

# Countryside Access a Parish Guide

Working for you

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## Foreword:

A foreword by  
Councillor Rodney Rose  
Cabinet Member for  
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Oxfordshire County  
Council



Parish and Town Councils have long been central to rights of way management and it is no accident that parishes are the base unit for path numbering. At a county level we recognise the importance of local councils. We want to encourage you to make full use of your powers, rights and opportunities to provide the countryside access that is so important to locals and visitors alike.

A good network of rights of way and accessible open space can improve physical and mental health, support the local economy through tourism and keeping leisure spending local, and contribute towards a more sustainable transport system where paths are used for journeys to school, work or the shops. A lack of access to a car or large amounts of spare time or income shouldn't mean that you can't have access to great countryside or green spaces.

We want to work with you to make sure that people get the best from the paths in your area. With your knowledge and local contacts you are in a position to be a very effective local agent and able to achieve results through means and contacts that are simply unavailable at the county council level – and that can be much more expedient, effective and economical.

This guide is about helping you to get more involved in your local paths; to identify local issues, needs and opportunities, and to be able to act on them to best advantage in ways that mean the most to your parish. Of course many local councils and communities are already very active in the management and improvement of access in their areas and this is much appreciated. To those councils we say that we hope this guide will still be of value to your work.

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# Chapter 1: Introduction

This Guide is meant to be useful; a handy reference document that will answer most of your countryside access queries straight away. Where it can't, it will point you in the right direction to get further help.



## How is the guide arranged?

The guide is divided up into seven main sections;

### Section 1

This **Introduction** which will set the scene and tell you how you can get the best from the Guide.

There is also a brief summary of access history.

### Section 2

'**What is Countryside Access?**' - this section is where you would turn to for information about the historical, geographical and legal framework for access in Oxfordshire.

### Section 3

'**Improving Access in your Parish**' – this is the heart of the guide. This is where you will find the information and tools you need to make a real difference to your parish's access. To show ideas of what you can achieve we've included lots of examples of local council projects from all around the county, perhaps even some of yours. If you want to know:

- ....what you can do
  - ....how you go about it
  - ....who can help
  - ....and where to look for funding
- then this is the section you need.

### Section 4

'**Who can do what?**' is where you will find the nitty-gritty of access management; it's where you should turn to find out just what powers are available to your council and what rights you can choose to exercise. This section also gives information on the split of responsibilities between the other interested parties; the county council, land owners, managers and users.

### Section 5

'**How is access recorded?**' explains the background to the often perplexing world of the Definitive Map and Statement, Access Land maps, and shows how parish councils can be involved in keeping track of local changes.

### Section 6

'**How do paths get added to the map, reclassified, moved or extinguished?**' is where you would turn to find out about ways of legally changing the network. It explains the basic mechanisms and the roles of local councils in the various processes. This chapter will introduce you to relevant policies and priorities in this important and sometimes complicated area of work.

### Section 7

'**Managing Access Land**' is where to look for information about access to open countryside

issues such as closures, restrictions and dedications.

Finally, there are useful **Appendices** containing:

**'What can I do about...'** - an A-Z reference section that at a glance will help you to sort out those day-to-day issues that crop up on public rights of way; not all necessarily problems, but subjects that it's useful for the parish to have knowledge about; everything from abandoned cars to waymarkers.

- **further reading** and web resources,
- **useful contacts** and
- a **glossary** of terms used.

The guide is written so that it doesn't need to be read from cover to cover (although we hope that you might enjoy doing so). We've tried to keep it as jargon free as possible, but the glossary is there at the end to explain the occasional technical term that we couldn't avoid using. The guide is laid out to lead you through countryside access in a logical, user-friendly way but if you just need to know what powers your local council has, go straight to chapter 4, 'Who can do what?'; or if you want to get straight into improving local paths, go to chapter 3.



**Some of the terms we will (and won't) use and what we mean by them.**

**'Highways'**; the law makes no difference between footpaths, bridleways and 'A' roads – they are all highways – but we will generally use 'highways' with its usual meaning as relating to the roads network. We will use 'public rights of way' to talk about the non-roads network.

**'Right to roam'** is a term that we won't be using, except to explain that it is an incorrect term. Despite what has previously been in the media or understood, the Countryside & Rights of Way Act 2000 did not create a general right to roam on all land but did create a specific set of access opportunities to carefully identified land called 'Access Land'. We will say more about Access Land in the next chapter.

**'Public Rights of Way'** is the term for footpaths, bridleways, byways, and restricted byways – highways used mainly by walkers, horse riders, cyclists, and some by motorised vehicles too. (We will say more about the different types of public path in the next chapter.) Occasionally we may drop the 'public' and just refer to rights of way or paths – we mean public routes unless we say otherwise.

By **'local councils'** we mean both parish and town councils. We will often also use 'parish

council' as shorthand for 'parish and town council' – our apologies to the towns

**'Walkers'** will be used as a general term for all legal users of public footpaths, including: walkers with or without dogs; mobility scooter or wheelchair users; and parents with pushchairs or 'buggies'.

**'Us'** or **'we'** means Oxfordshire County Council or its Countryside Service unless the context says otherwise, but please be assured that this is not a 'them and us' type document.



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**Did you know that your parish council has a history at the heart of countryside access?** Up until the mid-17th century the duty of maintaining all highways, including public paths, fell on the parishes and every parishioner was required to do 6 days per year unpaid highways work (“statute labour”). Turnpikes (privately maintained roads used on payment of a toll) were introduced from 1663 in an attempt to improve the maintenance of key routes, but most had failed by the 19th century, leaving a legacy of interesting toll booths and milestones.

The Highways Act 1835 abolished statute labour and gave local councils powers to appointment a parish surveyor, funded through local rating. The Highways Act 1862 sought to set up district highways boards to maintain the roads but the maintenance of footpaths and bridleways (public paths) remained with the parishes. The Local Government Act 1888 created county councils and these were given state funding to maintain the 'main' roads, while minor roads remained with the highways boards until the boards' powers were transferred to the Rural District Councils in 1894.

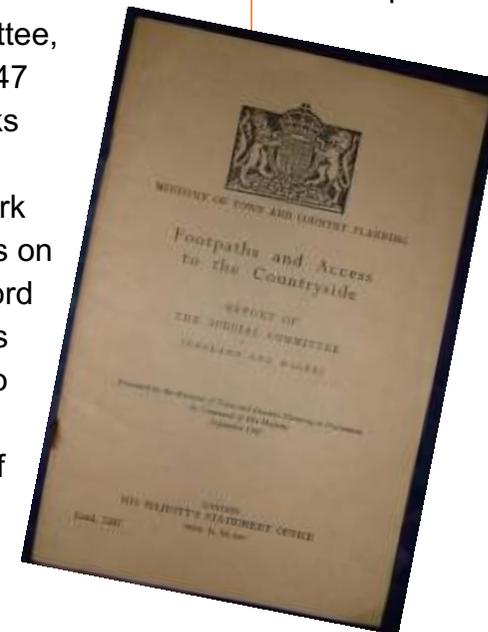
The big shake up came with the Local Government Act 1929, which made the county councils the Highway Authorities for all highways, including footpaths and bridleways - although the parishes retained their rights to maintain their local

paths should they so wish. The focus of the counties was on the rapidly increasing motor traffic, especially because of the tremendous dust problems that fast moving, rubber-tyred vehicles caused. Increasingly the roads network was sealed with tarmac while public paths became less suitable for vehicular traffic.

The Commons, Open Spaces and Footpaths Preservation Society (now the Open Spaces Society or 'OSS' – see Useful Contacts) grew concerned about the loss of public paths to tarmac and to agriculture and pressed for the Rights of Way Act 1932. This act started a voluntary process of parishes recording their public paths, but did not achieve as much coverage as had been hoped. Amid continuing pressure, the whole situation was reviewed by the Hobhouse Committee, which reported to Parliament in 1947 and led to the pivotal National Parks and Access to the Countryside Act 1949. This Act set out the framework for recording all known public paths on a map that was to be the legal record of rights of way and to be known as the Definitive Map. The Map was to be accompanied by a 'Statement'. This would record the particulars of each path, such as status, gates, widths or other limitations.

Together the Definitive Map and Statement form the bedrock of rights of way recording in England and Wales. Responsibility for drawing up the Definitive Map and Statement lay with the Surveying Authority which in Oxfordshire is the county council. However, the parishes were again at the forefront of the process and records were drawn up on a parish by parish basis with the local councils taking the lead – and often carrying out the surveys – and feeding results back to the county.

**It will be quite obvious, even from this briefest of summaries that the parish councils have always played a highly significant, and often a central role in the management of their local paths network.** It will be no surprise, therefore, that parishes still have many useful powers that they can call upon to help look after their paths.



# Chapter 2: What is countryside access?

If you want to know what access is and how much is in the county, what all the different types of path and open land are and who can use them, and if you want to know how Oxfordshire County Council arranges its management of access—then this is the chapter you need.



## What is Countryside Access?

Countryside access is space to relax; trails to explore; views to take in; the local footpath, common or open natural space.

Countryside access falls into two broad types: linear access along defined public rights of way; and area access – such as parks, downland or commons. There are also two main legal categories of access: 'by right' - such as on public footpaths and most registered commons; and 'permissive access' – where access is by the permission of the owner, or due to a licence, such as a 'Higher Level Stewardship' or 'Woodland Improvement Grant' agreement.

In this guide we will be concentrating on access by right and mostly on linear public rights of way because this is where your council can have most influence.

## What types of access are there?

**Public Rights of Way:** Step into the countryside to walk, cycle, or horse ride across a field, through a woodland or alongside a river and the likelihood is that you are using a public right of way. These paths offer the single most important means of access to our countryside, providing a valuable resource for recreation, health and sustainable transport. Oxfordshire has a network of about

2,600 miles (4,300km) of rights of way –end to end that is the equivalent of Oxford to Ouagadougou – capital of Burkina Faso in west Africa.

**Public rights of way are divided into four categories:** footpaths, bridleways, byways open to all traffic (often known as BOATs) and restricted byways. On all public rights of way users have the right to pass and re-pass at any time; but not all users can use all of the paths.

### Footpaths:

These paths are for walkers only.

**2817.96km (1751miles)**

### Bridleways:

Can be used by walkers, horse riders and cyclists.

**1091.85km (678miles)**

### Restricted byways:

Can be used by those above but also including horse-drawn carriages.

**251.27km (156miles)**

### Byways:

or Byways Open to All Traffic are legally open to all users - walkers, horse riders, cyclists, carriage drivers and motor vehicles.

**170.68km (106miles)**

Occasionally you may come across other terms for public rights of way such as 'green lanes', 'white roads' and 'ORPAs': 'Green lane' is a purely descriptive term just meaning an un-surfaced route, usually between hedges or walls. A green lane might be of any of the four types of public right of way, or not a right of way at all. 'White roads' are found on older Ordnance Survey (OS) maps. These are simply un-coloured routes that may or may not carry public rights. Later OS maps show 'ORPAs' – Other Routes with Public Access. These are often un-classified and un-surfaced roads but the actual status of them is not recorded.

#### **Cycle tracks:**

Cycle tracks aren't classed as public rights of way because bicycles are legally vehicles. Effectively they are a type of byway limited to pedestrians and cyclists. Because of this they aren't recorded on Definitive Maps, but they are now shown on up to date OS Maps.

#### **National Trails and longer distance routes:**

Throughout Oxfordshire there are a number of longer routes that enable a themed suggested walk or ride to be followed over a number of days or in stages. The two most important are the National Trails running through the county: The Thames Path National Trail, is a walking route which follows the river for 180 miles from its



source in the Cotswolds through Oxfordshire nearly to the sea east of London. The Ridgeway National Trail is one of the oldest walking or riding routes in Britain and runs for 87 miles from near Avebury in Wiltshire through the south of Oxfordshire before crossing the Thames at Streatley and heading north along the Chilterns scarp.

Other longer themed routes are usually accompanied by a leaflet or booklet with some also providing additional circular walks. These routes may also be signed or waymarked with special badges. Those for walkers include:

- Oxfordshire Way
- d'Arcy Dalton Way
- Chiltern Way
- Wychwood Way
- Macmillan Way
- Oxford Canal Walk

Riders and walkers can enjoy the Judges Ride, and the Swans Way. In addition the county council promotes shorter walks and rides, and all on our webpages

**[www.oxfordshire.gov.uk/walkandrides](http://www.oxfordshire.gov.uk/walkandrides)**

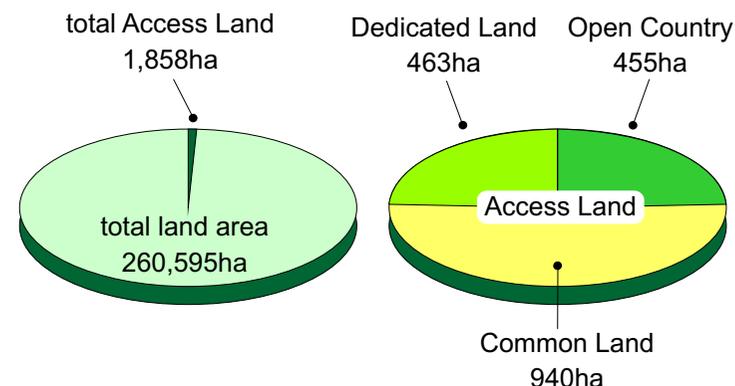
#### **Access Land:**

The Countryside & Rights of Way Act 2000 (CRoW) granted rights to walk on Access Land - areas of 'open country' and registered commons.

Open country is defined as: mountain, moor, heath or down. Only downland and common land are present in Oxfordshire. These new rights are often referred to in the press as the 'right to roam' – this is very misleading as the new rights apply only to specific areas of land that together make up less than 1% of the county. There is no right of access to cultivated fields or other areas of 'excepted land' such as gardens, quarries and golf courses. Access land is shown on up to date 'Explorer' Ordnance Survey maps, on Natural England's web site at

[www.naturalengland.org.uk/ourwork/enjoying\\_places/openaccess/](http://www.naturalengland.org.uk/ourwork/enjoying_places/openaccess/) and as local information on the Countryside Service's web pages.

In Oxfordshire there are 455ha of 'open country', 940ha of common land and 463ha of dedicated<sup>1</sup> land. In total there are 1,858ha of Access Land out of the total land area of 260,595ha.



Unlike on public rights of way, land owners can suspend access for up to 28 days a year. Restrictions and closures information can be found at the Natural England website and sites will also display notices advising when restrictions are in place.

The right to enjoy access land is only for walking or quiet recreation. Some sites require that dogs must be kept on a lead between March 1st and July 31st, or at any time when near livestock.

**Town and Village Greens and Commons:**

Town and Village Greens are places that the public have customarily enjoyed for exercise and recreation. They and Common Land are recorded by the county council.

**Permissive access:**

Permissive access comes in two forms – formal and informal. Formal permissive access is sometimes included in environmental grant schemes, such as some old Countryside Stewardship schemes, the new 'Higher Level Stewardship' option of the Environmental Stewardship scheme and as an option in the Environmentally Sensitive Area (ESA) scheme. Details of current access can be found on Defra's website at <http://countrywalks.defra.gov.uk/>



<sup>1</sup> Land owners can dedicate Access Land to the public under section 16 of CROW. The Forestry Commission has made extensive use of this facility.

In 2010 there were 69 different access agreements. For each location you can download a plan and description of the access available.

Formal access might also be provided under Inheritance Tax Exemption schemes. See [www.hmrc.gov.uk/heritage/lbsearch.htm](http://www.hmrc.gov.uk/heritage/lbsearch.htm) And, of course, local authorities, including your Parish Council, might also provide permissive countryside access.

Informal permissive access can be very important for the enjoyment of the countryside by local people but, by its very nature, it is impossible to quantify how much is available and where it is. Some landowners are happy for local people to use their paths and tracks for quiet enjoyment and exercise but would not wish to advertise this or to have the paths become public rights of way. In order to keep the paths available, but also ensuring that they don't become full public rights of way, landowners can make a declaration under Section 31(6) of the Highways Act 1980 that may assist with this. This is discussed in more detail in chapter 5 of this Guide.

#### **What about access to water?**

Access to inland water in England and Wales for boating is still very restricted. In Oxfordshire there are only navigation rights (subject to licences) on the River Thames and the Oxford Canal. The

many sailing lakes in the county are all privately run by local clubs.

Access alongside waterways for walkers is more widespread, with good access for walkers to the Thames Path National Trail. The Lower Windrush Valley includes the Mosaic Trail, some of which follows the route of the River Windrush south of Witney to its junction with the Thames. The Oxford Canal towpath is also a public right of way for most of its length. Cyclists can use some of it but need to download a free permit from British Waterways beforehand. Horse riding is not permitted on towpaths.

#### **Are all paths recorded?**

Some tracks may be in daily use without being recorded as public rights of way on any maps. This de facto access can often go on for years or decades without the public's use ever being questioned. Often the situation will only come to light when there is a change of land ownership or proposals to develop the land causing the path to be blocked or diverted. This can often result in the need for investigation and a Definitive Map Modification Order to record any established rights of way. This procedure is considered in Chapter 5.

The Countryside & Rights of Way Act 2000 includes a future provision for any historic routes



that haven't been recorded by 2026 to be extinguished, so it is important that all of your parish's paths are properly recorded before the opportunity to record them is lost.

### **What about cycle routes?**

Oxfordshire is well supplied with named cycle routes, principally through the work of Sustrans in developing the National Cycle Network. Three National Routes (numbers 5, 51 and 57) are supplemented by a growing number of Regional Routes. You can find full details on Sustrans' website: [www.sustrans.org.uk/sustrans-near-you/south-east/oxfordshire](http://www.sustrans.org.uk/sustrans-near-you/south-east/oxfordshire)

These routes are off-road wherever possible but also use carefully chosen quiet roads. All of the routes are signed and also shown on up to date Ordnance Survey maps. The off-road routes are also available for use by walkers and sometimes for horse riders.

The Chilterns Conservation Board has developed the Chilterns Cycle Way – a 170 mile on road route that takes in areas of Oxfordshire.

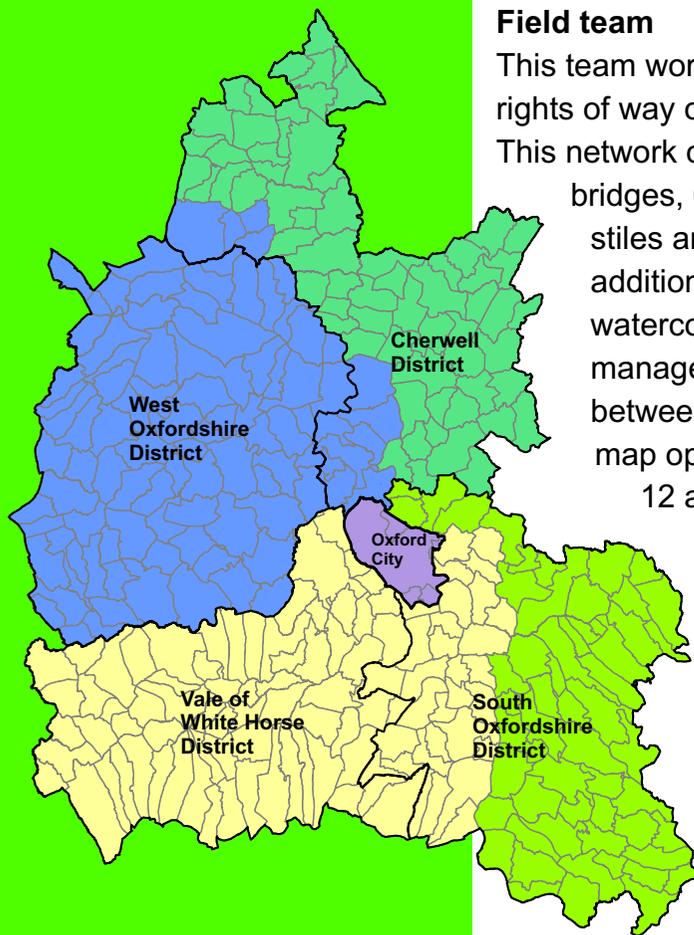
### **So how are public rights of way and access land areas managed by Oxfordshire County Council?**

Oxfordshire County Council's Countryside Service undertakes the majority of the statutory work defining, protecting and maintaining the rights of

way network, as well as working to improve, inform and promote responsible access to the countryside. This is a brief summary of our work:

### **Definitive Map team**

This team deals with all aspects of the legal record of public rights of way in the county, such as researching and determining claims for unrecorded paths; dealing with applications to extinguish or divert recorded routes; administering planning or development related changes; and any special orders such as railway crossings. Chapter 5 contains much more detail about the recording and changing of access rights. The work of this team is fundamental to the rest of the protection, maintenance and improvement that the service undertakes.



**Field Areas:**

- West
- North
- Oxford City
- South West
- South East

**Field team**

This team works to assert and protect the public's rights of way on a network of over 2,600 miles. This network contains assets of around 2000 bridges, 6000 finger posts, 7000 gates, 4500 stiles and 1500 waymark posts. This is in addition to the surfaces and other small watercourse crossings. The day to day management of the network is divided up between the Field Officers. (See the county map opposite and detail maps on pages 12 and 13.) The team works with land managers, user groups and local councils to: ensure paths remain open and available; signpost paths and waymark along them where required; remove excessive natural vegetation growing on them; provide and maintain bridges over natural watercourses and ditches; provide, in approved cases, support for the maintenance of stiles and gates; work with community groups and parishes to find local solutions to local challenges; and improve paths by removing stiles or replacing them with gates, wherever possible.

**Access & Information team**

This team works on the strategic development of the countryside access network through the production, delivery and review of the Oxfordshire Rights of Way Improvement Plan, as well as providing steering and influence to relevant policies, strategies and programmes in the county and around its boundaries. In addition the high and increasing demand for information about countryside access and the work of the service is being met through the management of the service's web pages and undertaking marketing activities. The team also administers the work of the Oxfordshire Countryside Access Forum (Our Local Access Forum).

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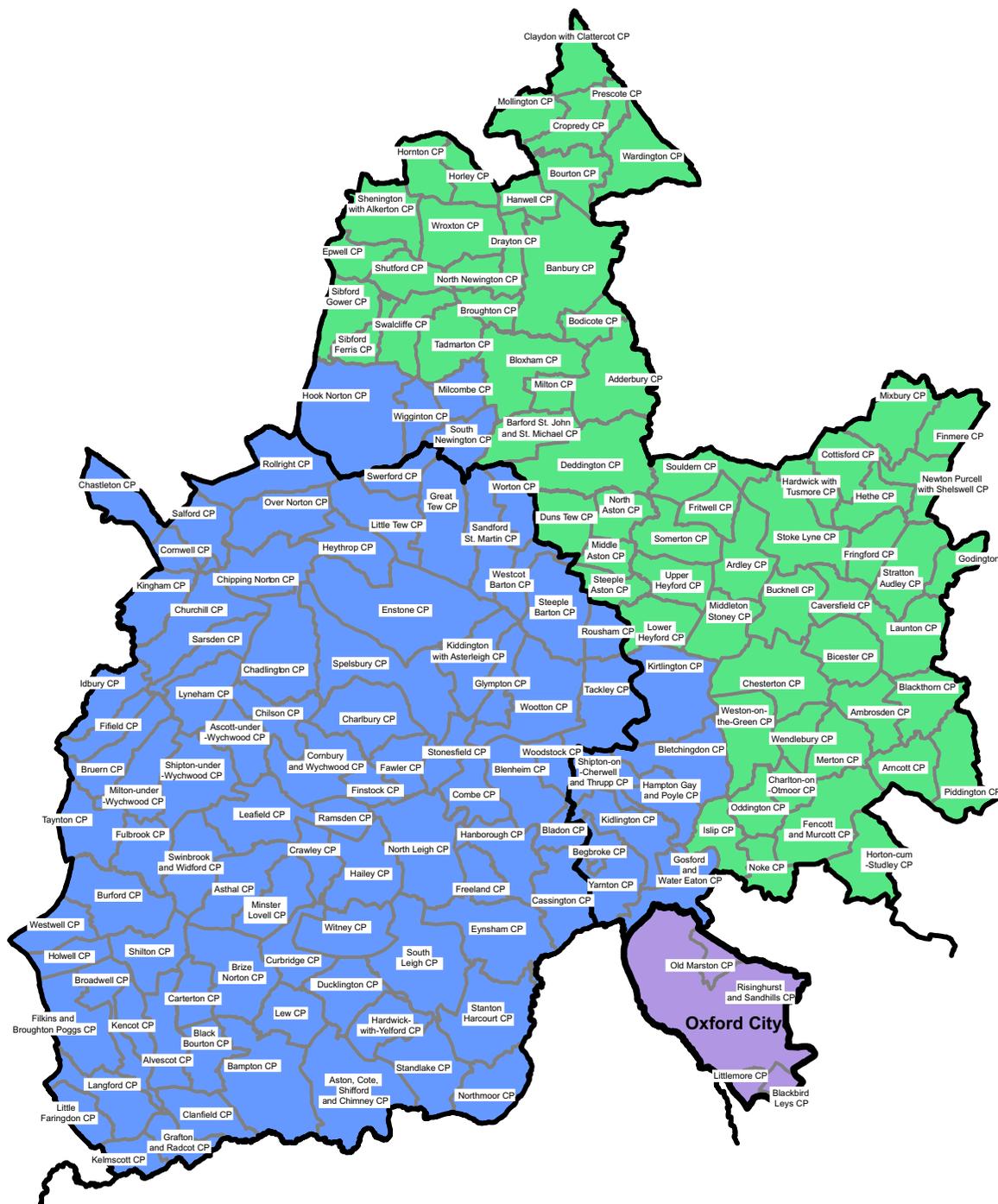
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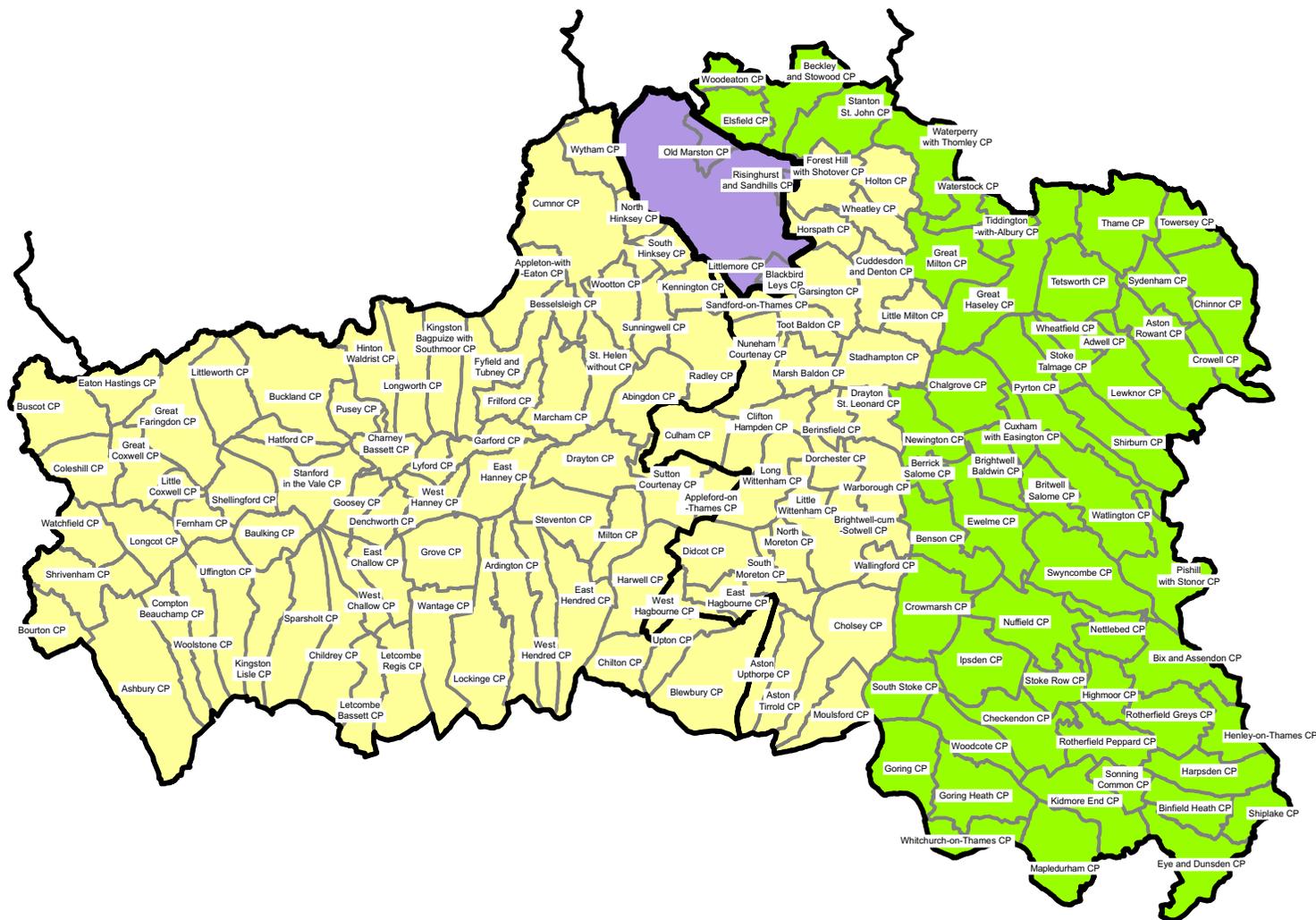
What is Countryside Access?

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## Chapter 3: Improving local access

Here is the core to this whole document; in this chapter we will be looking at how your parish council can help to improve access in your parish: What you can do; how to get help; and how to find funds.

**Users, landowners and all local authorities, including parish councils, can make path improvements.** Simple things like changing a stile for a gate, or waymarking a meandering path can make big differences to the ability of people to use paths. Producing a map of local access within the parish can open up new opportunities for residents who may not know what paths are available to them - and it will be especially useful for newcomers.

In a nutshell the parish council is best placed to focus on what improvements are needed to your paths and we would like you to feel that you can plan and achieve many of these improvements.

Your parish council has lots of powers to maintain or make improvements to local paths; it also has powers to directly take enforcement action to deal with obstructions – if you so wish. But we see your most important roles as being:

### **To be the local voice, dealing with local issues for local people:**

Any approach to a landowner from the highway authority is necessarily formal and can seem remote and 'big brother-ish'. But many landowners will be known to parish councillors on an individual basis. An informal request from you, perhaps just a quick phone call, to ask for overgrowth to be cleared from a path, or to mark

out a path on a ploughed field, can be much more effective than a letter from the county council. The landowner will know that it is local people who are concerned; people from their community.

### **The source of local information:**

No other organisation knows more about your parish and how it really works than you do. There are many occasions when we (and others) need to tap into that local knowledge, for example when we consult with you about applications for path changes, or for more strategic issues such as the Rights of Way Improvement Plan.

### **Protecting local paths from development:**

One particular area in which your vigilance is very important is around the effects of planning proposals on local paths. At the district and county levels it is difficult for us to fully appreciate what local changes might mean on the ground. You can ensure that local paths and open spaces are protected and improved through the planning process.

### **Pro-active managers of the local network:**

We want to encourage you to use your powers to carry out those minor tasks that make such a difference to local users; waymarking, litter picking, grass cutting, fixing gates or replacing stiles. There's a wealth of tasks that can be locally organised, perhaps using local contractors,

volunteers or your parish's own workforce, or working with the land owner.

**The champion for ideas to improve the parish's access network:**

Few parishes will have the perfect access network; accessible to everybody, fully signed and waymarked, paths all clear and with good surfaces, with information available locally to show residents and visitors where they can walk or ride, and with all access properly recorded. Local communities can and do make a real difference and know what improvements are important to them to help realise that perfect network. The parish council is the natural body to collect and focus the community's ideas and aspirations.

**Gathering resources for local improvements:**

Our funding is limited and likely to remain so. We try to allocate resources according to the most pressing need, predominantly on our statutory protection and maintenance role, but this doesn't mean that improvements in your parish should have to wait. Funds are often available for practical works through external funding sources. However there are two particular ways that parish councils can bring more resources for path improvements:

Firstly, you have the right to allocate some of your council's income to expenditure on maintenance of public paths and you have the right to spend money on general improvements to your area, which includes to public access.

Secondly, much can often be achieved by mobilising local resources, whether volunteers, your own workforce, or enlisting the help of local farmers. For example, you may wish to improve access by replacing stiles with gates. Getting gate kits to site across fields can be heavy work - a landowner may help with transport and even labour.

**Getting started**

To help improve access in your parish we suggest a simple set of stages:

- 1 Find out what local people want.**
- 2 Develop ideas for improvements.**
- 3 Plan how to progress and fund these projects**
- 4 Implement the projects and see how successful you have been**

Once we've looked at the first two of these steps in a bit more detail, we will give you some case studies to show the sort of things that other parishes and community groups have been doing and then give you some pointers as to funding and the practical steps to bring these ideas and plans into reality.

### Stage 1.

#### Finding out what access improvements your residents and visitors want or need

It goes without saying that securing successful local involvement in improving countryside access normally depends on identifying what those local people need and want. Basing improvements on local needs will also help to secure funding and support once projects get developed.

Oxfordshire's Rights of Way Improvement Plan is a good starting point for understanding the background to what people think about access to the countryside. It and the annual delivery actions plans are available online at

**[www.oxfordshire.gov.uk/rowip](http://www.oxfordshire.gov.uk/rowip)**

The vision and aims of the RoWIP provide a useful framework to make improvements:

The vision for Oxfordshire's Rights of Way Improvement Plan is:

**To improve the existing public rights of way network for all users and would-be users, and improve the extent, use and understanding of the network, so that public rights of way fulfil their role as a vital part of life in the County.**

To realise this vision we need to see the following aims achieved:

- 1. Public rights of way are protected and well maintained**
- 2. A better joined-up network that meets the needs and demands of users whilst accommodating the interests of land managers, the natural environment and our cultural heritage**
- 3. A public rights of way network which enables access for all**
- 4. A thriving countryside where residents and visitors are able to understand and enjoy their rights, in a responsible way**

As part of work to produce the Rights of Way Improvement Plan in 2003 we asked local communities, user groups, individuals and organisations to submit their suggestions for ways to improve public rights of way and the public rights of way network.

Over 500 suggestions for specific improvements to existing and potential new public rights of way were submitted by just 47 local councils. However this is just a small fraction of the countywide level of likely demand. These suggestions have been collated and, since the RoWIP was adopted, have been added to with other suggestions as they have been made. The study is a work in progress so there may be errors and there may be other potential routes that are not indicated. The current version can be found on the RoWIP web pages.

This is intended to provide one source of information on the paths and issues that could potentially be addressed through different approaches by organisations such as local councils, local planning authorities, user groups, as well as the county council when possible. Measures to help resolve them could include furniture upgrades to make access easier for more people, linking routes to avoid or provide an alternative to road use or make road crossings safer, or routes that connect people to each other or their local facilities. These could be standalone

projects or schemes that are linked to an area's Local Development Framework, integrated transport strategy, green infrastructure strategy or specific developments that arise.

As some of this information may be a little out of date there is no reason why local people shouldn't be asked about the detail of what they actually need now and in the future in their areas. You can do this through a special survey such as a parish path poll but it might be just as easy to ensure that countryside access is included in the development of other community led plans that you may be working on.

#### **Parish Path Poll:**

When the time comes to make applications for grant aid you will be left in no doubt about the importance of having good evidence from local people; if you don't have a Parish Plan, a parish path poll may be just the tool for providing that evidence – but even more importantly, for finding out the views of a large proportion of your residents.

Surveys can be carried out by volunteers, working in pairs, noting people seen and conducting interviews with path users. The process can be very simple but can really pinpoint the improvements that matter to local people. If you have identified key improvements through this

approach you could always include them in the parish plan questionnaire – to see if there is general support for the suggestion.

A path poll need not be complicated – below is an example of one we have put together for this guide.

Name of parish	Date of survey	Location of survey point	Day	Time of interview	Weather condition
<b>HELLO, CAN YOU SPARE A FEW MINUTES TO ANSWER 9 QUESTIONS ABOUT YOUR WALK TODAY?</b>					
<p><b>1. Do you live locally, or are you on a day trip or holiday?</b></p> <input type="checkbox"/> live locally <input type="checkbox"/> day trip from home <input type="checkbox"/> on holiday/staying away from home	<p><b>2. What activities do you plan to do here today?</b></p> <input type="checkbox"/> short stroll/ambling <input type="checkbox"/> dog walking <input type="checkbox"/> longer hike or ramble <input type="checkbox"/> enjoying the scenery/nature <input type="checkbox"/> to get to somewhere (e.g. shops, school etc) <input type="checkbox"/> other _____	<p><b>3. Why did you choose this path? (tick all that apply)</b></p> <input type="checkbox"/> it goes where I want <input type="checkbox"/> quiet path/wildlife <input type="checkbox"/> it is well maintained and easy to use <input type="checkbox"/> limited choice <input type="checkbox"/> it is easy to get to <input type="checkbox"/> other _____	<p><b>4. How did you get to the start of your walk today?</b></p> <input type="checkbox"/> from house (no transport needed) <input type="checkbox"/> by bike <input type="checkbox"/> by car <input type="checkbox"/> by public transport	<p><b>5. About how often do you visit this path or area?</b></p> <input type="checkbox"/> first visit today <input type="checkbox"/> several times a week <input type="checkbox"/> several times a month <input type="checkbox"/> several times a year <input type="checkbox"/> more often	
<p><b>6. Do you intend to visit any of these as part of your path journey today? (tick all that apply)</b></p> <input type="checkbox"/> local pub or café for refreshments <input type="checkbox"/> local shop <input type="checkbox"/> other local facility (e.g. church, doctors) <input type="checkbox"/> Other _____	<p><b>7. How important are countryside paths to you?</b></p> <input type="checkbox"/> not important at all <input type="checkbox"/> They are nice to have, but not that important <input type="checkbox"/> I strongly value access to countryside paths <input type="checkbox"/> using paths is an essential part of my life <input type="checkbox"/> Other _____	<p><b>8. Are there any problems that you find on this path or other paths in the area?</b></p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> <p>5. _____</p> <p>6. _____</p>	<p><b>9. Are there any improvements to existing paths or what new routes would you like to see in the area?</b></p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> <p>5. _____</p> <p>6. _____</p>		
<p><i>Thank you for sparing the time to take part in this survey.</i></p>					
Oxfordshire			Parish Path Poll		
<p>SURVEYOR TO COMPLETE with Respondee details</p> <input type="checkbox"/> male <input type="checkbox"/> female <input type="checkbox"/> approx age <input type="checkbox"/> number of people in group <input type="checkbox"/> Number of dogs with group <input type="checkbox"/> Number of people in group with mobility difficulties					

**Surveying your paths:**

In addition to talking to local people, you could also walk the paths in your parish and see what your nominated footpaths person, or the parish council as a whole, thinks about them (or perhaps use the walks as a community activity?). This could be based on a particular group's viewpoint - maybe young people or parents with pushchairs, or the community as a whole. We suggest that you use a copy of the definitive map extract for your parish so you can mark down the locations where improvements might be needed when you are out in the field. These could include furniture or surface improvement measures or even possible new routes or routes you would want to see upgraded (for instance from footpath to bridleway). We also suggest that you also take a digital camera with you to make things easy to refer to.

**So, what sort of improvements have other parishes made?**

**'Furniture' improvements:** Epwell village volunteers obtained landowner agreement and worked with the Cotswold Voluntary Wardens to replace stiles with gates in order to **create stile free walks** in their parish.

Many people find stiles difficult and this is a great way to improve access and also make the access

furniture easier to maintain in the future. A stile free walk can open up the countryside to the elderly, the overweight, short people, wheelchair or pushchair users, and even young parents with babies in backpacks – it's surprising just how many people will appreciate a stile free walk.

**The basic premise for your work must be to adopt the 'least restrictive access principle'.**

Access between fields is easiest through a gap in the hedge or fence. Only if there is stock in the fields should you need a gate. Pedestrian or bridle gates are easiest for users but many landowners prefer kissing gates as they are more stock-proof. However, kissing gates can be difficult to negotiate particularly for people with disabilities or for people with small children and push chairs. Nowadays, most gate kits are supplied with a reliable self-closing mechanism which will keep stock secure. In general, stiles will not be grant aided by external funders.

Pedestrian gates should be at least 1m (3'3") wide and bridle gates should be at least 1.5m (5ft) in width. This will allow the passage of horses and cyclists (not on footpaths), plus pedestrians and mobility vehicles for people with disabilities. You will also need to ensure that any new gate is put in on the legal line of the path. You can check this by looking at the latest version of the Definitive Map and Statement held by your parish clerk.

At its Otmoor reserve the RSPB has installed a number of accessible gates on the bridleways that run through the reserve and users no longer have to wrestle with heavy field gates.

Centrewire and Blackburn Fraser are two of the leading specialist suppliers of easy to use gates for rights of way which conform to the relevant British Standard and offer options for the best type of accessibility. Further details can be obtained from [www.gatesandstiles.com](http://www.gatesandstiles.com) and [www.blackburnfraser.co.uk](http://www.blackburnfraser.co.uk) Alternatively there are other local suppliers of gates and stiles in Oxfordshire listed in the Yellow Pages, and if you decide to use a contractor they should be able to source gates for you—but please ensure that they are of a suitable standard and self closing.

**Better information:**

The parishes of Cumnor and Aston Rowant have put up access notice boards with maps and information about countryside access around their villages. This is one of the simplest ways in which you can encourage more people to enjoy the local countryside.

A good way to do this is to think about where people congregate or pass by – such as the village shop or pub - and speak to the owner about putting up a notice board. They come in all shapes and forms so think about the local

environment and setting when planning the material to use. Think also about what information will be most useful to both visitors and residents.

Walking and riding maps are a really good way of showing what is available in your area. You can show all of the routes in the parish as well as other attractions. And do include local businesses that visitors and residents may find useful, such as shops, pubs, and accommodation. This is good for the walkers and riders, and good for businesses too!

If you are planning to base your information (even just using traced maps) on Ordnance Survey (OS) maps then this will need to be licensed. But we can help; your council may have a suitable licence already but, if not, a notice board will usually be covered by our agreement with OS. There are certain copyright rules and further information is available from the Countryside Service.

Please check that, if you are showing public rights of way and walking or riding routes, the line and status are correct against the Definitive Map. This can save time and money in the long run!

**Improving surfaces on key paths:**

A lot of paths are useful in the day to day lives of your residents, as well as being important for

recreation. Many routes used for journeys to school or work are used all year round. Often, people using these paths are in ordinary clothes and shoes – they aren't equipped for mud. Or there may be a need to make the routes easier for people with mobility difficulties, including needing to use pushchairs, wheelchairs and other walking aids. In these cases it may be appropriate to improve the path by widening it, or surfacing it with stone or asphalt, perhaps over a 'geotextile' base if conditions are very soft.

A smooth, firm and dry surface can make a big difference to the usability of a path, and means that it can be used by a much wider range of people.

Thame Town Council has done a lot of work with volunteers on its Cuttle Brook reserve to **make paths fully accessible** so that anyone can enjoy the wildlife and open space that the reserve provides. The work has included lots of volunteer effort with vegetation clearing, board walks and bridges, and also with re-surfacing the paths. A particularly fruitful partnership has been formed where the volunteer group has been able to tap into a wide range of funds, including Places for People, and then place orders for works through the town council to avoid having to raise money for VAT. By working alongside the volunteer group the town council has enabled more than 1km

(more than half a mile) of paths to be brought up to a high standard using a mixture of professional contractors and volunteer labour.

Surface improvement of paths is something that needs careful thought combined with the appropriate technical expertise. As we've seen in Thame and elsewhere, it can be done by volunteers and local councils but you will need to work with us and the land owner as both parties need to give their consent before you go ahead. We will work with you to help make sure that a proper assessment is made of the work needed. This includes thinking about the impacts on the look and setting of the local environment, future maintenance issues, and possible impacts on users.

#### **Other ideas:**

- What about creating new routes that connect communities to each other or enable easier or safer access to the wider countryside? You can make agreements with land owners for new paths in your own right but, as we talk about in Chapter 4, it's generally easier for you to do the 'local bits' – identifying a needed link, talking to the land owner and liaising with us – and for us to make the agreement.
- Overgrown paths are a regular summer frustration and you can help us to keep on top of

them by carrying out some of the mowing yourselves, or mowing more frequently than we can on paths that are close to the village or key local routes.

- How about putting in some extra waymarking to make sure that people can find their way round your network easily, and feel confident doing so?
- Why don't you set up an annual walking event to survey all of the paths in your parish? You could reinstate old traditions such as 'beating the bounds', which traditionally took place on Rogation Sunday.
- How many of your parishioners would benefit from a Health Walks scheme? Health Walks schemes are popping up all over the county and they are playing a large part in creating a healthier Oxfordshire. So what is a 'health walk'? The short definition is: a purposeful, brisk walk undertaken on a regular basis. 'purposeful and brisk' means its more than just a stroll, and it needs to be regular to really make an impact. As well as promoting an active lifestyle, organised walks can have a health impact on individuals by providing an opportunity to meet other people (good social networks enhance health & well-being) and a distraction from life's everyday stresses (stress contributes to poor health). If you are interested in starting a health walks scheme in your Parish, the

community Development Team may be able to help you. Please contact one of their Community Development Officers: Brian Conroy, Tel: 01993 704007, [brian.conroy@oxfordshire.gov.uk](mailto:brian.conroy@oxfordshire.gov.uk) or Barbara Jordan, Tel: 01844 217904, [barbara.jordan@oxfordshire.gov.uk](mailto:barbara.jordan@oxfordshire.gov.uk)

## Stage 2.

### Developing those ideas for improvements

From talking with local people, looking at the RoWIP and doing a local survey, you will have a good idea of the range of ideas that will help improve local access. For example, your research may have shown that people want better signing, stiles changed for gates, better access for parents with young children or perhaps for the elderly? Or maybe you've found out that people often don't know what walks are available to them and publishing a parish guide or putting an access map on the community notice-board is all that is needed.

This is likely to produce a long 'wish-list', and this will need to be worked on so that a little more detail is added. Here is our suggestion for how to clarify and narrow things down a little:

- a) collate the suggestions from all of the different sources
- b) categorise these so they make some sense (e.g gate improvements, maintenance or

- repair works, new off-road links, road verge links etc)
- c) draw these on a photocopy of the parish's extract of the definitive map
- d) speak to landowners you know at the earliest stage
- e) speak to your area rights of way field officer to get their views
- f) score the proposals to see how they stack up against each other

and then follow this up by

- g) getting wider community approval of proposals if needed
- h) including the proposals in your Parish Plans and in other documents and strategies and plans, as well as speaking to developers if housing or commercial development is planned in the locality

When considering a large number of possible improvements and, therefore, more need for prioritisation, this kind of framework analysis can be a useful tool for evaluating actions against each other in a structured and objective way. The process of assigning scores against different attributes provides an objective decision making tool for deciding whether and why one improvement is more valuable and deserving of limited resources than another. The accumulated score can be used to assign a priority to particular

actions in a transparent manner. The process of assigning scores means that each proposal is subject to scrutiny with respect to a number of important factors; weaknesses or limitations in the ability of proposals to deliver against the predetermined objectives are clearly shown up using this simple method.

You might like to consider all or some of the following factors as a way of 'scoring' each of the suggestions put forward:

<b>Connectivity</b>	How many other public rights of way (or minor roads leading to public rights of way) will the proposed improvement benefit?
<b>Catchment</b>	How many users will be expected to benefit from the improvement?
<b>Strategic importance</b>	How important is this improvement to achieving wider reaching aims? For example, a short stretch of roadside verge may seemingly be of no interest in itself but may be essential for joining links in a walking or riding route that passes through the parish
<b>Amenity</b>	How important is the improvement likely to be for recreational use of the path or local network?

<b>Utility</b>	How important is the improvement likely to be for meeting the needs of commuting or other day to day journeys?
<b>Equality</b>	Is the suggestion going to make the path more accessible for more people, including those with disabilities or other restrictions such as pushchairs or toddlers?
<b>Potential</b>	Does this improvement open up other valuable opportunities?
<b>Against</b>	How serious are any negative implications arising from the proposal (e.g. effects on land management or particular user groups.)? NB. This category will attract scores of 0 to -3.
<b>Deliverability</b>	Are the landowners and tenants supportive of this proposal? It is suggested that those projects that have such approval will score highly in this 'reality check' part of the scoring
<b>Score</b>	With the exception of 'Against', all categories are scored from 0 – 3, where '0' relates to zero benefit and '3' to high benefit. Scores can be summed to give a number based ranking of proposals.

Once these two stages are worked through it is time to look at how you can bring these ideas to fruition.....

**Stage 3.**

**Planning how to make progress with your selected projects**

So you've done your research, found out what improvements people would like to see and decided what seem to be the most important ones to focus on. Now it's time for us to briefly say a bit about making those projects happen, and one of your first concerns is likely to be finding the money and other resources that you may need.

Always look to see what resources you've got to hand; Are there land owners who could help with improvements, or rectify local problems – or just be amenable to making things better for walkers, cyclists and horse riders? Do you have volunteers in the parish that could help, or is there enough interest to start a group or encourage existing community groups to think about access?

**Where can I get the money for access projects?**

You can seek funding from a variety of sources to help support your project. We've briefly mentioned how funding for countryside access improvements can come from the parish's own right to spend money on improvements to its area or from the mobilisation of people in the community. But there are several other sources of grants that parish councils and local volunteer

groups can tap into. (These schemes are often time restricted and so are liable to change, so it pays to check the details regularly.)

One of the best places to check for sources of grant is the Guide to Funding Opportunities in Oxfordshire:

**[www.oxfordshire.gov.uk/links/public/fundingandgrants](http://www.oxfordshire.gov.uk/links/public/fundingandgrants)**

This guide gives an overview of funding opportunities across the county. Local Authority grants are divided into the relevant districts and general grant availability in major topic areas such as Learning, Community Safety and the Environment is also detailed.

Before you start getting a bid together you might want to make sure that each project proposal has everything necessary to enable a funding body to be able to say 'yes' to you – and to make sure that your project does not get delayed by unforeseen obstacles. Some projects and funding bodies may not need all of this and some may need more, but the following list is a good start point:

<u>Pre-application checklist—include this with your application</u>	Tick box
• The project meets one or more aims of the Oxfordshire Rights of Way Improvement Plan and the funding body's assessment criteria	<input type="checkbox"/>
• It is achievable within 12 months of any award of grant	<input type="checkbox"/>
• I have provided evidence of each landowner's written permission for the project, including agreed access routes, timings, disposal of old furniture and ongoing maintenance	<input type="checkbox"/>
• I have considered Health and Safety issues about doing the works. These include safe working practices and protective equipment, keeping the route open, holding Public Liability insurance, location of underground services, keeping livestock secure, disposing of old furniture	<input type="checkbox"/>
• I know who can do the works (volunteers, contractors etc) and I have obtained at least three quotes where relevant	<input type="checkbox"/>
• I have spoken to the area rights of way field officer about projects on public rights of way and secured his/her approval	<input type="checkbox"/>
• For path infrastructure items I have sought the least restrictive option so that the path is as accessible as possible (funders will not fund stiles)	<input type="checkbox"/>
• I have included all the costs in the application—including materials, delivery to site, equipment and plant, contractors, VAT, sundries such as wood, staples, fencing etc.	<input type="checkbox"/>
• I have spoken to the materials manufacturer to find out what lead time there is for gates etc.	<input type="checkbox"/>
• I can provide evidence that I have made provision to protect habitats and the natural environment, whilst the project is being carried out	<input type="checkbox"/>
• For items that use maps, I have obtained Ordnance Survey permission to use their data, and checked any public rights of way information with the Countryside Service	<input type="checkbox"/>
• I have taken 'before' pictures and a marked up map so that I can provide 'during' and 'after' pictures to the funder on completion	<input type="checkbox"/>

### Are there any specific grant schemes that are set up for access projects?

Look at the Landfill Communities Fund; the Chilterns' and Cotswolds' Conservation Board Sustainable Development funds, if you are in their area; the Lottery's Awards for All fund; and, for larger grants, the LEADER fund.

**Landfill Communities Fund:** Grant support is available in parts of Oxfordshire (within 10 miles of an active site), and qualifying community and environmental projects might be able to access funding through the following organisations:

- Waste Recycling Environmental Limited (WREN): [www.wren.org.uk/](http://www.wren.org.uk/)
- Viridor Credits: [www.viridor-credits.co.uk/](http://www.viridor-credits.co.uk/)
- Biffaward: <http://www.biffaward.org/>
- SITA Trust: <http://www.sitatrust.org.uk/>

### Sustainable Development Fund – an AONB grant scheme:

Areas of Outstanding Natural Beauty (AONBs) are nationally important and legally protected landscapes, designated because of their “outstanding natural beauty”. To encourage projects that bring environmental, social and economic benefits to AONB, including countryside

access projects, their Conservation Boards run Sustainable Development Funds for good projects within their areas.

In Oxfordshire we are fortunate to have three AONBs. Two of these, the Chilterns and the Cotswolds, run SDF schemes where awards of up to £5000 can be made to successful projects.

If your parish is in the Chilterns and you would like to apply for a grant, contact Kath Daly, Countryside Officer, Tel 01844 355524, or Email [kdaly@chilternsaonb.org](mailto:kdaly@chilternsaonb.org).

If you are in the Cotswolds and would like to request an information pack or discuss a project please contact the project officer. Tel: 01451 862000 Email: [david.molloy@cotswoldsaonb.org.uk](mailto:david.molloy@cotswoldsaonb.org.uk)

### Chilterns AONB Parishes Fund:

South Oxfordshire parishes in the Chilterns can apply for small grants to the Chilterns AONB Parishes Fund. Grants of up to £500 can be awarded for local projects which benefit the AONB. Contact Claire Forrest, Information & Interpretation Officer at the board, for more information. 01844 355521 Email [cforrest@chilternsaonb.org](mailto:cforrest@chilternsaonb.org)

**Awards for All Programme:**

The Big Lottery Fund launched a new-look Awards for All programme in 2009. Visit the Awards for All web site [www.awardsforall.org.uk](http://www.awardsforall.org.uk) to get details about the programme and to get an application form, or call 0845 4 10 20 30 . The new scheme offers an easily accessible programme with quicker decision times. Grants between £300 and £10,000 are available to grassroots groups in the community including parish and town councils.

**LEADER Funding for Rural Communities:**

The LEADER Programme is a major source of funding for farmers, foresters, rural businesses and community organisations. The funding is part of the Rural Development Programme for England (RDPE). Monies are to be allocated between 2008 and 2013.

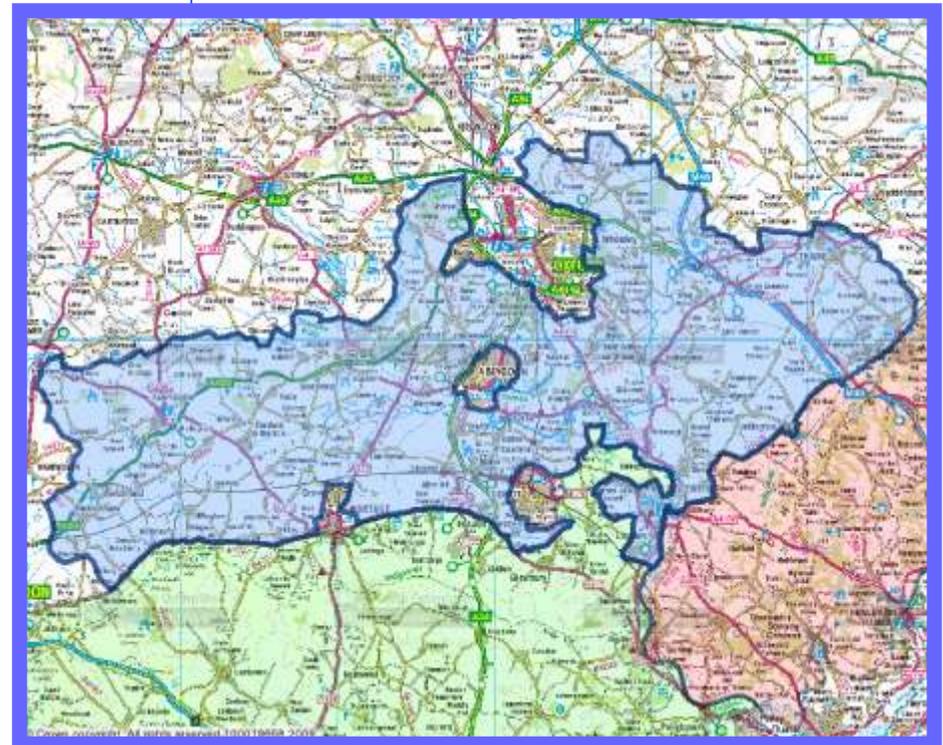
There are three LEADER Local Action Groups (LAGs) allocating money to suitable projects in Oxfordshire. They all have tightly defined areas and only parishes falling within them can be funded. Please visit the websites or talk to the programme managers to identify which areas of Oxfordshire each LEADER programme covers and to check out their funding priorities. In general each LAG will include basic

community services, tourism or heritage elements in its grant schemes and it may be possible to support access works under these headings. LEADER is targeted at projects needing grants in the £5-20,000 range, but can go up to £50,000 for suitable projects.

The three LEADER areas are:

**South Oxfordshire and Vale of the White Horse:**

Contact the Programme Manager at South Oxfordshire District Council on 01491 823176  
[www.southernoxfordshireleader.org.uk](http://www.southernoxfordshireleader.org.uk)



**The Chilterns:**

Contact the Programme Manager on 01844 210447. [www.chilternsleader.org.uk](http://www.chilternsleader.org.uk)

**North Wessex Downs:**

Email [Julian.Head@wiltshire.gov.uk](mailto:Julian.Head@wiltshire.gov.uk) or tel 01225 71342.  
[www.northwessexdowns.org.uk/wba/nwd-aonb/NWDWebsiteV2.nsf/\\$LUcontent/9.4?OpenDocument](http://www.northwessexdowns.org.uk/wba/nwd-aonb/NWDWebsiteV2.nsf/$LUcontent/9.4?OpenDocument)



**Is there any other funding?**

Grant schemes come and go and it can take quite a bit of investigating to find all of them that you can apply to at any particular time. Fortunately a lot of this work has been done for you by the compilers of several newsletters or fact sheets that cover Oxfordshire. Newsletters containing the latest information about funding opportunities in your area are available on the OCVA website. You can access it by going to [www.oxnet.org.uk/development](http://www.oxnet.org.uk/development)

The 'Fundfinders' website contains useful advice on making grant applications and can be found at:

<http://www.funderfinder.org.uk/index.php>

The Oxfordshire Association of Local Councils (OALC) also carries funding advice on its website at: <http://www.oalc.org.uk/FundingNews2.htm>

'Cotswold Grants' is a very useful and information packed newsletter which is produced annually and covers many grants that are applicable beyond just the AONB. The newsletter can be downloaded from the Cotswold AONB web site at [www.cotswoldsaonb.org.uk](http://www.cotswoldsaonb.org.uk)

#### **Why not set up a volunteer group?**

You can set up your own parish group to meet occasionally or on a regular basis to complete work on your local Rights of Way. Or you can work with one of the established volunteer groups that already carry out work in various locations around the county (see below). They have lots of experience of working with volunteers on a wide variety of tasks.

BTCV (British Trust for Conservation Volunteers) is a national organisation that can help with setting up your volunteer group; see its web site at [www.btcv.org/thamesandchilterns](http://www.btcv.org/thamesandchilterns) or call the Trust on 0118 947 5049 email [reading@btcv.org.uk](mailto:reading@btcv.org.uk)

Our Field Team already works with two local volunteer organisations - the **South Chilterns Path Maintenance Volunteers** and the **Cotswold AONB Voluntary Wardens**. The South Chilterns Paths Maintenance Volunteers help to keep public rights of way in the South Chilterns (South Oxfordshire) in good condition. The group is part of the Chiltern Society and offers a social atmosphere and the chance for some good healthy exercise at the same time. All tools and insurance cover is supplied by the Chiltern Society. The Cotswold Voluntary Wardens Service was established in 1968. Anyone can join and, today, there are over 340 members. The wardens are part of the Cotswolds Conservation Board and volunteer their time and skills to help with projects from dry-stone walling, hedge laying, and tree planting to installing kissing gates. The wardens regularly work with parish councils as well as farmers and local residents to help keep footpaths open. Support, training, equipment, travel expenses and a sense of achievement are offered in return for volunteers' valuable time.

#### **Stage 4.**

##### **Implementing your projects and seeing how successful you have been**

This part of projects is very important to residents and visitors – many of whom may not be aware of the work that has got the scheme to this stage. This is where the checklist in section three is

important. Having all of the matters in place will help you to make sure the project goes smoothly.

Our area rights of way field officers and the rest of the team will try to help you as much as we can, and we can point you in the right direction for contractors who we know can do high quality work on the public rights of way network. However the Countryside Service cannot provide a guaranteed level of advice or offer to undertake the practical works for projects on public rights of way. Every effort will be made to try and provide some level of advice and technical support. Applicants are recommended to include the full costs of consultants or contractors, if needed, in their grant applications for the project.

We would draw your attention to the part in the checklist about 'before, during and after photographs'. Please take as many images as possible as these are appreciated by funding bodies and also look great in your parish newsletter or website. Once the works are done it can be a nice finish to have an inaugural walk or opening – and even better if you invite the landowner along as guest of honour. Take the time to look back at what you have achieved and consider issuing a press release if you feel the wider community would want to know about this.

Finally, information about the majority of the most recent access improvements that are carried out will be displayed on our website for you and your parishioners' information, and this can be accessed most easily by the 'Where I live' search mechanism on Oxfordshire County Council's website. To have a look, go to the OCC homepage at [www.oxfordshire.gov.uk](http://www.oxfordshire.gov.uk), scroll to the map of Oxfordshire and either click on an area of the map or choose a parish name from the drop down list. Then scroll down through the 'Local news' and 'Countywide news' headings to find the 'Countryside access improvements' in that parish area.

## Chapter 4: Who can do what?

If you want to find out what powers are available to your council, or what the responsibilities of other people are, this is the section you need.

Here we have included an overview of the rights and responsibilities of all the key players involved with countryside access, these are:

- Users
- Land owners, farmers, occupiers and developers
- The Local Access Forum
- Parish and Town Councils
- District and City Councils
- County Council
- Defra, Natural England & the Planning Inspectorate

Four terms need to be thought about before we get into the detail of who can or should do what. These are: duties; powers; rights and responsibilities. Simple definitions of each of these, as we mean them here, are:

**'Duties'** – actions that a body has a legal obligation to carry out; there is no element of discretion, the law says that they must be done.

**'Powers'** – actions that a body can choose to do to make things happen.

**'Rights'** – legally enshrined opportunities that can be exercised at the will of the individual or organisation.

**'Responsibilities'** – actions for which a body or individual can be called to account; whether laid down in statutes or as a matter of good practice.

### Users – walkers, horse riders, cyclists, carriage drivers and motorists

#### Duties:

As users we have no specific duties with respect to managing rights of way; only to contribute to the upkeep of the network through our taxes and to obey the laws of the land.

All users owe each other a duty of care but some users, especially motor vehicle users, have further legal duties imposed on them. In a nutshell; motor vehicles can legally be used by the public on byways open to all traffic. But, a byway is just as much a highway as the A40 and the rules of the road apply; drivers must be licensed and insured, and vehicles must be fully roadworthy, registered and taxed.

On bridleways, cyclists have a duty to give way to walkers and horse-riders, although in practice it is often easier for walkers to make way for cyclists.

#### Powers:

The powers of individual users to directly affect path conditions are restricted to the ancient, limited, but still significant, power of abatement. Abatement is the common law right to take action to remove a nuisance that is affecting the exercise of a right. If, say, a walker comes across a path blocked by excessive overgrowth, they

have the power to remove just enough of it to get past. If they can't get through, they also have the right to detour around an obstruction. Although the bulk of the obstruction may remain, once a person can conveniently carry on their journey they no longer have the power to remove material and further action could even constitute criminal damage.

**Rights:**

By definition rights of way users enjoy rights. The rights are to pass and re-pass along the highway using whatever means is allowed on that type of highway (see Chapter 2, p.xx). When exercising their right to pass, users can rest along the way and, perhaps, eat a bite of lunch. (But, there is no right to specifically go out to picnic on a public path.) If a user goes beyond their right to pass and re-pass they can be classed as a trespasser – the most famous case being of a journalist in 1900 who was held to be a trespasser for having walked up and down a path taking notes about race horses in training.

There is considered to be a right to take certain things with you that might be considered to be a 'natural accompaniment' to your journey, including dogs (under close control) and pushchairs.

Users have rights to take legal action to get obstructions removed. A user can apply to the

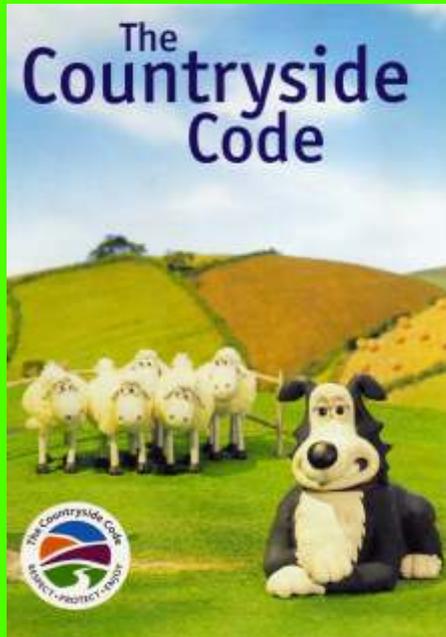
magistrates' court to compel an authority to prevent the obstruction of a highway (sections 130 A-D Highways Act 1980). Users can also take action directly against the land owner to remove an obstruction, again through the magistrates' court (sections 134 and 137 Highways Act 1980).

Where a path is out of repair (rather than obstructed) a user can take action to compel the highway authority to repair the path. This is done by serving notice on the highway authority requiring it to state that the path is publicly maintainable. If the highway authority admits that the path is publicly maintainable but still does nothing, action can be taken through the courts to force repairs to be carried out. The notice is called a 'section 56 notice' (s.56HA 80). This sort of action should normally not be needed and should be seen as a last resort. Whenever a path is out of repair it should be reported to the Area Field Officer.

Anybody has the right to present evidence to us that an unrecorded public right of way exists and to apply to have that path recorded on the Definitive Map and Statement.

**Responsibilities:**

Keeping within the law is the responsibility, and duty, of all users. Users must exercise their rights considerately on public rights of way and on



access land. This means following the Countryside Code. The Code has five key messages for the public:

- Be safe – plan ahead and follow any signs
- Leave gates and property as you find them
- Protect plants and animals, and take your litter home
- Keep dogs under close control
- Consider other people

The Code gives more detailed advice under each of these headings. The full Countryside Code can be seen at

[www.naturalengland.org.uk/ourwork/enjoying/countrysidecode](http://www.naturalengland.org.uk/ourwork/enjoying/countrysidecode)

### Landowners, farmers and developers

#### Duties:

The primary duty of land managers (owners, farmers, occupiers or developers) is one of not doing anything that will interfere with the public's rights of access, whether on a public right of way or on access land (that hasn't been formally closed). They mustn't obstruct access either physically: for example by fences or locked gates; by intimidation (including aggressive animals kept near to the path); or by discouragement, such as by misleading signs.

All land managers owe a duty of care to people using their land. Known hazards must be kept away from the public and adequate warnings given. They also have a duty to maintain their stiles or gates in a safe, usable condition.

Land managers have a duty to keep overgrowth from obstructing paths. Hedgerows or low branches should be kept cut back so that they do not get in the way of people using a path or unduly restrict the width of path available.

Land managers must re-instate paths promptly if they aren't able to avoid ploughing them.

Adequate widths must be left, even where these aren't recorded on the Definitive Map and Statement.

- Cross-field footpaths must be at least 1 metre wide;
- Cross-field bridleways must be at least 2 metres wide;
- Cross-field byways ('BOATs' and 'restricted byways' must be at least 3metres wide and must never be ploughed;
- Field edge footpaths must be at least 1.5 metres wide (but we prefer to see at least 1.8m);
- Field edge bridleways must be at least 3 metres wide;
- And field-edge byways must be at least 3 metres wide (but we prefer to see at least 5m).

**Powers:**

Land managers have the power to temporarily close access land – but only subject to strict limitations: Closure is restricted to 28 days per year, excludes bank holidays and cannot include summer Saturdays or Sundays. Five days notice must normally be given to Natural England.

The power to exclude people can be limited to certain areas or to certain users; for example, it can be used to exclude people with dogs. Land managers can also apply to Natural England for 'Directions' that enable them to close access land for longer periods, but they must have good reasons for doing this. The power to close access land does not affect any public rights of way that cross the land – they must be kept open at all times.

**Rights:**

Land ownership or tenancy can give land managers all sorts of rights to enjoy their property and, of course, they can do things that, if done by the public, would be a trespass against the owner. So, for example, a land manager, or their invited guests, can drive vehicles on a footpath crossing that land. But, the land manager generally has no right to do anything that interferes with the rights of the public. An exception may be the right to plough.

Ploughing or otherwise disturbing the surface of a path makes it less convenient to users. However, the law allows farmers to plough paths where there is long-standing practice to plough that path, or where the right is recorded on the Definitive Statement. This 'right' isn't automatic; there is really only a legal excuse that a farmer may plough a path if it isn't reasonably convenient to avoid doing so. If it wouldn't be a problem for the farmer to avoid ploughing a path, but he does it anyway, he could be committing an offence.

Whenever a path is ploughed, the farmer has a duty to reinstate the surface and mark the line of the path within 14 days of first ploughing or within 24 hours of any further work. This is usually done by rolling and staking it out in some way.

There is no right to plough a field-edge or 'headland' path.

More information can be found on the Defra land management web pages at [www.defra.gov.uk/foodfarm/landmanage/publicaccess.htm](http://www.defra.gov.uk/foodfarm/landmanage/publicaccess.htm)

Land managers<sup>1</sup> can ask the district, city or county council to make a public path order modifying a right of way. Usually this will be to divert the path or extinguish it. However, currently,

<sup>1</sup> Legally, anybody can request a diversion but in practice we will only consider applications that have the support of the owner and/or occupier of the land.

the local authority has no obligation to proceed with the request and, at the County Council, we will treat such requests on their merits. We have published our guidance note about public path orders and this is available on our web pages at [www.oxfordshire.gov.uk/definitivemap](http://www.oxfordshire.gov.uk/definitivemap).

Certain owners and managers may have the right to ask for other special types of diversion or closures, such as;

- Rail crossing diversion or extinguishment orders
- Crime prevention orders – often called 'Alley-gating' orders
- School security orders

There is no right to put a gate or stile across a public path. We can authorise these but only if they are needed for keeping stock. We try to follow the 'least restrictive access' principles and our preference is for a gap or a gate before a stile. Gates suitable for wheelchair, power scooter and pushchair are readily available but there is no obligation for these to be provided by a landowner. Similarly, there is no obligation on the landowner to make allowance for dogs to get past stiles, but they can make provision for dogs if they wish.

If a landowner wishes to protect themselves against future claims for public rights of way to be recorded across their land, they have the right to make a statutory declaration<sup>2</sup> (sometimes also known as a 'Section 31(6) declaration') to us about which paths they accept are public and recording their lack of intention to dedicate any others.

Land managers have the right to improve the surface of a path, for example, if a footpath also serves as a driveway, but this must be with our prior consent.

#### **Responsibilities:**

A landowner must ensure that vegetation from land on either side of a right of way (overgrowth) does not overhang or encroach onto the public path. If a path is to be enclosed by hedges, or is to run next to a hedge or woodland, the regular cutting back of vegetation will be their ongoing responsibility. Care should also be taken to ensure that there is adequate headroom for users of the path. In the case of a bridleway, clear headroom of at least 3 metres must be maintained.

- Any tree falling across a right of way should be cleared by the owner of the tree.
- Any path running through a field of crops must be kept clear of growing crops across its full width.

<sup>2</sup>Under section 31(6) Highways Act 1980.

Landowners and occupiers are responsible for the maintenance of stiles, gates and other structures on rights of way unless they have been erected by us. They should be repaired or replaced when necessary so that they are safe and easy to use. All land managers have a responsibility not to put at risk the health and safety of persons not in their employment. Specific rules relate to bulls: it is an offence to keep any bull in a field crossed by a right of way unless:

- i) the animal is under 10 months old or
- ii) it is not of a recognised dairy breed and is at large with cows or heifers.

The maintenance of free passage along public rights of way is a key farm activity that falls within the cross-compliance rules of the Single Payment Scheme (SPS). The County Council, is encouraged to report breaches of Good Agricultural & Environmental Conditions (GAEC) to the Rural Payments Agency ('RPA'), particularly those which breach GAEC 8 – Public Rights of Way. The RPA will then consider a reduction in the SPS Payment.

**Developers** have the right to apply for diversions or extinguishments that may be needed to enable development to go ahead once planning permission has been granted. (See 'Access and Planning' below.)

## Local Access Forum

Each highway authority and national park authority was required by the Countryside & Rights of Way Act 2000 to set up a Local Access Forum (LAF) and to appoint a LAF Secretary. In Oxfordshire we have set up a Forum with a wider countryside access remit which we call the Oxfordshire Countryside Access Forum (OCAF).

### Duty:

The forum has only one duty; to advise 'Section 94(4) bodies',<sup>3</sup> these include parish and town councils.

The advice which forums<sup>4</sup> give to section 94(4) bodies should fall within one (or more) of the following categories:

- a) improvement of public access (whether on foot or by horse, cycle, canoe, mechanically propelled vehicle or any other lawful means) to land in the area for the purposes of open-air recreation and the enjoyment of the area;
- b) public access to land in the area for any other lawful purpose (whether on foot, horse, cycle, canoe or by any means other than by mechanically propelled vehicle);

<sup>3</sup> 'Section 94(4)' refers to the list of bodies drawn up under s.94(4) Countryside & Rights of Way Act 2000.

<sup>4</sup> The classically trained reader may prefer the term 'fora' but we will use 'forums' as it is the more usual plural term used.

c) public access to land in the area by means of a mechanically propelled vehicle for any other lawful purpose, but only insofar as the access relates to byways open to all traffic (BOAT).

#### **Powers:**

Local Access Forums are restricted purely to considering access issues and offering advice.

Rights: OCAF has the right to have its views given due regard by the section 94(4) bodies. These bodies do not have to follow the advice of OCAF but, when it is offered, it must be considered before reaching a decision.

#### **Responsibilities:**

In coming to its views, OCAF has the responsibility to have regard to;

- The needs of land management,
- The desirability of conserving the natural beauty of the county, and
- Any guidance given by the Secretary of State.<sup>5</sup>

### **Parish Councils**

In the introduction we briefly reviewed the long and fundamental history of parishes in maintaining and recording the public rights of way network. During the twentieth century most of the duties of the parishes relating to highways were successively taken over by the rural district and

then the county councils, but the highways history of the parishes has left them with numerous powers and rights. Use of these may be discretionary but, if they so wish, parishes can still play a key role in maintaining their public paths, In Chapter 3 we set out what we believe are the best roles for your council, but this section gives more detail on the powers available.

#### **Duties:**

Parish councils no longer have any duties with respect to public rights of way.

#### **Powers:**

In contrast, the legacy of centuries of highways management is that the parish councils still have many powers that they can choose to exercise to improve their local paths. These powers are listed below;

#### **Recording of public rights of way**

- You can keep available for public inspection a copy of the Definitive Map and Statement for the parish, together with copies of any orders that have made changes since the map was last published.
- You can apply to add paths to the map and to present evidence to support the application.

<sup>5</sup>For Environment, Food and Rural Affairs.

### Protecting public rights of way

- You can tell us that a path has been illegally obstructed or stopped-up. We must act on this representation unless we think that it is mistaken.
- You can veto any proposals that we might make to divert or stop-up a highway through the magistrates' court.
- You can prosecute anyone who wilfully obstructs a right of way in the parish.
- You can prosecute a farmer who grows crops on a right of way.
- You can prosecute a farmer who doesn't reinstate a path after ploughing.

### Maintaining public rights of way

- You can maintain any footpath, bridleway or restricted byway in the parish. (Your power to maintain public paths does not affect our over-arching duty to do the same. The law allows us to come to an agreement to defray some or all of your costs for maintenance work.)
- You can put up notices or signs to warn users of any dangers on local paths.
- You can signpost a public right of way where it leaves a road – or ask us to signpost it.
- You can waymark public rights of way in the parish.

### Improving public rights of way

- You can install lighting on any footpath or bridleway in the parish.
- With our approval, you can provide litter bins. Where you do, you must make arrangements for their regular emptying, usually with the district council.
- With the landowner's consent, you can install a seat or shelter at the side of a public path.<sup>6</sup>
- You can create new paths in the parish (and adjoining parishes) by agreement with the landowner.
- You can incur expenditure in the interests of the area or the inhabitants, including improvements to public rights of way.<sup>7</sup>

**If you want to maintain, protect or improve the paths in your parish, the powers are there for you to use.**

### Rights:

You have the right to be consulted about many changes that may affect your parish, including;

- Being consulted by us when we receive an application for a definitive map modification order.
- Being consulted before we make a definitive map modification order in the parish.
- You have the right to object to a public path order or a definitive map modification order

<sup>6</sup>Section 1 Parish Councils Act, 1957

<sup>7</sup>Section 137 Local Government Act, 1972

(we, or another order making authority, have a duty to notify you whenever we make or confirm an order affecting your parish).

- You have the right to be consulted during the drawing up of Rights of Way Improvement Plans (The Rights of Way Improvement Plan shows our priorities for countryside access). Oxfordshire's was published in February 2006 after a consultation period in which many local councils responded. The plan will be extended beyond 2011 until the third Local Transport Plan has been adopted and started to be implemented
- Very importantly, your parish council is a consultee for planning proposals, some of which may affect public rights of way. It is important that full consideration is given to the effect of development on local paths before planning permission is granted. We ask all parish councils to carefully consider the impact of any development on their local paths and to alert the planning authority (the district or city council) to any issues or concerns that they are aware of. It may be that there are opportunities for improved access with developments and we hope that you will work with the planning authority to take advantage of such opportunities. Chapter three of this guide shows some ideas which you may want to take forward.

- You can apply for an area of land to be recognised as a town or village green. Where you own land, you can dedicate that land as a town or village green. You can also dedicate land for public access using section 16 of the Countryside & Rights of Way Act 2000.

### **Responsibilities:**

We see your main responsibilities as being to ensure that the views of local people are represented on matters such as public path orders (diversions and extinguishments); protecting the network for the benefit of local people; and seeking opportunities to improve paths and the network to best fit the needs of the parish.

### **District and City Councils**

To all intents and purposes the four district councils and Oxford City Council have the same opportunities for involvement with the management of public rights of way in the county. For simplicity, we will use 'district council' to include Oxford City Council.

### **Duties:**

The districts have no countryside access or public rights of way maintenance duties. They can choose to take on some of the highway authority's

duties under an 'agency agreement' with us but there are currently no agency agreements in place in Oxfordshire.

An important duty for district councils is that of keeping rights of way clean and clear of litter and refuse, including fly-tipping and abandoned vehicles.

### **Powers:**

Generally, districts have powers to:

- Create new paths by agreement or by order.
- Make orders to divert or extinguish paths
- Require the cutting back of overhanging vegetation
- Require the removal or shielding of barbed wire where this is a nuisance on a path
- Require the fencing off of land that may be a danger to the public.
- Install litter bins on public rights of way with our consent if it may restrict available width, (arrangements must be made for their emptying and cleaning with the district council).

### **Rights:**

The district councils have the right to claim maintenance powers on publicly maintainable paths<sup>8</sup> and Oxford City Council exercises its right

to look after paths in its area. So in Oxford there is a split responsibility between OCC Countryside Service and the City Works. Essentially this means the City Council covers general maintenance issues including: vegetation clearance and management; pothole, surfacing & drainage issues; maintaining the existing roadside signposts, barriers and (where requested) footbridges; Oxfordshire County Council manages all enforcement, planning related & legal issues; installing new signposts at roadside and new footbridges over water courses; access improvement projects; and investigating and following up reports of problems.

The district councils can claim re-imburement of costs from us. The districts can also maintain privately maintainable paths – but they cannot seek county council funding for this.

The district councils are the planning authorities and responsible for Local Development Frameworks. They have the right to include proposals for rights of way within these plans. We expect that these will be informed by the Rights of Way Improvement Plan and policies C6 (Countryside Access) and CC8 (Green Infrastructure) in the Regional Spatial Strategy.

<sup>8</sup>Section 42 Highways Act 1980

**Responsibilities:**

District councils, through their planning functions, can have significant impacts on local paths and networks. We encourage them to carefully consider the potential impact of all planning applications and any opportunities for access improvements– taking the advice of parish councils and guidance from the Rights of Way Improvement Plan.

**Oxfordshire County Council**

Oxfordshire County Council is the highway authority for the whole of the county and fulfils the functions of: 'highway authority', 'surveying authority' (keeping the Definitive Map and Statement up to date), 'access authority' (managing access land in its area), 'traffic authority' (including making traffic regulation orders) and 'street authority' (responsible for administering works in streets). Needless to say these roles all carry an extensive list of duties and powers. We will just summarise them here and give a fuller list in the summary box at the end of the section.

For the sake of convenience we will restrict the county council to the title of 'highway authority'.

**Main duties:**

The highway authority's main duties can be summarised as:

- To assert and protect the rights of the public to the use and enjoyment of all of their highways.
- To maintain the highways in a suitable condition for the normal traffic using them.
- To prevent or rectify obstructions, including encroachment by crops, misleading signs or disturbance by ploughing.
- To keep an up to date list of highways maintainable at public expense.
- To signpost rights of way where they leave a road and to waymark them where needed to help people follow a route.
- To prepare and review a Rights of Way Improvement Plan.
- To keep the Definitive Map and Statement under continuous review and to make it available for public inspection.
- To keep a register of applications for modification orders.
- To keep a register of commons, and town and village greens.

**Powers:**

Our powers are even more numerous. The main ones are:

- To create paths by agreement or order.

- To construct bridges over natural watercourses.
- To drain public rights of way.
- To carry out works to improve paths.
- To make orders to divert or extinguish paths.
- To authorise new gates (and stiles if absolutely necessary) – and to order the removal of those that aren't authorised.
- To make definitive map modification orders.
- To make traffic regulation orders

**Rights:**

The highway authority is required to employ sufficient staff to carry out its legal duties but has the right to organise this work and allocate resources as it sees fit.

**Responsibilities:**

Ultimately the highway authority is responsible to the public for the recording and maintenance of its public rights of way network irrespective of any agency agreements we may enter into.

**Defra, Natural England & the Planning Inspectorate**

The Department of Environment Food and Rural Affairs (Defra) is the Government department most involved with rights of way and access to the countryside. It is responsible for drawing up

and issuing guidance on the legislation and acts as sponsoring organisation for the other main bodies involved, particularly Natural England and the Planning Inspectorate.

Natural England acts as an executive agent for Defra, developing policies and projects to deliver the department's goals across England. Natural England also has regulatory functions that impact upon rights of way work, particularly with respect to protected species and habitats, including sites of special scientific interest and other designated sites. Natural England is also the 'appropriate countryside body' for the purposes of the Countryside & Rights of Way Act 2000. Several duties follow from this including;

- Preparing, reviewing and maintaining maps of open country.
- Maintaining a web site showing areas of land subject to temporary closure.

Natural England also has some powers under the Act, including the power to restrict access for the purposes of protecting the conservation interest of a site or the prevention of fire.

The Planning Inspectorate (PINS) is the body to which Defra directs all opposed path orders. PINS will decide in each case whether to examine the order by written representations, hearings or public inquiries. An inspector will be

appointed to hear the evidence and reach a decision.

### Access and planning

As we noted above, you will be consulted when applications are made for planning permission in your parish, so your vigilance and your voice can be very important to make sure that developments cause minimal damage to local paths networks - and hopefully result in improvements.

The granting of planning permission does not give an automatic right for a developer to move or extinguish a path; this can only be done by a public path order, usually made under section 247 or 257 Town & Country Planning Act 1990. However, once planning permission has been granted it is harder to prevent a diversion or extinguishment order being made and so it is much better that representations are made to the district council before planning permission is given.

No development that affects a path should be started before the path has been formally stopped-up or diverted.

If development will have a negative effect on local paths or access to open space, you should ask the planning authority to impose planning obligations to offset the damage.

### Summary

It will be apparent that a lot of different bodies have a lot of different levels of involvement with countryside access. We have tried to cross-reference duties and powers with the relevant bodies in the table below – and we've highlighted those relating to parish councils.

Duties are indicated by a red square   
Powers are shown by a black circle   
Rights are shown by a blue triangle 

	Users	Land managers	Parish councils	District councils	County	Defra	Natural England
Publish and keep the map up to date					■		
Hold copies of the map and orders			●	●	■		
Apply for changes to the map	▲	▲	▲	▲	▲		
Make orders to change the map based on evidence – adding or changing status					■		
Divert or extinguish paths	▲	▲	●	●	●		
Development related changes	▲	▲	▲	●			
Object to an order	●	●	●	●			
Hold public inquiries etc. to determine contested changes						●	
Keep a register of applications for changes (Apply to record a town or village green) <sup>9</sup>	▲	▲	▲		●		
Maintain local paths	▲		●	●	■		
Enter into agency agreements				▲	●		
Stiles and gates		■			●		
Overgrowth	▲	■		●	●		
Undergrowth	▲		■		●		
Force the highway authority to take action	▲	▲	▲				
Bridges		■ <sup>10</sup>			■		
Surfacing and/or drainage			●		●		
Temporary diversions					●		
Removing litter or fly-tipping				■			

<sup>9</sup> NB. Towns and village greens are recorded through a similar but unrelated process to the Definitive Map and Statement.

<sup>10</sup> Culverts and bridges over drainage ditches and artificial watercourses may be the responsibility of the landowner. Bridges over streams and rivers are the highway authority's responsibility.

	Users	Land managers	Parish councils	District councils	County	Defra	Natural England
Keep a list of publicly maintainable paths					■		
To assert and protect the rights of the public	●		●	●	■		
Require the removal of obstructions and the abatement of nuisances, e.g. barbed wire	▲		●	●	●		
To take action to prevent or remove misleading signs			●		●		
To enforce re-instatement after ploughing or secure removal of crops		▲	●		■		
Make traffic regulation orders					●		
Rights of Way Improvement Plan	▲		▲	▲	■	●	▲
Signposting from a road			●	●	■		
Other signposting and way-marking			●	●	●		
Create new paths		▲	●	●	●		
Lighting			●				
Litter bins			●	●	●		
Safety barriers					●		
Seats and shelters			●		●		
Other improvement			●		●		
Draw up and maintain a map of access land							■
Maintain a website with restrictions on access							■
Exclude access		●			●	●	●
Dedicate access land		●	● <sup>11</sup>		●	●	

<sup>11</sup> Where the parish council is also the land owner

## Chapter 5: How is access recorded?

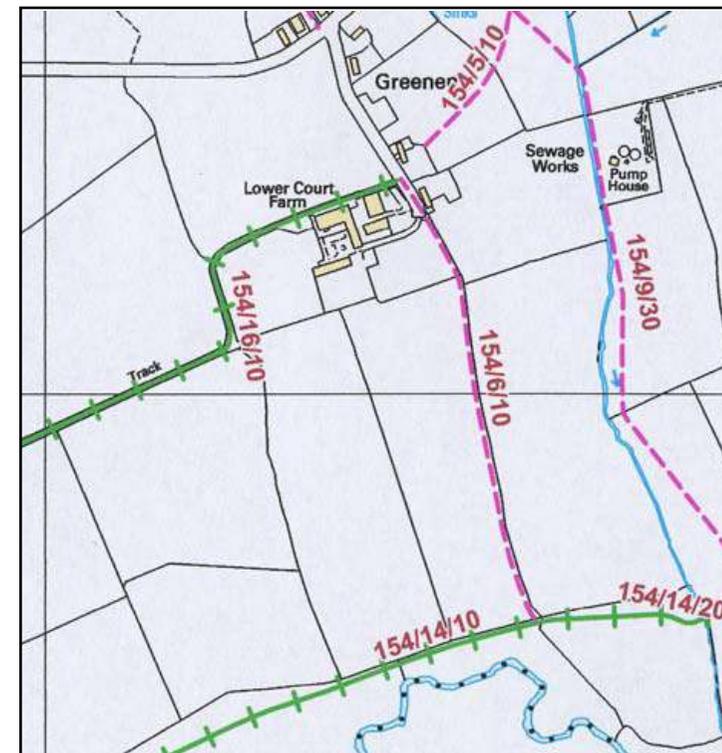
If you wanted to find out if a path was legally recorded or not, where would you go? Or what could you do if you wanted to get a path added to the map? This section will try to answer these and other questions that you might have in as straightforward a way as possible, although this can be a complicated area.

Different types of access (see chapter 2) are recorded on different documents and in different places, but there are some common principles to all of them:

- Copies of the documents are available at our offices during normal working hours.
- Including access rights on these documents, whether a public path, a common or an area of access land does not create the right – it just records it.
- Access rights can only be recorded by following strict procedures. Similarly, paths can only be altered by carefully following the statutory regulations.
- If you want to have a path or other access recorded you need to give us some evidence for it. This evidence has to be sufficient to show that, on the balance of probability, the right exists.
- The official maps that we maintain are all absolute proof of the rights or land status that they describe – which is why we have to be so careful about procedures.

### Recording rights of way

The term 'Definitive Map' (DM) is often used as short-hand for the full title of Definitive Map and Statement. Together, the map and the written statement form the legal record of public rights of



way in Oxfordshire and both must be read together. The map shows public

- Footpaths
- Bridleways
- Restricted Byways
- Byways open to all traffic

Your predecessor parish councillors helped in drawing up the original Definitive Map and Statement in the early 1950s and '60s. It's their field notes that still form the basis of most of the definitive statement.

The DM is the source map that the Ordnance Survey (OS) uses for recording paths on its maps. The DM only shows routes that are mainly used by non-motorised traffic. It does not show cycle tracks, as there is no legal provision for it to do so (on OS maps there is now a separate symbol for routes for cyclists). Upgrading footpaths to bridleways will accommodate cyclists and keep the route on the DM.

Most importantly, the DM is conclusive evidence of the existence of the public rights of way shown on it. As such, it is a vitally important tool for the protection and enforcement of public rights of way. It is for this reason that, as we shall see in chapter 6, any changes to the map and statement can only be made by carefully following involved and, sometimes lengthy, statutory procedures.

**If the map is conclusive, how can we add paths to it?** Although the DM is conclusive as to what it shows, it is not exclusive and is 'without prejudice to higher rights'. So there may be public rights of way that are simply not shown on the map. This does not mean that they don't exist – just that they haven't been recorded yet. But also, just because the DM shows a footpath, it doesn't rule out bridleway or even byway rights on the same line.

**Where can I see the map?** There should be paper copies for your parish in the parish council offices or with the Clerk. Maps for the whole county are also held at the following library:

#### **Oxfordshire Studies**

Central Library, Oxford

Tel: 01865 815454

The Rights of Way Office

Central Library

Westgate, Oxford

Tel: 01865 810808

Or you can view it for individual districts:

#### **Cherwell**

##### **Cherwell District Council**

Bodicote House, Banbury Tel: 01295 252535

##### **Banbury Library**

Marlborough Road, Banbury Tel: 01295 262282

##### **Bicester Library**

Old Place Yard, Bicester Tel: 01869 252181

**South Oxfordshire District Council****South Oxfordshire District Council**

Crowmarsh, Wallingford Tel: 01491 835351

**Henley Library**Ravenscroft Road, Henley on Thames  
Tel: 01491 575278**Thame Library**

Southern Road, Thame Tel: 01844 212288

**Wallingford Library**

High Street, Wallingford Tel: 01491 837395

**Didcot Library**

Broadway, Didcot Tel: 01235 813103

**Vale****Vale of White Horse District Council**

Abbey House, Abingdon Tel: 01235 520202

**Abingdon Library**

The Charter, Abingdon Tel: 01235 520374

**Faringdon Library**

Gloucester Street, Faringdon Tel: 01367 240311

**Wantage Library**

Stirling Road, Wantage Tel: 01235 762291

**West****West Oxfordshire District Council**

Woodgreen, Witney Tel: 01993 702941

**Chipping Norton Library**Goddards Lane, Chipping Norton  
Tel: 01608 643559**Witney Library**

Welch Way, Witney Tel: 01993 703659

**What is the parish council's role with the definitive map?** Your council can keep a copy of the Definitive Map and Statement for your parish; these were sent to all clerks when the latest version of the DM& S was published in 2006. The map is amended from time to time and so the actual legal record is the last published map plus any changes made by orders since the 'relevant date' (the date at which the published map was considered to be fully up to date). The processes of making changes to the map will be where most councillors come into contact with the Definitive Map and Statement and we will turn to these in chapter 6.

**Is there a 'definitive map' for access land?** Yes there is, but it's called the 'conclusive map' and it records access land (including registered commons). The conclusive map is maintained and held by Natural England not by us.

**Where can we see the maps for access land?**

Access land is now shown on OS maps; however, as access land can be closed from time to time, there needs to be a 'live' document available. This is managed online at

**[www.naturalengland.org.uk/ourwork/enjoying/places/openaccess](http://www.naturalengland.org.uk/ourwork/enjoying/places/openaccess)**

**Does the parish council have a role with the access land map?**

There is provision in the legislation for review of the conclusive maps at not more than ten year intervals. While it is probable that parishes will be consulted at the time of these reviews, there is no mechanism for consulting about interim changes and it is unlikely that you will need to be involved with the maintenance of the access land maps.

## Chapter 6: How do paths get added to the map, reclassified, moved or extinguished?

The Definitive Map and Statement (DM&S) together form the legal record of public rights of way for the county, providing conclusive evidence in law of the existence (location and status) of a right of way. The map can only be changed by means of properly-made, legal orders. Orders come in two main types:

1. Those based upon the discovery of evidence that shows the map is inaccurate or incomplete – called '**Definitive Map Modification Orders**' (DMMO);
2. Those made to re-route, extinguish or add paths for practical purposes – called '**Public Path Orders**' (PPO).

### 1. Definitive Map Modification Orders

**Who, when and how should someone apply for a definitive map modification order?** Anyone (either in an individual capacity or on behalf of an organisation) may apply to the county council for a DMMO where they strongly believe that the DM&S is in some way incorrect, providing there is good evidence to support the application.<sup>1</sup> An application may only relate to rights which already exist, although un-recorded, not to rights which the applicant would like to exist.

The most common reasons for applying for a DMMO are that:

- The DM&S does not show a path that the applicant believes to be a public right of way. (Please note that it is important that a way claimed follows a specific route and is not simply based on the public wandering over an area at large);
- The DM&S shows a path that the applicant believes was wrongly added to the Map;
- The DM&S records a route of a particular status that the applicant strongly believes to be of a different status (e.g. a footpath that the applicant thinks should be a bridleway);
- The DM&S records the location, width or description of a route in a way that the applicant strongly believes to be incorrect.

**What evidence should be provided?** Evidence broadly comes in two types: documentary evidence and user evidence. Documentary evidence may be found in old documents, such as Tithe Maps, Inclosure Awards, old Ordnance Survey maps, and title deeds that show an unrecorded path. User evidence can be used where there is evidence of use of the path by many people for a considerable period of time (usually over a continuous period of at least 20 years), where that use is “as of right” and where

<sup>1</sup> Claims to add a BOAT to the DM&S or to upgrade a path to a BOAT are governed by Sections 66 and 67 of the Natural Environment and Rural Communities Act 2006. This Act severely limits the circumstances in which public vehicular rights can be acquired.

there is no evidence to show that the landowner did not intend to dedicate the route to the public. We can supply you with forms to collect user evidence in a way that helps us to assess the claim.

**How is an application made?** If you want to apply for a DMMO you should write to us giving a brief summary of the background to the claim and details of the evidence you have found in support of your application (including numbers of witnesses claiming use, the average number of years they have used the route and whether the public right to use the route has been called into question).

If we think there may be enough evidence we will send you an application pack. A number of forms are involved in the procedure and it is very important that you follow the relevant guidelines. If the application is complete and supported by sufficient evidence it will be entered on the DMMO register (see below).

After we have registered your claim we will research all of the available evidence and consult widely to try to find out as much as possible about the route in question. This is to decide whether there is sufficient evidence to show that an order should be made to modify the DM&S. Only if an order is made and confirmed does it

become effective. Anyone can challenge an order and this may then result in referral to the Secretary of State, who will ask a Planning Inspector to consider the case. The matter may be decided by written evidence, by a hearing or by a full public inquiry.

**Is more information available?** Our “Guidance notes for the DMMO procedure” fully explains the processes involved and outlines our policy. This is available at [www.oxfordshire.gov.uk/modificationsanddivisions](http://www.oxfordshire.gov.uk/modificationsanddivisions).

Details of all applications are kept on the 'DMMO Register'. The progress of an application can also be tracked on a separate report, called the 'Pending DMMO Case List', which is updated monthly. Both these documents can be accessed on our website.

**How long does an application take?** Because of the complexities of the processes, we, along with many other authorities, have a lengthy waiting list. Government advises us to periodically publish a statement setting out our priorities for bringing and keeping the DM&S up to date. Our priorities are (in decreasing order of priority):

- 1: Updating and Maintaining the DM&S
- 2: Processing Definitive Map Modification Orders
- 3: Investigating Other Evidence to Modify the DM&S

Even after prioritising our work in this way, we have to advise applicants that there will usually be a wait of several years before we can start investigating their claim. It may then take several more years for the claim to be resolved.

**Is there a quicker way of doing things?** The DMMO process is governed by strict procedural legal requirements which are designed to be rigorous and thorough rather than speedy. Our work is also limited by available resources. We are confident that we deal with applications efficiently and fairly and apply national good practice. However sometimes landowners are not opposed to applications to record paths across their land and instead of waiting for the result of a DMMO application, may be prepared to enter into a formal dedication of a public right of way.<sup>2</sup> Dedication (known as a Creation Agreement) is comparatively straightforward and can save time and costs for everyone. See section 2 for further details.

**So, what is the parish's role in Definitive Map Modification Order applications?** Even if your parish council is not the applicant for a DMMO it will still be consulted about any claim affecting your parish before an order is made. This will allow you time to make local enquiries and reach a decision as to whether or not to support the

order. We welcome any evidence that you find that can help to show whether or not an order modifying the DM&S should be made.

The representation your council makes must be based on relevant evidence; we are not allowed to consider the desirability, safety or suitability of a claimed route, but only evidence relating to whether or not it exists in terms of location and status. It is a prerequisite for all DMMO applications that notice is served on affected landowners. Sometimes it can be difficult to find out who the owners are. Your local knowledge can often help in identifying landowners.

**Is there anything a landowner can do to prevent claims?** A landowner can take a number of measures to prevent the acquisition of public rights of way across their land, such as the erection of clearly worded notices indicating that there is no public right of way or by challenging users.

Another simple but effective mechanism that gives a measure of protection for landowners against future claims based on usage of a path, is Section 31(6) of Highways Act 1980. Where, for example, a landowner allows permissive use of a path, but does not want it to become a right of way, they may deposit with us a statement and

<sup>2</sup> Under section 25 of the Highways Act 1980.

plan and statutory declaration detailing any public rights of way they acknowledge to exist on their land and stating that there are no others. A deposit under S.31(6) is regarded as an indication that a landowner does not intend to dedicate rights further to those shown on the plan. A deposit should be made at least every 10 years to ensure continued protection.

The effect of a S.31(6) deposit is not retrospective, so routes which have been subject to use as of right before a deposit is made will not be afforded any protection. Current deposits can be inspected on the Public Rights of Way Declarations register which can be inspected on the “Protecting Against Future Claims” pages on our website.

## 2. Public Path Orders

**What are Public Path Orders?** Public Path Orders (PPOs) enable the routes of existing rights of way to be changed for practical purposes (as opposed to DMMOs which correct the DMS based on evidence - see 1 above). PPOs can be used for diverting, extinguishing or creating footpaths, bridleways and restricted byways and in certain cases, byways open to all traffic. They are usually made under the Highways Act 1980 or the Town and Country Planning Act 1990.<sup>3</sup>

**How are paths diverted?** A path can be diverted under powers set out in either Highways Act 1980 or Town and Country Planning Act 1990. There are important differences to the legal tests that must be met in each case. Broadly, diversions under Highways Act 1980 are made in the landowner's (or sometimes public) interest where the public will not be unduly inconvenienced by the change, and those under Town and Country Planning Act Orders are directly connected with planning permission granted. See below for further details.

**What is a diversion under Highways Act 1980 section 119?** Most PPOs are made under Highways Act 1980 and relate to diversions (section 119). Orders can be made by the appropriate Order Making Authority (OMA) i.e. by Oxfordshire County Council or by the district council although there is no duty for either to do so. Most are made by us. Applications must meet the legal provisions contained within section 119, namely that the OMA must be satisfied that:

- The diversion is in the interests of the owner, occupier or lessee of the land crossed by the path, or in the interests of the public;
- The diversion will not be substantially less convenient to the public;

<sup>3</sup> Path changes can also be made through the Magistrates' Court, but this is not considered best practice as it is seen to reduce the opportunity for public involvement.

- It will also take into account the effect the new route would have on the public's enjoyment of the whole path and any effect the diversion would have on other land.

The diversion must also not alter the point of termination of the path or if it does it must connect to a highway connected with it and which is substantially as convenient to the public.

We can also make diversion orders to improve safety at rail crossings, protect conservation interests, improve school security and to reduce crime (see 'Further types of orders' below).

**Who can apply for a diversion?** Anyone can apply for a diversion, but we would be most unlikely to agree to a diversion without the consent of the owners and occupiers of the land crossed by both the old and new routes.

**Does an application have to meet particular conditions?** For applications under Highways Act 1980 we expect all applications to meet the following criteria:

- the legal requirements listed above;
- the current path (on the correct line) must be open and safe to use (except where affected by substantial obstruction due to permanent buildings or other development);

- the status of the path is not in dispute;
- the landowner is known to keep rights of way on land in his/her ownership clear and safe to use;
- the applicant must be willing to meet the costs of administration and advertising (We may use our discretion to waive charges, fully or in part, in exceptional circumstances).

An Application only comes into effect if an order is made and subsequently confirmed..

**What about making the changes on the ground?** A diversion is not usually legally completed until the new path is put into a suitable condition. We will specify any work that needs to be done before we make a diversion order. If the diversion proceeds the applicant must normally carry out the work to our satisfaction and at their expense.

An applicant may be required to pay compensation to anyone whose land is devalued as a result of the diversion, as well as our administration charges.

We charge the applicant for making an order. A scale of charges is set and details are published annually (2010/11 rates £1089 - £2084). We also recharge the cost of advertising in the local press (approximately £300 -£500, depending on the

length of the advertisement and the newspaper concerned).

**How can you find out what diversions are taking place?** We publish a monthly list on our website giving the status of applications. See 'Pending PPO case list' at: [www.oxfordshire.gov.uk/modificationsanddiversions](http://www.oxfordshire.gov.uk/modificationsanddiversions).

**What is the parish council's role?** Your council may own land crossed by public rights of way and, like any other land owner, you can apply to divert these paths if you feel that it would be beneficial to the council (or the public). Your application would be covered by the same rules and procedures as any other.

Mostly you will be consulted about applications made to the County Council from other land owners. This will usually be through a round of informal consultations from us (or from the district council if they have received the application), and then a further formal consultation if we decide to go ahead with making an order. We are keen to hear your council's views on proposed changes to your local rights of way and the effects it would have. You are in a good position to provide local input on such factors as:

- what impact the proposed change would have on public use of the path – whether it will be

made easier or more difficult to use (for all of the users that would be affected, including cyclists and horse-riders on bridleways and, particularly, the less-mobile);

- whether there would be particular issues resulting from the change, for example loss or gain of views, the need for bridges or gates, proximity to busy roads, better or worse surface for users, etc., etc.;
- whether the effects on users would be substantial or insignificant;
- any particular importance or local significance of the path that we may be unaware of;
- any other information that you think will be important in deciding whether or not it is expedient to make the order.

Ideally you would be consulted by the land owner before any diversion application is made to us, giving you the opportunity to initially discuss the choice of route, surface and structures that local people would like. However, while we encourage land owners to do this, they aren't obliged to do so.

If your council knows of a path that could be improved by diversion, perhaps fitting the aims of the Rights of Way Improvement Plan (see Chapter 3), you can approach the land owner yourself to suggest that the change would be in the public benefit and, if the owner agrees, can yourself make the application.

See

[www.oxfordshire.gov.uk/modificationsanddivisions](http://www.oxfordshire.gov.uk/modificationsanddivisions) for guidance notes on the PPO procedure.

**What about getting a new path created?** It is important that the rights of way network meets users' needs and the Rights of Way Improvement Plan guides our work towards this goal. In many areas this could include the need to create a new route or make a path usable by more types of user. For example, a new path may be needed to link up existing paths and avoid the use of roads, making for a safer and more enjoyable network. Bridleway users especially can benefit from such creations. Or it may be that a footpath should be up-graded by creating bridleway rights over it. Sometimes greater width may be needed, perhaps to facilitate easier shared use or disabled access; again the width increase takes the form of a path creation.

- **Creation Agreements** Wherever possible we try to secure creations by Creation Agreements (Highways Act 1980 section 25) and will pay the landowner's reasonable legal costs in connection with any negotiated voluntary agreements. Occasionally we may also receive offers from landowners of dedications and will accept new rights of way that are of benefit to the public. These are sometimes called 'Dedication Agreements' or

'Dedication Deeds'. However they arise; once the dedication of a path has been accepted by the County Council we will normally become responsible for signing and maintaining the path.

- **Creation Orders** If there's a proven need for a new path, but it is not possible to obtain a voluntary agreement, we have the power to create a new right of way by a Creation Order (Highways Act 1980 section 26). Compensation may be payable to the land owner. District councils also have the power to make creation orders.

**What's the parish council's role?** If a path creation is needed, your local knowledge is, once more, invaluable, both for identifying where new rights are needed and for identifying the land owners who can grant those rights. An approach from you might well be more sympathetically received than a similar approach from us - the more remote county council. Your parish council does have its own power (Highways Act 1980 section 30) to enter into a creation agreement with the land owner. However; there are practical reasons why it may generally be preferable for you to act as our agent - helping negotiate an agreement that is then made between the land owner and us. This is because:

- we can pay compensation or make an enabling payment but there is no right for parish councils to do so;
- paths created by agreement with us are normally automatically maintainable at public expense but this is not the case for paths agreed with parish councils;
- paths created by agreement with the parish cannot be subject to conditions or limitations;
- there are safeguards for the public built in to agreements made by the highway authority – we have a duty to see that the new path is physically created to a suitable standard and also to ensure that the new path is publicised.

So, while we urge you to take the initiative with looking for local path improvements and negotiating with land owners in your parish, we would also ask that you work with us to achieve an agreement made between the land owner(s) and Oxfordshire County Council. If a creation order is needed we would consult with you as your evidence may be vital to establishing that there is sufficient public need to justify making the order.

**How can paths be extinguished or stopped up?** Extinguishment orders are only rarely made and can only be made on the grounds that the path is not needed for public use (Highways Act 1980 section 118). In deciding whether or not it is

expedient to extinguish the path we will ignore any temporary obstructions that may be preventing use. It is not possible to extinguish a path by blocking it or otherwise preventing use: No matter how long the path is blocked it still legally exists until a formal extinguishment order is made – and, of course, we will do our utmost to work with you to ensure that blockages are removed as quickly as possible.

Extinguishments can usually only be made through us or the district council, either by the authority exercising its power directly or by a request to the Magistrates' Court. We don't like to use the Magistrates' Court because this process can sometimes give less opportunity for the public to be involved. Extinguishments can also come about as a result of approved development under the Town and Country Planning Act 1990.

**What's the parish council's role?** Unusually, you've got the power of veto over applications for extinguishment in the Magistrates' Court (as does the district council). For orders that we might make, we would consult you first and your council is in a strong position to provide us with evidence about the public need for the path. We would expect to secure your agreement before we made any extinguishment order.

**Further types of Public Path Orders:**

**Rail Crossing Orders:** Rail operators may apply for diversion or extinguishment of paths crossing railways at level in the interests of public safety (Highways Act 1980 s119a/s118a). They will usually be required to provide a suitable alternative route or crossing facility.

**Special Extinguishment or Diversion Orders** may be made for the purposes of crime prevention and school security: In addition to footpaths, bridleways and restricted byways, byways open to all traffic may be diverted or stopped up under these types of orders:

- Orders for crime prevention can only be made in an area that has previously been designated for such measures by the Secretary of State and should be considered only as a last case resort. There are no designated areas in Oxfordshire.
- School proprietors may apply for diversion or extinguishment of paths crossing school grounds (Highways Act 1980 section 119b/118b). Before making an order it must appear expedient to the order making authority that the highway should be stopped up or diverted to protect the pupils or staff from violence or threat of violence,

harassment, alarm or distress from unlawful activity or any other risk to their health or safety arising from such activity. However, other measures that could have been used to address the issues would have to be examined first.

**SSSI Diversion Orders:** Where use of a path is considered to be causing damage to a Site of Special Scientific Interest, Natural England may apply for an “SSSI Diversion Order” (Highways Act 1980 section 119c).

**How are paths changed through the planning process?** Diversions, creation and extinguishment orders can also be made as a result of development approved through the Town and Country Planning Act 1990 (section 257/261).

The authority that granted the planning permission is the relevant order making authority. In most cases this will be your district council, but planning matters relating to schools, mineral and waste sites are the responsibility of the county council and thus we will deal with any path orders associated with these. Diversions and extinguishments are generally made on a permanent basis, but those associated with mineral extraction can sometimes be temporary.

It is important that your council initially thinks about the effect of development proposals on its paths, and makes any representations to the planning authority before the application goes to its committee for a decision. If a public footpath is affected by a proposed development, this is a material consideration in the planning decision and could affect the outcome of any planning application.

For a public path order to be made the order making authority must be satisfied that planning permission has been granted and that the diversion is then necessary to enable the development to go ahead. The order making process is separate to the planning permission itself and a successful diversion is not guaranteed just because a developer has had planning permission granted. As with diversion applications made under the Highways Act 1980, the public and the parish council will have opportunity to object or make comment on the diversion or extinguishment since the same informal and formal consultations take place.

Again as with orders made under the Highways Act 1980, if objections are raised the order making authority may refer the matter to the Secretary of State for a decision.

Of course development can also represent an opportunity to improve public access and you may sometimes be able to suggest ways in which a developer could add public value to a development through the provision of better paths or areas of open space – see the improvement section in Chapter 3.

## Chapter 7: Managing access land

Do you want to know how access to commons and open country is managed? Or what restrictions can be placed on the land and how new access land is dedicated? This chapter will give you the background to the relatively new arrangements for managing access land.

The Countryside and Rights of Way Act 2000 (CRoW) granted rights to walk on 'access land' - areas of 'open country' and registered commons. Open country is defined as: mountain, moor, heath or down. Only downland and common land are present in Oxfordshire. Access land is shown on up to date 'Explorer' Ordnance Survey maps and on Natural England's web site. All closures and restrictions are shown here too: [www.naturalengland.org.uk/ourwork/enjoying/places/openaccess](http://www.naturalengland.org.uk/ourwork/enjoying/places/openaccess). There is local access land information on the Countryside Service's web pages. [www.oxfordshire.gov.uk/accessland](http://www.oxfordshire.gov.uk/accessland)

In Oxfordshire less than 1% of the county is access land. In total there is 1,858ha of access land out of the total land area of 260,595ha.

**What can access land be used for?** The public have a right to use access land for the purposes of open air recreation - activities such as running, walking, bird watching and picnicking. The new rights do not extend to other activities such as riding a horse or bicycle, camping, hang-gliding, organised games or using a metal detector. Users are expected to respect the land in the same way as for rights of way: by not leaving litter, damaging plants, hedges or walls, or setting fires, and they should leave gates as they were found.

Public rights of way often cross open access land and where this happens the rights along that route are unchanged – for example, horseriders and cyclists can still use bridleways across access land.

The landowner may permit other uses of access land by the public – for example, hang-gliding - and in many cases this permission will pre-date the land becoming access land.

**What dog restrictions are there on access land?** Dogs may usually be walked on access land- but between 1 March and 31 July, or at any other time near livestock, dogs must be on a fixed lead of no more than 2 metres length. This is to reduce disturbance to livestock or ground-nesting birds during the main breeding and lambing season. However, if the landowner has historically allowed access for dogs off leads, it is unlikely that this will change.

There may also be local restrictions on dogs or local dog bans – these will be listed for each area on the national access website.

**Can land be closed?** Access land may be closed at certain times of year to allow for land management – this will be shown on the national access land website and there should be notices

on site. Land managers have the power to temporarily close access land – but only subject to strict limitations: Closure is restricted to 28 days per year, excludes bank holidays and cannot include summer Saturday or Sundays. Before any access land can be closed the land manager must give notice to Natural England.

Land managers may apply to Natural England for a 'Direction' to exclude or restrict access to a site for a longer period of time if it is necessary for the purposes of: managing the land; preventing fire or avoiding danger; for conservation reasons; or for reasons of national security. The power to exclude people can be limited to certain areas or to certain users; for example, it can be used to exclude people with dogs. The power to close access land does not affect any public rights of way that cross the land – they must be kept open at all times.

#### **Is there a 'Conclusive Map' for access land?**

As with the Definitive Map for rights of way, there is a carefully maintained legal map of access land. We don't hold this record; it is maintained by Natural England and it must be reviewed every 10 years. There is a paper conclusive map, and a copy of this is kept in the central Oxford Library alongside the Definitive Map and Statement.



*The access land sign –in place at Juniper Valley, nr Aston Tirrold*

**Can new access areas be created?** The Countryside and Rights of Way Act 2000 (CRoW) has resulted in about 2.5 million acres (1 million hectares) of additional access nationwide, but this only automatically includes land classified as mountain, moor, heath, down and registered common. It doesn't include access to woodland or inland water, for example. Section 16 of CRoW provides for land owners to voluntarily dedicate their land as access land, so the mechanism exists for adding woods, viewpoints or riverside to the access land maps.

Once land is dedicated as access land it remains as such in perpetuity or, where the person dedicating is a lease-holder, to the end of that lease (which must have at least 90 years to run for a dedication to be possible). One of the advantages of dedication is that the land owner benefits from a lower level of liability to the public than would be owed to other visitors to the site. But so far dedications have generally only come from public bodies and, in particular, the Forestry Commission, which has now dedicated most of its freehold woodlands as access land.

**What role does Oxfordshire County Council have in access land management?** The council is the 'Access Authority' which means we work with Natural England, land managers and users

to try and make access land areas as accessible as possible – and make sure there are no misleading signs installed that might put people off exercising their new rights. As Access Authority we have no statutory duties, but do have a number of powers:

- to put up notices providing information;
- to improve the means of access to land which has been opened up and to deal with obstructions;
- to make byelaws to preserve order, to prevent damage, or to avoid undue interference with the enjoyment of the land by others;
- to appoint wardens.

In Oxfordshire we have used the Access Management Grant Scheme to install means of access (gates etc) to nearly all the county's areas of open country with the cooperation of the land managers and farmers. We have also negotiated access links so that many parcels of land are connected to each other and to roads or public rights of way. Most of these routes are now formal permissive access links as part of Higher Level Environmental Stewardship agreements. We have site maps on our website and at certain access points on areas of access land which also show connecting rights of way and any local features..

## Appendix X: “What do I do about.....”

### Brief answers to issues affecting and affected by public access to the countryside

- Abandoned vehicles
- Access for people with disabilities
- Barbed wire
- Bridges and culverts
- Bulls and dangerous animals
- Cattle
- Competitions and speed trails
- Crops growing on rights of way
- Dogs on rights of way
- Encroachment
- Fences across a right of way
- Fences alongside a right of way
- Firearms
- Hedges and trees adjacent to rights of way
- Intimidating dogs
- Intimidation or threatening behaviour intended to deter use of a right of way
- Liability of landowners to path users
- Liability of the county council to path users
- Litter and fly-tipping
- Misleading signs and notices
- Obstructions and encroachments
- Pesticides and herbicides
- Ploughing of rights of way
- Signing of rights of way
- Stiles and gates
- Surfaces of rights of way
- Trees and branches fallen across the path

- Undergrowth
- Waymarking
- Width of rights of way

**Abandoned vehicles:** Removal of abandoned or burnt out vehicles from public land, including footpaths and bridleways, is the responsibility of the district council. All incidents should be reported to the district as quickly as possible together with details of location and a description of the vehicle. You can also report any abandoned vehicles at [www.direct.gov.uk](http://www.direct.gov.uk). Vehicles abandoned on private land are a trespass against the landowner and the landowner's responsibility to remove. It is suggested that landowners should talk to their District Council officers about how to deal with the problem.

**Access for people with disabilities:** The Countryside & Rights of Way Act 2000 requires highway authorities to have regard for the needs of people with mobility problems. The Disability Discrimination Acts also place a duty on us to ensure that we do not disadvantage disabled people in the services we provide. Unfortunately, the nature of countryside paths is such that many are not accessible to wheelchair users. Bridleways, Restricted Byways and Byways are likely to be the most accessible, as they are often wider tracks with a more even surface, without stiles and with few (if any) gates.

On footpaths, a simple stile can be a major obstacle for many people, including the elderly and those with children's pushchairs. However, where livestock are present, stiles and gates are used to keep them from straying. If you think a particular stile or gate is no longer needed for this purpose, please contact the Field Officer.

The County Council promotes the use of the least restrictive structure, although ultimately it is the landowner's decision on which is used. Gaps are the least restrictive option (if animals are no longer present), followed by gates and kissing gates, and then stiles if nothing else will suffice.

The Countryside Service has produced a range of downloadable access information leaflets for a selection of short routes in Oxfordshire. Go to our website ([www.oxfordshire.gov.uk/walksandrides](http://www.oxfordshire.gov.uk/walksandrides)) and click on 'Short, easy walks'. There are also links to accessible routes promoted by the Chilterns and Cotswolds Conservation Boards as well as ones that link to the Ridgeway and Thames Path National Trails.

**Barbed wire:** Barbed wire alongside a path can be a real hazard to path users, especially if the path is narrow or has a camber towards the wire. Children and wheelchair users are at particular risk as a wire fence can be at eye level. Whether

or not a particular fence is a hazard will depend on the particular circumstances.

The Highways Act 1980 (Section 164) gives the highway authority and the district council the right to serve notice requiring the removal of the wire or the abatement of the nuisance, for example by removing or covering the spikes. If this notice is ignored an abatement order can be sought in the Magistrates' Court; we can then remove the wire ourselves and recover expenses incurred.

Many stiles have barbed wire running through them; again, the wire should be shielded or its barbs removed

Barbed wire across a path (including exposed barbs across a stile or gate) is an obstruction of the highway and a public nuisance. Section 137 of the Highways Act 1980 makes such obstruction a statutory offence. Any council, including the parish council, can seek prosecution for obstruction of a highway in its area. Where a person is convicted of obstructing the highway, the court has the power to order the removal of the obstruction. Also, the Highway Authority and District Councils can remove the wire a month after serving notice on the offender and recover expenses for doing so.

If you are aware of problems with barbed wire or other obstructions and hazards, please contact the person responsible to request its removal and notify your Field Officer.

**Bridges and culverts:** Responsibility for the provision, repair and maintenance of bridges and culverts falls either to the county council or the landowner/manager, but there is no consistent pattern to this, so it is advisable to seek guidance from the Field Officer in each case.

Where a public footpath or bridleway crosses a bridge over which there are private vehicular rights (e.g. one built to allow a farmer's tractor access to his fields, or to allow a house-owner to get to his property), then maintenance of the bridge to vehicular standard is likely to be the responsibility of the landowner. The county council may agree to contribute a share of the costs of maintaining and repairing a private vehicular bridge which carries a public footpath or bridleway. The rail authority is responsible for the structure of most footbridges over railway lines.

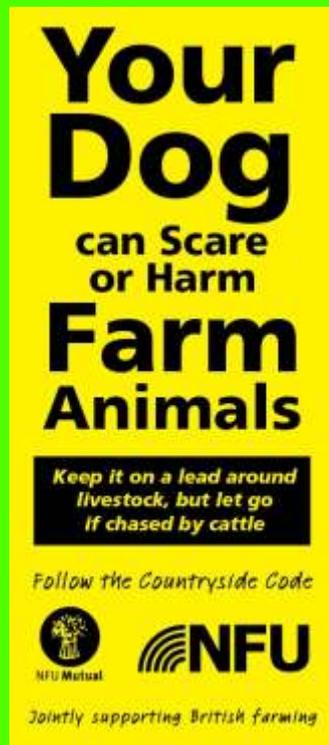
**Bulls and dangerous animals:** It is an offence for the occupier of land crossed by a public right of way to allow a bull over 10 months old and on its own, or any bull of a recognised dairy breed (even if accompanied by cows/heifers), to be at large on

the land. Bulls which are less than 10 months old, or of a recognised beef breed and kept with cows or heifers are permitted in fields crossed by paths. In practice very few dairy-breed bulls are kept outside of specialist units and it will usually be sufficient to check that a bull is running with cows or heifers to determine if it is legally occupying a field crossed by a path.

As farming diversifies, the range of animals that might present a threat to path users increases. The Animals Act 1971 makes the keeper of any animal liable for damages if it causes injury to a member of the public and the animal was known to be likely to cause injury. If any animal which is known to be dangerous causes injury to a member of the public, an offence may be committed and the keeper could be sued by the injured party.

If the Parish Council becomes aware of a suspected dangerous animal which is not fenced off from a public right of way, it should contact the keeper and ask for the animal to be moved or fenced off. If the parish council's approach fails, the matter should be reported to the Field Officer to follow up.

Cattle: Incidents of people being attacked by cattle while walking in the countryside are few and



far between. However, the British countryside is working land in which farmers earn their living and where animals graze in close proximity to walkers. This adds to the pleasure of walking in the countryside. As with any working environment there are certain risks and it is not possible to remove them all. Walkers are urged not to let the very low risk of cattle attacks put them off enjoying the countryside.

Here are some tips from the National Farmers' Union (NFU) and Ramblers' Association about what to do if you come across cattle in the countryside through which you are walking:

**Do**

- Be prepared for cattle to react to your presence, especially if you have a dog with you
- Move quickly and quietly, and if possible walk around the herd
- Keep your dog close and under effective control on a lead

**Don't**

- Get between cows and their calves
- Hang on to your dog. If you are threatened by cattle, let it go, as the cattle will chase the dog
- Put yourself at risk. Find another way around the cattle and rejoin the footpath as soon as possible
- Panic or run. Most cattle will stop before they reach you. If they follow just walk on quietly

The NFU and The Ramblers' Association are providing new signs to help walkers to enjoy the countryside safely. Walkers will see new yellow and black signs reminding them that dogs can harm or scare farm animals.

**Competitions and speed trials:**

- **Motor vehicles:** It is an offence to hold a motor vehicle race on a public highway without authority. This applies to footpaths and bridleways, as well as carriageways. (Section 31, Road Traffic Act 1988).
- **Bicycles:** It is an offence to promote or participate in a cycle race on footpaths or bridleways. A race can only be held on roads if it is authorised by the Secretary of State (Section 31, Road Traffic Act 1988). The Road Traffic Regulation (Special Events) Act 1994 - originally passed to enable the Tour de France to take part on British roads – can be used for temporary orders to close roads for cycling and other events.

**Crops growing on rights of way:** Where a crop (other than grass) has been planted or sown on land crossed by a right of way, the farmer must ensure that the line of the path is indicated to not less than the minimum width (1m for footpaths and 2m for bridleways). Additionally, the occupier

has a duty to prevent the crop from encroaching within that width throughout the growing season. Failure to fulfil this duty is a criminal offence (Rights of Way Act 1990 section 137A).

In Oxfordshire, the Field Officers write to all known farmers twice a year to remind them of their responsibilities when ploughing and cropping, and so infringements are relatively infrequent. If ploughing or cropping problems occur in your parish the parish council is asked to approach the landowner in the first instance, as a local request can prove very effective, but if the problem remains to notify the Field Officer.

The Parish Council has the power to prosecute farmers whose crops make it inconvenient to use a public path but we suggest that any such action should only be taken in consultation with your Field Officer. -see also 'Ploughing of public rights of way'

**Dogs on public rights of way:** You are allowed to take a dog(s) with you on all rights of way and there is no requirement in law for the dog to be on a lead. However the dog should be under 'close control' at all times – a path user who allows a dog to wander off the public right of way becomes a trespasser and owners and occupiers have a right to ask them to leave the land. If a dog is likely to wander from the path or to worry livestock, the

owners are advised to keep the dog on a short lead. A farmer may shoot a dog which is attacking or chasing livestock, without being liable to compensate the dog's owner (Section 9, Animals Act 1971).

It is also an offence to allow a dog to be 'at large' in any field with sheep, even if the dog is taking no interest in the sheep (Dogs (Protection of livestock) Act 1953). On access land the rules are much stricter than on Rights of Way; on some access land dogs must be kept on a short lead, regardless of whether stock are present or not, between 1st March and 31st July. Dogs must be kept on a short lead whenever stock are present. A short lead is defined as one that is not more than two metres long.

The Parish Council, along with the District and County Councils, can make a Dog Control Order under the Clean Neighbourhoods and Environment Act 2005. The order can be made to cover any land to which the public has access except roads, including public paths, as these are covered by the Highways Act, as noted above.

The Dog Control Order can cover:

- The number of dogs a person can take onto land.
- The exclusion of dogs from land.
- Fouling by dogs and the removal of faeces.
- The keeping of dogs on leads.

Although all of the above powers are available, the County Council recognises the important role that dogs play in the health and well-being of many local residents and, when problems occur with dogs, we would urge you to work with the owners concerned to make provision or change behaviour to alleviate the problem.

**Dog fouling:** Dog control orders can be made by the Parish Council to make it an offence for owners not to clean up after their dog on land other than the highway.

District Councils have the power to make bylaws forbidding owners to allow their dogs to foul on Rights of Way (or other areas). However, enforcement of such bylaws is usually very difficult outside urban areas, since it requires an officer to be on site regularly. Installing dog waste bins to encourage owners to pick up after their dogs is an alternative. These can be sourced through the District Council, but this may be costly and require bins to be at locations accessible to the collecting lorries. - see also 'Intimidating dogs'

**Encroachment:** An encroachment is an unlawful obstruction of the highway, often caused when an adjoining plot of land or building is extended over part or all of the path width. The width of the path worn in the ground is not always the same as its legal width, and so the Field Officer will first

consult the Definitive Statement to determine the legal width and route of the right of way. If encroachment has occurred, then the landowner will be approached and legal action will be taken if appropriate.

If the parish council is concerned that a planning application, or change of use without a planning application, will affect a right of way, please contact your Field Officer. -see also 'Obstructions'

**Fences across a right of way:** Any fence erected across a public right of way without an adequate means of crossing is an offence. It is an obstruction to the path, a nuisance and a danger to members of the public wishing to use it. If willing, it is suggested that the parish initially ask the landowner to remove it, and if not successful refer the matter to the Field Officer. The County Council will require the owner of the fence to remove it or, if it is necessary for stock control, to provide an adequate means of crossing it on the line of the path. Structures can only be erected across rights of way if they are authorised by us under section 147 Highways Act 1980. We can only authorise structures necessary for the control of livestock.

**Fences alongside a right of way:** No fence should restrict the width of the right of way (see "Width of right of way"). Where a barbed wire or electric

fence is situated alongside a public right of way it may be a hazard and a nuisance to members of the public. If it is set close enough to the path that it presents a hazard, the landowner would first be asked if it were necessary for keeping livestock.

If a barbed wire fence is necessary for agriculture, the county council will require that the barbed wire is set on the inside of the fence posts, and that plain wire is used (at the same heights) on the outside of the posts, next to the path. This ensures that if someone comes into contact with the fence, or slips, they are protected from the barbed wire.

If an electric fence is necessary for livestock, it must be clearly signed at frequent intervals as a live electric fence. The electric fence should be shielded where it passes through a stile, for example by covering with a length of insulated tubing. Where it crosses a gate, an insulated handle should be provided so that the live wire can be conveniently and safely moved out of the way for passage.

**Firearms:** It is an offence to have a loaded air-weapon, or any other firearm with ammunition (loaded or not) in a public place, including any public right of way, unless the person has lawful authority or a reasonable excuse, such as a

landowner or tenant shooting vermin on his own land (Firearms Act 1968 section 19).

It is not an offence to shoot across a public right of way, although to do so may amount to a common law nuisance or intimidation, depending on the circumstances. It is, however, an offence to discharge a firearm within 50 feet of the centre of a byway if it injures, interrupts or endangers any user of the route (Highways Act 1980 section 161). The county council will, where it is concerned for the safety of the public using the right of way, refer the matter to the police. - see also 'Intimidation and threatening behaviour'

**Hedges and trees adjacent to rights of way (overgrowth):** The maintenance of hedges and trees alongside public rights of way is the landowner's responsibility. Where hedges or trees grow out from the side over or across the path, causing restriction of width this is called 'overgrowth' and is the landowner's responsibility (the county council is responsible only for vegetation growing up from the path surface itself – see "undergrowth"). The landowner must cut back hedges, vegetation growing in from the side of the path and overhanging vegetation so that the path is clear to use.

Overgrown paths are a common problem, especially during the summer months and, if

willing, it is suggested that the parish council initially make contact with the landowner to cut back inwardly-growing vegetation; if this is not successful, then the Field Officer should be notified. - see also 'Trees and branches fallen across rights of way' and 'Undergrowth

**Intimidating dogs:** It is an offence to keep a dangerous or intimidating dog on a public right of way. It may also be considered a 'public nuisance'. The Parish Council should contact the dog's owner and ask that the dog be kept away from the path. If this is not successful, the problem should be reported to the Field Officer who will enforce that the owner takes action, for example by erecting an internal fence to stop the dog getting close to the path. We may also inform the police and will advise complainants to notify the police directly.

**Intimidation or threatening behaviour intended to deter use of a right of way:** The use of intimidating behaviour with the intention of deterring the use of a right of way is possibly an offence and may amount to obstruction of the path. In the first place, the Field Officer will seek to address any underlying issues which led to the situation arising. We may then issue a warning to the offender and involve the police as appropriate (section 4 Public Order Act 1986). -see also .Firearms. and 'Intimidating dogs'

**Liability of landowners to path users:** Owners and occupiers of land crossed by public rights of way can be liable for injuries caused to path users by their negligence. For example, if a stile were to collapse under a walker, or if a path user were to be injured by an electric fence placed across a path, then the injured party may pursue a claim against the occupier of the land (Occupiers Liability Act 1957). The Health and Safety at Work Act also applies to farm premises.

**Liability of the county council to path users:** The county council is usually responsible for maintaining the surface of rights of way in a condition suitable for the expected level and type of public use. We are also responsible for the maintenance of bridges across natural water-courses, signposts, barriers etc., and would be liable for injuries suffered as a result of our negligence. With 2,600 miles of paths to look after, we have to rely on users to let us know promptly when problems occur. You can help by passing on any information you receive about problems on your paths network.

**Litter and fly-tipping:** Responsibility for the clearance of litter and fly-tipping on a public right of way rests with the district (or the city) council for the area. Usually the culprits are not seen, but if the path backs onto properties and the material looks as if it could be garden refuse, the

parish council (if willing) may choose to speak to the occupiers. Parish, district and county Councils are all 'litter authorities' and all have powers to install litter-bins – arrangements for emptying and cleaning them must be made.

**Maintenance:** Most public rights of way are maintainable at public expense. Some paths are maintainable by the land owner under the terms of their ownership even though they still carry public rights. The apparently simple question of 'who maintains public rights of way?' often invokes a less than simple answer. The county council, district councils, parish councils and land owners can all have a role to play. However, for practical purposes, the primary responsibility to maintain public paths lies with the county council. As highway authority, we are responsible for the condition of the surface of the path but the condition of structures, such as stiles or gates, and the cutting back of overhanging vegetation is the responsibility of the land owner.

District councils can have an agency agreement with the county council to undertake maintenance within their area (although none do at the moment) – and they can also claim maintenance powers on public footpaths, bridleways and restricted byways if they so wish (Section 42, Highways Act 1980). Parish councils also have the right to carry out maintenance of any footpath,

bridleway or restricted byway in their area. If the parish does decide to maintain its paths this does not affect our continuing maintenance duty. -see also 'Surfaces of Rights of Way' & 'Liability' sections

**Misleading signs and notices:** Misleading and unlawful signs on a public right of way (e.g. “private, no entry” or “dogs must be on leads” rather than “Please keep your dog on a lead”) can deter people from lawfully exercising their right to use paths. As such they are a form of obstruction (see 'Obstructions') and the county council will challenge occurrences reported to the Field Officer. Unlawful signs erected on a public right of way can be removed by the county council and its costs recovered (section 132, Highways Act 1980). The parish council can ask a landowner to remove any misleading signs but has no powers to enforce removal. You should, therefore, report all illegal or misleading notices and signs to your Field Officer.

**Obstructions:** The county council has a duty to ensure public rights of way are free from unlawful obstructions. An obstruction is anything that prevents the convenient passage by the public. As such it is a public nuisance and a statutory offence. An obstruction does not have to completely block the highway to be unlawful; impeding any significant part of the highway

constitutes an obstruction. This can include an obstruction on the verge of a made up highway, since the public's right usually extends from one boundary to the other.

Under the law there is a wide variety of meaning as to what constitutes an obstruction; it can be a physical object such as a fallen tree, a burnt out vehicle or a fence across a path. It can also be a misleading sign, intimidating actions or the presence of an aggressive dog. Some of the most difficult obstructions to deal with occur when houses or other buildings are put up over a public path or when encampments are set up that restrict access along a public right of way.

If your parish council has a volunteer/work team, you may like to arrange with the land owner to clear accidental obstructions such as fallen trees or branches if they are unable to do it themselves (see 'Trees and branches fallen across a path'). The Parish Council has the right to prosecute anyone who wilfully obstructs a path, but we suggest that incidents of deliberate obstruction, including all cases of buildings or encampments, should be reported to your Field Officer.

If the parish council is concerned that a planning application, or change of use without a planning application, will obstruct a public right of way, you should also contact your Field Officer.

Many cases of obstruction are best resolved by a direct, local approach from the parish council to the landowner. This can be a more time efficient way of dealing with the problem than action from the county council – especially as we will often have to ask you to find out who the landowner is.

**Overgrowth:** Many paths, particularly in the summer, are described as being overgrown when, confusingly, the problem is caused by what is known legally as 'undergrowth'. Overgrowth is any vegetation, but usually trees or hedges that are growing outwards from the sides of the path and reducing the available height or width. It is not grasses, nettles, etc. that might be growing up through the path itself. It is the responsibility of the landowner to cut back any overgrowth and to prevent it from encroaching over the path. A request from the parish council to the land owner can often be all that is needed to get a path cleared. Or, if it will be difficult for the land owner to do the work, the parish council can itself carry out the clearance. If there is a refusal to clear overgrowth the matter should be reported to your Field Officer. -see also 'Hedges and trees adjacent to Rights of Way' and 'Undergrowth'

**Agrichemicals, especially pesticides and herbicides:** The use of pesticides or herbicides on a public right of way may affect users of the route. The Health & Safety Executive has issued

a code advising that public rights of way should not be over sprayed and that warning notices may be required to advise the public of the potential hazard, where such chemicals are used in the vicinity of a path. If anyone is affected by spraying while using a public right of way, the sprayer may be liable to prosecution (Health and Safety at Work Act 1974). Considerable care needs to be taken with the application of any pesticide or herbicide, and such work should only be carried out by competent personnel. This includes any pesticide use by the parish council in public places. It is an offence to deposit anything on the highway that may cause injury to or endanger users (Section 161, Highways Act 1980), this could include the incorrect application of pesticides.

**Ploughing of rights of way:** Farmers are only entitled to plough public rights of way if it is not reasonably convenient to avoid disturbing them. This lawful authority only applies to cross-field footpaths and bridleways. Field edge or "headland" footpaths and bridleways must never be ploughed and restricted byways and byways open to all traffic should also never be ploughed, whatever their location - field edge or cross - field. Where a cross-field footpath or bridleway is ploughed, it must be reinstated within 14 days (or 1 day for subsequent disturbance of the soil, e.g. after drilling/harrowing), otherwise a criminal

offence is committed. Reinstatement means indicating it on the ground, making the surface reasonably convenient for public use, and to not less than the statutory minimum width (or legally recorded width). For field edge paths, the minimum widths left unploughed are 1.5m for footpaths and 3m for bridleways, restricted byways and byways. In Oxfordshire, we write to all known landowners twice a year to remind them of their responsibilities when ploughing and cropping, and so infringements are relatively infrequent.

The parish council has the power to prosecute if a path has been unlawfully ploughed up or has not been reinstated. However, Parish Councils are asked to approach the landowner in the first instance to ask them to roll out and mark the path. If the problem persists you should notify your Field Officer. We have published detailed guidance on our website – go to [www.oxfordshire.gov.uk/countryside](http://www.oxfordshire.gov.uk/countryside) and follow 'Rights of Way' and then 'Farmers' Responsibilities'. -see also 'Crops growing on Rights of Way'

**Signing of rights of way:** A county council is required to erect a sign at the point that each public footpath, bridleway or byway leaves a metalled road. In Oxfordshire, this is usually a metal fingerpost pointing along the path showing

the path's status, and sometimes destinations. If a fingerpost is damaged or missing, please notify the Field Officer for its repair/replacement. - see also "Waymarking"

**Stiles and gates:** It is generally the duty of the landowner to ensure that any stiles and gates are kept in a good state of repair. The exception to this is on certain promoted routes where Oxfordshire County Council has agreed to undertake maintenance of gates and stiles. In these cases the landowner is still under an obligation to notify the council of any issues that may affect the security of his/her livestock.

If the parish council is made aware of a stile or gate in need of repair or replacement, they may (if willing) approach the landowner in the first instance. If unsuccessful or further advice is needed it should be referred on to the Field Officer. When replacing structures, gaps are the preferred option if livestock are no longer present in adjoining areas, followed by gates and then stiles (see 'Access for people with disabilities').

If an occupier of land wishes to install additional stiles or gates, they must apply in writing to the county council for authority to do so. To erect stiles or gates without this authority is an unlawful obstruction and is a criminal offence. The only circumstance for which the county council can

provide authorisation for the erection of new stiles/ gates is that the structures are required to prevent livestock straying (Highways Act 1980 section 147).

Stiles, additional gates and barriers cannot be erected on 'restricted byways' or 'byways open to all traffic' unless they are required to enforce a Traffic Regulation Order (usually seeking to prevent use of a path by vehicles).

**Surfaces of rights of way:** The majority of rights of way run across private land, but the county council has a duty to maintain the surface. It must be recognised that rights of way are essentially countryside paths, usually with an earth surface, and so, depending on the type of soil, some mud should be expected, particularly during the winter months. The county council will seek to maintain rights of way in a condition suitable for their use by the public, ie. a footpath in a condition suitable for use by walkers. In this, it is assumed that the user will wear appropriate clothing and footwear (for example walking boots, or wellingtons in the winter).

In some cases the underlying geology is such that this is difficult – for example, a path may become flooded by a watercourse at certain times of year - and although the Field Officer will discuss alternative arrangements such as better drainage

or a temporary diversion with the landowner, there is not always a ready solution.

It is an offence to interfere with the surface of a public right of way (for example, digging up the surface to lay pipes) without permission from the county council. We will take enforcement action to ensure the surface of public rights of way that have been unlawfully disturbed are reinstated. - see also "Overgrowth", "encroachment", "ploughing" and "crops on rights of way"

**Trees and branches fallen across the path:** If a tree or large branch falls across a public right of way, then it causes an obstruction the removal of which is the responsibility of the owner of the tree. If willing, it is suggested that the parish council initially make contact with the landowner to seek its removal; if this is not successful, then the Field Officer should be notified. It is only required that the tree is removed from the width of the path, and if a tree is large it is often the case that the section across the path will be cut out and removed, while the rest is left to rot naturally. - see also 'Hedges and trees adjacent to rights of way'

**Undergrowth:** Natural vegetation growing up from the surface of the path is generally the county council's responsibility and if it becomes a problem it should be reported to the Field Officer.

We keep a list of paths that need annual cutting. Parish Councils also have the power to maintain footpaths and bridleways if they wish.

**Vehicles on public rights of way:** Motor vehicle use on public rights of way can cause problems: through wear and tear of the highway, through conflict it causes with other users, and through loss of amenity. However, it must also be recognised that motor vehicles can quite legally be used on byways open to all traffic and that considerate vehicle use of this minority of highways is not automatically a problem.

A highway authority has no duty to maintain the surface of a public right of way for vehicular use.

Although the term 'off-roading' is often used for driving on byways, the vehicles used must at all times be fully road legal and their drivers must be licensed, insured and fit to drive. Where problems do occur, there are a number of measures available to the highway authority and/or the police. These include:

Sections 59 & 60 Police Reform Act 2002 give the police power to seize vehicles that are being driven (or ridden) in a way that causes, or is likely to cause, alarm, distress or annoyance. (Where practical, the police are required to warn a driver first.)

Drivers can be prosecuted for driving a motor vehicle without lawful authority on a public path, restricted byway or any land that isn't a highway. ('lawful authority' may arise through ownership of the land, or permission from the owner, or through the rights of some statutory undertakers.)

Traffic Regulation Orders (TRO) can be made to restrict or ban certain types of traffic from a path – even where that path carries no vehicular rights. The offence of breaking a TRO can be easier to prosecute than some other offences. TROs are quite flexible tools and can be used to restrict vehicles during specific times of the year or for a particular length of time. They can be used to restrict particular types of vehicles, or they may even be used to restrict non-vehicular traffic.

TROs can be made before a route is even recorded on the Definitive Map and Statement. Orders may be temporary, experimental or permanent and can be imposed for a number of reasons including:

- preventing damage to the public right of way
- preventing use by unsuitable vehicles
- preserving the character of a way
- preserving (or improving) the amenity of the area that the way runs through
- conserving natural beauty

TROs can only be made by the county council in Oxfordshire. A common problem with TROs is that they need to be enforced but it is often difficult to get adequate policing in place.

Sometimes physical barriers are needed to restrict access by vehicles and much time, effort and money has gone into trying to design barriers that stop vehicles, but do not unduly interfere with legitimate users; success so far has been limited. Barriers to 4x4s can be quite effective, but they need to be made sufficiently robust to withstand determined vandalism – and therefore tend to be quite unsightly. On restricted byways, provision still needs to be made for the passage of horse-drawn vehicles making the job more difficult still. The most difficult situation, however, is that where motorcyclists are the main problem. No barriers have yet been made that are completely effective at keeping out motorcycles while allowing passage to horses and cyclists. However, step-over gates and step-over barriers are generally successful in reducing motorcycle traffic. Squeeze barriers can also be quite effective where horse access isn't needed. Solving vehicle problems can require a consistent, persistent and coordinated approach by a number of parties, and the Parish Council is recommended to report such problems to your local neighbourhood police officer as well as your Field Officer.

**Waymarking:** In addition to fingerposts where the right of way leaves the road, the county council is required to provide signs along a public right of way where the route of the path may be unclear. To do this, white circular discs are used, printed with coloured arrows to show the direction the path takes - these are known as waymarks. An agreed national colour scheme uses yellow arrows for public footpaths, blue arrows for bridleways, purple for restricted byways and red arrows for byways open to all traffic. It is in the interest of land owners that all public rights of way are correctly waymarked to reduce the potential for inadvertent trespass. - see also "signing of rights of way"

**Width of rights of way:** There is no set width for each type of right of way. The written statement of each path which accompanies the Definitive Map may refer to the path's width and if so that is the legal width. Otherwise, statutory minimum widths are only set in relation to ploughing and reinstatement following ploughing. - see also 'Ploughing of rights of way' and 'Crops growing on rights of way'.

For rights of way where neither of these applies, the county council uses the following as minimum reasonable widths:

	Unenclosed Path	Field Edge Path	Enclosed Path
Footpath	1.2 m	1.8 m	2 m
Bridleway	3 m	3 m	4 m

Restricted byways and byways are commonly wider than bridleways, but at a minimum are taken to be of bridleway width. Where a path runs between hedges or fences the width of the highway will normally be the full width between the boundaries, even where the worn route is much narrower.

An encroachment into the width of a public right of way is an obstruction and a criminal offence. See 'encroachment' and 'obstructions' for details of how the county council deals with these issues.

## Appendix Y: Where can I find out more?

### Useful books:

- Agate, E. 2004. *Footpaths – a practical handbook*. BTCV, Doncaster.
- British Standards Institution, 2006. *BS 5709:2006 Gaps, gates and stiles – specification*. BSI, London.
- Defra 2005. *Regulating the use of motor vehicles on public Rights of Way and off road – A guide for Local Authorities, Police and Community Safety Partnerships*. PB 11381. Defra, London.
- Ramm, David (2006) *The Secrets of Countryside Access - An Illustrated Guide to Finding, Using and Enjoying Public Paths*, Ramblers Association East Berkshire
- Riddall, R. & Trevelyan, J., 2007. *Rights of Way; A guide to law and practice*. Ramblers' Association and Open Spaces Society, London.

### Web sites:

**Access Land** - You can check out the current availability of access land at [www.naturalengland.org.uk/ourwork/enjoying\\_places/openaccess](http://www.naturalengland.org.uk/ourwork/enjoying_places/openaccess).

**Inheritance Tax Exemption** - Access areas made available under this scheme [www.hmrc.gov.uk/heritage/lbsearch.htm](http://www.hmrc.gov.uk/heritage/lbsearch.htm)

**ACRE (Action with communities in rural England)** - A national Parish Plan Toolkit has been produced by ACRE to help you draw up and get the most from your plan. The toolkit can be downloaded from ACRE's website at [www.acre.org.uk/communityengagement\\_parishplans.html](http://www.acre.org.uk/communityengagement_parishplans.html)

**Best of Both Worlds** – a website resource that helps increase opportunities for outdoor sports and recreation, and, at the same time, to protect the sensitive environments in which they take place. Their website is [www.bobw.co.uk](http://www.bobw.co.uk)

**British Trust for Conservation Volunteers** - [www2.btcv.org.uk/](http://www2.btcv.org.uk/) You can find all of the BTCV 'how to' guides available to download from this site.

**Defra** - Details of current access provided under Environmental Stewardship grant scheme can be found on Defra's website at <http://countrywalks.defra.gov.uk/default.aspx>

**Defra (commons)** - website at [www.defra.gov.uk/wildlife-countryside/issues/common/index.htm](http://www.defra.gov.uk/wildlife-countryside/issues/common/index.htm)

**Disabled Access sites** - National information on routes for wheelchair users and parents with buggies can also be found on [www.walkswithwheelchairs.com](http://www.walkswithwheelchairs.com) and [www.walkswithbuggies.com](http://www.walkswithbuggies.com) respectively. (See also the Fieldfare Trust, Disabled Ramblers and Oxfordshire County Council walks and rides sites)

**English Heritage** – For information about archaeological and important heritage sites: [www.english-heritage.org.uk/](http://www.english-heritage.org.uk/)

**Environment Agency** – Particularly for information about rivers and access to water: [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

**Fieldfare Trust** [www.fieldfare.org.uk/](http://www.fieldfare.org.uk/) Fieldfare works with people with disabilities and countryside managers to improve access to the countryside for everyone.

**National Lottery** - The best place to start your quest for lottery funding is on the search page at [www.lotteryfunding.org.uk](http://www.lotteryfunding.org.uk)

**Natural England** – A large site with information on most aspects of countryside access, including public rights of way and access land [www.naturalengland.org.uk/](http://www.naturalengland.org.uk/)

**Oxfordshire County Council** – Countryside Service webpages [www.oxfordshire.gov.uk/countryside](http://www.oxfordshire.gov.uk/countryside)

**Paths for All** – A Scottish site that is packed with useful information: [www.pathsforall.org.uk/](http://www.pathsforall.org.uk/)

**Planning Inspectorate** – A good site for advice about the interpretation of historical evidence and public inquiry procedures. [www.planning-inspectorate.gov.uk/pins/appeals/rights\\_of\\_way/rights\\_way.htm](http://www.planning-inspectorate.gov.uk/pins/appeals/rights_of_way/rights_way.htm)

**Statute law** – Here's where you can find the up to date texts of all Acts of Parliament since 1980: [www.statutelaw.gov.uk/](http://www.statutelaw.gov.uk/)

#### **User Groups and Access Societies:**

**The British Horse Society** – [www.bhs.org.uk/](http://www.bhs.org.uk/) – 0844 8481666  
The BHS is a charity involved in promoting all matters relating to horse riding and the care of horses. With regard to countryside access they promote and secure the provision, protection and preservation of public rights of way and of access for ridden and driven horses over public roads, highways, footpaths, bridleways, carriageways, public paths and other land.

For Oxfordshire BHS visit

[www.bhssouth.org.uk/Ox%20news.htm](http://www.bhssouth.org.uk/Ox%20news.htm)

Oxfordshire riding clubs include:

- South Oxfordshire Riding Club
- Chiltern Riding Club
- Oxford Riding Club
- Isis Dressage Group
- Vale of White Horse Riding Club
- West Oxfordshire Riding Club
- Cherwell Valley Riding Club
- North Oxfordshire Riding Club (no web site)
- Otmoor Riding Group
- Oxford Area Bridleways Association
- Bridleways (riding routes nation wide)

[www.bridleways.co.uk](http://www.bridleways.co.uk)

**The British Driving Society** –

[www.britishdrivingsociety.co.uk](http://www.britishdrivingsociety.co.uk) The aim of the Society, which was formed in 1957, is to encourage and assist those interested in the driving of equine animals.

**The Byways and Bridleways Trust** -

[www.bbtrust.org.uk](http://www.bbtrust.org.uk) The Byways & Bridleways Trust is a registered charity, formed to protect the public rights that exist over the many ancient lanes that form part the British landscape and, our traditional means of travel.

**Chiltern Society** – The society's activities include cycling and walking groups as well as practical rights of way and conservation management.

[www.chilternsociety.org.uk/](http://www.chilternsociety.org.uk/)

**CPRE** - CPRE Oxfordshire promotes the beauty, tranquillity and diversity of rural Oxfordshire by encouraging the sustainable use of land and other natural resources in town and country.

[www.cpreoxon.org.uk/](http://www.cpreoxon.org.uk/)

**Cotswolds Voluntary Wardens** -The Cotswold Voluntary Wardens service

[www.cotswoldsaonb.org.uk/?Page=CotswoldsWardens](http://www.cotswoldsaonb.org.uk/?Page=CotswoldsWardens) was established in 1968. Anyone can join and, today, there are over 340 full time members. The wardens are part of the Cotswolds Conservation Board and volunteer their time and skills to help keep the Cotswolds special.

**The CTC (Cyclists' Touring Club)** –

[www.ctc.org.uk](http://www.ctc.org.uk) - 0870 8730060 CTC's mission is to make cycling enjoyable, safe and welcoming for all. Their work includes high-profile campaigning on behalf of all cyclists. There are local clubs in Oxford City, Wantage, Witney, a midweek group and an Oxfordshire county group. The Disabled Ramblers - An inspirational group that don't take disability as a reason not to enjoy the countryside. See:

[www.disabledramblers.co.uk](http://www.disabledramblers.co.uk)

**The Land Access and Recreation Association**

– [www.laragb.org](http://www.laragb.org) LARA is the motoring organisations' Land Access and Recreation Association and acts as a national forum for the principal groups in countryside motor sport and recreation. LARA does not organise events or act as any sort of governing body, but it does assist its members in a wide range of land access issues: policy, practice and problems.

**The Milestones Trust – [www.milestone-society.co.uk](http://www.milestone-society.co.uk)**

Founded in May 2001, the Society aims to identify, record, research and interpret for the public benefit the milestones and other waymarkers of the British Isles.

**The Open Spaces Society - [www.oss.org.uk](http://www.oss.org.uk)**

The Open Spaces Society's mission is to protect, increase, enhance and champion the common land, village greens, other open spaces and public Rights of Way of England and Wales, and the public's right to enjoy them.

**Oxford Fieldpaths Society** - The Oxford Fieldpaths Society was founded in 1926 for the preservation of footpaths, bridlepaths and commons in the neighbourhood of Oxford.  
[www.ofs.org.uk](http://www.ofs.org.uk)

**Open Spaces Society - [www.oss.org.uk](http://www.oss.org.uk)** The OSS is the oldest access group in the UK and held a pivotal position in the drafting of early access legislation. The organisation is now more focused on common land and town and village greens than on public paths.

**The Ramblers – [www.ramblers.org.uk](http://www.ramblers.org.uk)** – 0207 3398500 The Ramblers is Britain's biggest walking charity with over 70 years promoting walking as well as assisting to improve conditions for everyone who walks in England, Scotland and Wales. There are many local groups throughout Oxfordshire [www.ramblers-oxon.org.uk](http://www.ramblers-oxon.org.uk) There are also Ramblers parish representatives that help to monitor the local public rights of way network.

Oxfordshire Ramblers groups include:

- Banbury & North Oxfordshire
- Bicester & Kidlington
- Didcot & Wallingford
- Henley & Goring
- Oxford
- Oxon 20s & 30s Walking
- Oxon Weekend Walkers
- Thame & Wheatley
- Vale of White Horse
- West Oxfordshire

## Appendix Z: Glossary

### **Abatement**

The common law right to take action to remove a nuisance that is affecting the exercise of a right, e.g. removing just enough of an obstruction to squeeze past.

### **Access Land, Open Access Land**

Land that has been mapped and is subject to the new rights of access, mainly on foot. Access Land is either Mountain, Moor, Heath, Downland, Registered Common Land or land dedicated as Access Land. Use of this land is sometimes known by the phrase “right to roam”

### **AONB**

Area of Outstanding Natural Beauty Oxfordshire has three - Chilterns, Cotswolds and North Wessex Downs, each with their own management team and management plan.

### **BHS**

British Horse Society

### **BOAT, Byway**

Byway Open to All Traffic - a highway over which the public have a right of way for vehicular and all other kinds of traffic but which is used by the public mainly for the purpose for which footpaths and bridleways are used. Waymarked by red arrows

### **Bridleway**

Public Bridleway - A highway over which the public have a right of way on foot and a right of way on horseback or leading a horse, but with or without a right to drive animals of any description along it. Bicycles may also be ridden on bridleways. Waymarked by blue arrows.

### **BS5709:2006**

British Standard Covers the specification for gaps, gates and stiles.

### **CLA**

Country Land and Business Association

### **Countryside Service**

The part of Oxfordshire County Council whose work includes protecting, maintaining, improving and promoting public rights of way and other countryside access resources.

### **CRoW Act**

Countryside and Rights of Way Act 2000 – part I established the new right of access to access land, Part II set out improvements to rights of way legislation (including the duty to prepare RoWIPs), part III strengthened laws about wildlife and nature conservation, Part IV dealt with AONBs and Conservation Boards, Part V contained the provisions to establish LAFs.

### **Cycle Track**

A way over which there is a right to cycle, and possibly also to walk.

### **CTC**

Cyclists' Touring Club

### **DDA**

Disability Discrimination Act (1995 and 2005)

### **de facto access**

Access which is available on the ground, even though it may not be officially recorded.

**DM, DMS**

Definitive Map and Statement Legal document comprising maps and written information, which records the existence of those rights. Other rights may exist, but may not be recorded. The DMS is conclusive evidence of the rights it records but this is without prejudice to other unrecorded rights which may be proved to exist by means of a DMMO.

**DMMO**

Definitive Map Modification Order Legal order which changes the Definitive Map and Statement.

**Defra**

Department for Environment, Food and Rural Affairs Government department whose responsibilities include rights of way.

**de jure access**

Access rights which are recorded legally (“based on law”).

**Department for Transport**

Government department responsible for highways other than rights of way.

**Diversion**

The changing of the route of a right of way on the ground using a legal order.

**English Heritage**

Government agency responsible for the historic built environment and archaeology.

**Fieldfare Trust**

A charity which works with people with disabilities and countryside managers to improve access to the countryside for all.

**Environment Agency**

Government agency responsible for river management, waste management, pollution control and other environmental matters.

**Environmental Stewardship**

An agri-environment scheme administered which provides funding to farmers and other land managers in England who deliver effective environmental management on their land.

**Finger post**

A signpost placed where a public right of way leaves a metalled road. Shows the status, direction, and where appropriate the destination and distance.

**Forestry Commission**

The Government body responsible for managing the state's forests as well as supporting the management of privately owned woodland.

**Footpath**

Public Footpath - A highway over which the right of way is on foot only. Waymarked by yellow arrows.

**Footway**

A way set aside for pedestrians at the edge of a carriageway (a pavement).

**GAEC**

Good agricultural and environmental conditions; those needed to secure Single Farm Payment subsidy, and including maintaining visible public rights of way.

**GIS**

Geographic Information System a computer system capable of assembling, storing, manipulating, and displaying geographically referenced information (spatial data).

**Green lane**

A common term with no legal meaning. A physical description of an unsurfaced track, often enclosed by hedges. The land may be a public right of way or may carry no public rights at all.

**Highway**

The land over which a right of way runs.

**Highway Authority**

The body responsible for the maintaining of highways and keeping them free of obstructions. In Oxfordshire it is the County Council.

**Highways Agency**

Government agency responsible for trunk roads and motorways.

**LAF**

Local Access Forum The countryside access advisory body established by the county council under the CRoW Act 2000. Comprised of volunteers including land managers, users and other relevant interests. Oxfordshire's LAF is known as the Oxfordshire Countryside Access Forum (OCAF).

**List of Streets**

The schedule of paths and roads that are maintainable at public expense.

**National Trail**

Long distance route supported by Natural England

**National Trust**

Charity that looks after nationally important property.

**Natural England**

Natural England is the government's advisor on the natural environment. They provide practical advice, grounded in science, on how best to safeguard England's natural wealth for the benefit of everyone.

**NFU**

National Farmers' Union

**ORPA**

Other Route with Public Access A non-statutory designation route shown by the OS on their Landranger and Explorer mapping. Generally includes unsurfaced UCRs.

**OS**

Ordnance Survey Government owned company that produces and licences map based information.

**OCAF**

Oxfordshire Countryside Access Forum – see LAF

**Permissive path**

Path made available through the goodwill of the landowner. It may be withdrawn at any time and the public have no permanent rights over it. Permissive Paths are not usually shown on the DMS or OS maps.

**PCT**

Primary Care Trusts The way that the National Health's services are delivered within a geographic or administrative area.

**Private Right of Way**

A right of way for an individual or any company or group other than the public at large.

**PPO**

Public Path Order Legal order which creates, extinguishes or diverts a footpath or bridleway.

**Public Right of Way**

A right of passage by the public over the highway for the purpose of passing and repassing and for incidental reasonable purposes.

**Ramblers**

Ramblers (previously Ramblers' Association)

**Recreational use**

Using the rights of way network for informal enjoyment or exercise.

**Restricted Byway**

A Highway over which the public have a right of way on foot, on horseback or leading a horse and for vehicles other than mechanically propelled vehicles (e.g cycles, horse and cart).

**Right to Roam**

A commonly used (but incorrect) term used to describe the new rights of access to open country and registered common land introduced under the Countryside and Rights of way Act 2000

**RUPP**

Road Used as a Public Path Term now defunct and replaced by Restricted Byway

**Signpost**

See Fingerpost

**Spatial**

Relating to distribution, distance, direction, areas and other aspects of space on the Earth's surface.

**Surveying Authority**

The body responsible for the preparation and upkeep of the DMS.

**SUSTRANS**

SUSTainable TRANsport A charity that works on practical projects to encourage people to walk, cycle and use public transport. Also manages a national network of cycle routes.

**TROT**

Toll Rides (Off Road) Trust Charity that establishes pay-to-use permissive routes for equestrians

**Tourism providers**

Includes tourist attractions, destination marketing organisations and tourism officers working for local authorities.

**UCR**

Unclassified Road or Unclassified County Road  
These are minor highways, sometimes surfaced.  
They are generally maintainable at public expense

**Utilitarian routes**

Path which is used by people going about their daily lives e.g. used to get to school, work, bus stops and local facilities.

**Waymark**

A means of showing the route of a public right of way. Oxfordshire uses round plastic discs with the status of the route and an arrow to show direction. Usually mounted on a wooden post or attached to stiles, gates and bridges.