mm (1 ft.) from the ground or between steps
- the top rail should ideally be no more than 900 mm (3 ft.) high. If a higher fence is essential please contact your field officer for specific advice
- be aware of changes in ground level either side of a fence, this may require two steps on the lower side to make it suitable
- on popular paths for dog walkers it may be helpful to build a dog latch beside the stile. This will prevent possible damage to adjacent fences
- it is always preferable to use new materials which are as durable as possible. Stockport Council reserves the right to withdraw help with labour to carry out repairs if substandard materials are provided
- remember to round any sharp edges on the stile, such as the edges of the top rail.
- steps should not be nailed to rails. This does not make them more stable.
- electric fences must be insulated. The wire can be placed inside a plastic pipe or be put underground to avoid crossing the footpath. You must attach warning signs either side of the stile
- steps should be level, constructed from rough sawn rather than planed timber, and be large enough for people to use safely. 175mm (7") x 38mm (1 1/2") x 900mm (36") is a good standard.
- stiles in fences or hedges running down a slope should have steps placed nearer to the lower post
- once a stile has been built it may need to be waymarked, this can be arranged by a Public Rights of Way officer.

- stiles can be purchased in kit form. Details of suppliers can be obtained from Stockport Council Public Rights of Way Team.

Practical tips for gate hanging

The following tips are general guidance on best practice so that gates are safe and convenient for the public to use:

- a self closing gate that easily latches shut saves time and inconvenience for all
- gates on bridleways **must** be able to be opened by the rider without them dismounting. If a rider does have to dismount they may climb on the gate to remount, which could result in damage
- when choosing a fastening remember horse riders prefer long handled latches or a simple chain and hook
- if you are using a chain and hook remember to locate it on the top rail of the gate and not half way down
- gates with adjustable hinges make for easier maintenance
- particular care must be taken with electric fencing. This must be installed safely to avoid any danger for the public and their animals, e.g. horses. You must attach warning signs either side of the gate. For further advice please contact the NFU or CLA
- when locating a gate on a bridleway there should always be a section of fencing at the latch end of the gate which is free from barbed wire to enable horses to negotiate the gate safely
- when locating a gate in the corner of a field always hang the gate with the hinges towards the corner, especially on a bridleway
- position the gate latch on a bridlegate where it cannot become caught on or cause injury to the horse and rider
- It is always preferable to use new materials which are as durable as possible. Stockport Council reserves the right to withdraw help with labour to carry out repairs if substandard materials are provided
- when installing a kissing gate there should always be sufficient space between the end of the gate and the frame to enable people to pass easily, including those with rucksacks, baby carriers etc. Further advice on kissing gates, gates to permit wheelchair access on footpaths etc is available from your field officer
- gates and kissing gates can be purchased in kit form. Details of suppliers can be obtained from Stockport Council Public Rights of Way Team.

Help and advice

A Public Rights of Way officer will be pleased to offer help and advice on any of the points raised in these advisory notes, or on any other problem relating to public rights of way.

Every care has been taken in this guidance but no responsibility can be taken for the consequence of any errors or omissions.

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Dogs

Dogs are a legal accompaniment on public rights of way but they must remain under close control (not necessarily on a lead) and should not wander off the PROW onto private land. If a dog is allowed to run around off the public right of way, trespass is committed against the landowner of the land. It is an offence to allow a dog to run freely in a field or enclosure where there are sheep and it is an offence to allow a dog to attack or chase livestock.

Dogs belonging to the landowner/occupier should not be allowed free access to land crossed by a public right of way if they are likely to be aggressive or intimidating to members of the public using the PROW. Dogs that are tethered close to a public right of way causing a deterrent to users are an obstruction.

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Animals and livestock

You must not keep any animals that you know to be dangerous on land crossed by a public right of way.

You must ensure that beef bulls over 10 months old are only kept on land crossed by a PROW if they are kept with cows or heifers. Bulls over 10 months old of a recognised dairy breed must never be allowed access to land crossed by a PROW.

Should a member of the public be injured by animals kept on your land you may be liable in a private action ([see liability](#)). Should you be in any doubt as to the temperament of an animal it would be best to ensure it is kept segregated from the public using public rights of way.

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Ploughing and cropping

Where a public right of way runs through an arable field it is the responsibility of the landowner/occupier to ensure that it is reinstated after the field is cultivated and that the minimum width is apparent on the ground and kept free of crops. Regardless of who carries out the work on your behalf, it is your responsibility to ensure that this is done.

Where a public right of way runs along a field edge/headland the surface of the highway must not be disturbed when the field is cultivated. As a general rule a footpath must have a minimum width of 1.5m and a bridleway must have a minimum width of 3m.

Where a public right of way runs across the field, you should leave the surface undisturbed if it is convenient to do so. If it is not convenient, you may plough the route over but you must ensure that the surface of the PROW is reinstated within 14 days of ploughing and within 24 hours of subsequent cultivations. This means that the surface of the PROW must be level and compact and

the line must be visible on the ground, tractor tracks or rolling can be sufficient for this purpose, depending on the terrain and the crop.

For cross-field PROW the minimum widths are 1m for a footpath and 2m for a bridleway. If for some reason you have difficulty with reinstatement of the PROW, it may under certain circumstances be possible to extend the period of reinstatement by a further 28 days, but only if you have sought agreement with the Council beforehand.

Once the crop (other than grass) has started to grow it is important that you either cut or spray the line of the PROW to ensure that it remains free of crop for at least the minimum width at all times. This may need to be repeated as the crop grows and is particularly important for tall crops such as oilseed rape or beans that can encroach on the highway as they grow, causing significant problems for PROW users.

Making sure public rights of way are maintained in this way will make the route of the PROW clear to those using it and can help reduce frustration which can lead to unintentional trespass and damage to crops. In doing this you will also be complying with the good practice guidelines in GAEC 8 of the Single Payments Scheme administered by the Rural Payments Agency (RPA) and DEFRA. RPA Inspectors may undertake inspections of holdings signed up to the scheme to ensure compliance, failure to do so could affect any payments you receive.

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Hedges, trees and vegetation

As a general rule, the Council is responsible for cutting vegetation growing from the surface of a public right of way (other than crops, [see ploughing and cropping](#)). However trees, hedges and any other vegetation encroaching on a highway from the side is the responsibility of the owner of the land from where it is growing. Therefore you have a duty to ensure that any vegetation on your land that borders a PROW is maintained and does not obstruct free passage by the public ([see obstructions and encroachment](#)). It is also worth noting that if you have a bridleway along a field edge which is bordered by a hedge or trees, then there needs to be 3m of headroom for people on horseback. If this is not done the Council does have the right to remove enough of the overgrowth to allow free passage and can recover costs from the landowner. The Council also has a power to require the landowner to carry out the necessary works within 14 days of service of a notice under Section 154 of the Highways Act 1980.

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Obstructions and encroachment

It is an offence under the Highways Act 1980 to obstruct or encroach upon the legal width of a public right of way. This can include unauthorised structures, fences and other boundaries (either crossing or alongside), trees, hedges and other vegetation, muck heaps, hay/straw bales, rubble, ditches,

parked machinery or any other object either temporary or permanent that causes the way to be blocked or obstructed for all or part of its width ([see width of public rights of way](#)).

The Council has a duty to prevent any obstructions or encroachments of the highway and will therefore investigate any reports and seek removal if any are found. The landowner will be requested to remove the obstruction within a specified time period, failing which the council has powers to remove obstructions and recover its costs from the landowner and/or to issue criminal proceedings.

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Misleading/intimidating signs and notices

Misleading or intimidating signs can deter people from exercising their legal right to use PROW and it is an offence to erect them on or adjacent to PROW. Unauthorised signs erected on a public right of way may be removed by the Council under Section 132 of the Highways Act 1980. If you feel a sign or notice would be helpful for your access management along a particular PROW, then it's recommended that you contact the Council first who can provide you with guidance.

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Surfacing

Whilst private landowners may own the land crossed by many public rights of way, the Council is responsible for the surface. It is an offence to disturb the surface of a PROW (other than ploughing cross-field routes, [see ploughing and cropping](#)) without applying to the Council for special permission.

If you need to carry out work that involves disturbing or resurfacing a public right of way you will need to contact us to discuss what is involved. You may need to apply for a temporary highway closure or diversion order and pay the associated fees.

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Liability

It is possible that a landowner who fails in his responsibilities towards members of the public using PROW over his land may be held liable in civil proceedings brought by a member of the public who suffers injury or damage whilst using a PROW (for example, when someone is injured due to an old stile collapsing whilst being used, barbed wire or electric fencing obstructing or close to a public right of way, or an aggressive animal with access to the PROW).

The Council could also be liable if injury or damage results from the Council's failure to assert and protect the rights of the public to use and enjoy PROW.

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Width of public rights of way

There is no common minimum width that applies to all public rights of way and each route needs to be considered individually, although in certain circumstances statute specifies a minimum width ([see ploughing and cropping](#)). Sometimes a width may be recorded on the Definitive Map and Statement ([see definitive map and statement](#)) but this is not always the case or the width may be that which has historically been available. In the absence of evidence to the contrary there is a presumption that the width will be from boundary to boundary.

As a guide a PROW needs to be wide enough to allow two legal users to comfortably pass each other. This can be regarded as 2 metres for a footpath and 3 metres for a bridleway, although it should be remembered that this is a guide only and not a legal definition. Statutory default minimum widths that apply to field PROW in relation to ploughing and path reinstatements ([see ploughing and cropping](#)) are; for a footpath 1.5m on a headland and 1m cross-field, for a bridleway 3m for a headland and 2m cross-field.

Any restriction placed on the legal width of a public right of way is an illegal obstruction and must be removed ([see obstructions and encroachment](#)). It is always advisable to contact us before carrying out any work that may affect the width, condition or character of any public right of way.

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Definitive map and statement

The Definitive Map and accompanying Statement are a legal record of public rights of way in a specified area. Preparation of the Definitive Map and Statement began in the early 1950s and extensive consultations were held with landowners and the public before the final map was published. If a route is shown on the Definitive Map it is conclusive evidence that such a legal right of way exists unless a legal order has subsequently been made to amend it.

There may also be additional rights of way that are currently unrecorded, or recorded routes that carry higher rights than are shown (e.g. a route recorded as a footpath may in fact be a bridleway). There may also be errors or anomalies in the information that has previously been recorded.

A legal order can be made to add additional routes or to amend existing routes if sufficient user and/or historical evidence can be provided. However as the definitive map and statement are deemed conclusive proof of the rights shown, strong evidence will be needed in order to change it and the way will retain the status shown until a Definitive Map Modification Order is made and confirmed.

Stockport Council is responsible for the Definitive Maps and Statements. You can view any of the Definitive Maps and Statements by attending Endeavour House, Bredbury Park Way, Stockport, SK6 2SN and asking at the reception desk. Please contact us in advance to ensure that the map is not already being used or for further information. You can contact us by telephone on: 0161 217 6111.

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Diverting, stopping up and creating PROW

Public rights of way can be diverted, stopped up or created by a Public Path Order (PPO), specific conditions must be met for an application to be successful. PPOs must be advertised on site and in the local press. The public have the right to object and if this happens, a public inquiry may be held. This can be a lengthy process and the applicant must meet all the associated costs, even if the application ultimately fails to be confirmed.

A public right of way can be claimed and added to the Definitive Map ([see Definitive Map and Statement](#)) through a Definitive Map Modification Order (DMMO) by virtue of its use 'as of right and without interruption' for a continuous period of at least 20 years prior to the date that use of the route is brought into question. This can rely on user and/or historical evidence and if the landowner(s) object a public inquiry will need to be held in order to decide the outcome.

You can protect your land from the possibility of this kind of claim in the future by making a Section 31(6) deposit with the Council stating your intent not to dedicate any further rights of way on your land. However this does not protect you from retrospective claims relating to uninterrupted use prior to your submission. You will need to resubmit a Section 31(6) deposit every 10 years to confirm your intent not to dedicate any further routes.

New public rights of way can also be created through a Creation Agreement or a Creation Order under Sections 25 or 26 of the Highways Act 1980 respectively.

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Planning applications, development and change of use

All public rights of way are highways and have the same status in law as public roads. To obstruct a PROW is an offence. It is therefore important to identify PROW at an early stage of any developments, large or small, in order to avoid potential delays or difficulties in selling properties once complete.

The granting of planning permission does not give the applicant the right to alter, obstruct or move a PROW. This can only be done through the appropriate statutory process ([see diverting, stopping up and creating PROW](#)). No construction work affecting a PROW should begin until any necessary Public Path Orders have been confirmed.

A PROW can be temporarily diverted or closed in the interest of public safety whilst works are carried out on site. A legal procedure needs to be followed and the maximum period for such temporary orders is 6 months. Any order to extend beyond this time scale will require consent from the Secretary of State.

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