

**SECTION 4: FOOTPATH INSPECTIONS****1 INTRODUCTION**

- 1.1 Individual Inspectors can decide how often they carry out inspections, but they should walk all paths in their parish or parishes at least once every two years. Some parishes have only a few public rights of way (PROW) whilst others have a considerable number. Inspectors are volunteers with other interests and commitments, so we are happy for them to do as much or as little inspecting as they are able to within this time scale
- 1.2 You should keep records of your inspections for your own benefit. These will help you decide on follow-up visits.
- 1.3 The golden rule when inspecting is: **know your patch**. As future development may affect rights of way it is important to be aware of all planning applications at an early stage. It is far easier to influence an application before approval has been granted than when the development is underway and is already affecting rights of way. Most planning authorities publish applications online and are required by law to publicise applications in the local press. Those applications potentially affecting a PROW have to be advertised separately under Article 8 of the Town and Country Planning (General Development Procedure) Order. The local planning authority may well be willing to send you this list by e mail so you can then follow up any applications of potential concern and make representations with a view to safeguarding the interests of walkers. The complete planning application with supporting documents including plans is normally available on line.
- 1.4 Always take the time to investigate thoroughly. For instance: a path might appear to be a dead end or to be blocked with no stile, but further investigation could show you are slightly off the line of the definitive path, or that the stile is hidden by overgrowth. A path across a field may look obvious, but may not be on the definitive line. A sign or waymark could be pointing in the wrong direction. It is worth re-iterating how important it is to be sure that you are walking the correct legal route of the right of way. Accurate map-reading and careful navigation are two skills you will find invaluable when checking definitive paths.

**2 THE INSPECTION**

- 2.1 The inspection can be part of an ordinary walk which takes in footpaths in the allocated parish or parishes; a walk specifically arranged to take in several footpaths; or a visit to inspect a particular problem. The things to look for are the same in each case.
- 2.2 The starting point will almost always be where a right of way leaves a metalled road. Confirm that there is a signpost in the correct position, pointing in the correct direction and displaying the correct status of the way. Do not assume that because there is a sign or stile it is correctly positioned. Check against other features on the map – the hedgeline on the other side of the road, a pond, field boundaries, an adjacent road junction etc. (But bear in mind that hedges are easily and often removed.) Is there a stile or other access to the path from the road?
- 2.3 Once you are satisfied that you are on the correct line, continue along the line of the path, checking each boundary crossing point. It is often useful to note any evidence that the path is used – some paths are little used and so can be hard to find on the ground. You will need to navigate and investigate carefully if a stile or gate does not appear in the expected place. In most cases there will be some evidence of a stile or gate, but if not, perhaps you are slightly off line. Careful study of the map and reference to other features will usually help to find the missing stile, as will a walk along the field boundary in which the stile should be situated. If there really is no stile, gate or way through, do check that you **are** on the line of the path and if so, report the obstruction. It often helps in a case of this sort to walk the path in the opposite direction – an apparently missing stile can often be spotted from the other side!

### 3 OBSTRUCTIONS AND FAULTS

- 3.1 The purpose of inspecting public rights of way is to ensure they can be used by the "average" walker without danger or difficulty. A useful test to apply is 'Can this right of way be used safely and easily by everyone who is likely to walk it?' If it cannot, you should report any problems you encounter, which will take many forms. Some of the more likely ones are described below. In all cases, give the grid reference and full details of the obstruction or fault. Support the description with a diagram, sketch or photograph if possible.
- 3.2 **Some common faults**
- 3.2.1 The impassable stream. If a path leads to a stream or watercourse and you cannot cross by striding over it, is there evidence that there used to be a bridge there, for example fallen remains or abutments? Does the map show a footbridge? Perhaps instead of a bridge there was a ford or stepping stones which are no longer present or usable. In some cases modern machinery might have widened or deepened a formerly passable stream or dyke, making it impossible to cross without a bridge.
- 3.2.2 The damaged or unsafe bridge. Sometimes there is a bridge over a stream but in poor repair, broken, dangerously tilted, slippery, or in need of a handrail to make it safe.
- 3.2.3 The locked or tied gate. First of all, make sure the gate **is** on the definitive line of the path – it is very easy to be slightly 'off line'. Check for a stile or gap in the field boundary either side of the gate. Once you are sure you are on the definitive line, check if the gate can be opened. Many gates these days are not properly hinged but are secured by binder twine and are very heavy to open. If the gate cannot be opened, note how it is secured – chain and padlock, nailed up, secured by wire, etc.
- 3.2.5 Broken, difficult or dangerous stiles. Stiles can be too high, too narrow, too wobbly, too slippery, decorated with barbed wire, lacking a through step, far too close to the road, on a blind corner. All these cause the walker considerable difficulty and should be reported.
- 3.2.6 Housing or industrial development. These need planning permission. The Society should have been consulted at the planning stage but that does not always happen. Check for any diversion, official or unofficial. If there is one, decide whether it is as good as the proper path.
- 3.2.7 The large hole. This is often caused by opencast mining or quarrying. Again, the Society may have been consulted but you cannot assume that it has, and should submit a report. Temporary closure orders often apply to paths near such workings and have been known to remain in place for 50 years or more!
- 3.2.8 Ploughing. Headland paths must not be ploughed and a minimum width of 1.5 metres for a footpath and 3 metres for a bridleway is normally prescribed. A farmer is allowed to disturb the surface of a cross-field path provided he reinstates it within 28 days. Cross-field paths through crops (but not through grass) must be restored, and marked out so that the full width is apparent to users. The prescribed minimum width is 1 metre for a footpath and 2 metres for a bridleway. Subsequently crops must not be allowed to encroach within the prescribed width. The Society's policy on ploughing is to ensure we maintain an accurate record of paths subject to ploughing, so regular inspections and updating reports from Inspectors are essential. We will ask Highway Authorities to prosecute only when consultation has failed and we see the same path ploughed and not reinstated year after year.
- 3.2.9 Buildings. Farm buildings, although not necessarily needing planning permission, are illegal obstructions if they are fully or partly across the line of the path.
- 3.2.10 Undergrowth/overgrowth/fallen trees. A path might be blocked or very difficult to walk due to undergrowth with roots in the line of the path; or because of overgrowth from outside the width of the path such as branches or hedges encroaching on the path. Fallen trees can often be difficult to negotiate or can block a path completely.

- 3.2.11 Mud/slurry. A path might be boggy, covered in water, mud, dung or slurry, or badly rutted. If you cannot easily bypass these problems, and you find they make walking the path more difficult than is reasonable for the location, then you should submit a report. Try to determine whether the fault is temporary – perhaps caused by recent heavy rain or a blocked drain – or long-standing, for example where the ground is subject to regular flooding or a path is always covered in mud and dung from cattle. A comment about this on your report would be helpful.
- 3.2.12 A new road or a road-widening scheme. A path might be crossed or affected but should not be obstructed by crash barriers. There might be a bridge over the road, or signs indicating where the path crosses. Check that the path can be safely walked and submit a report in any case.
- 3.2.13 Extended gardens, paddocks or tennis courts. A right of way might now pass through a garden, paddock or tennis court. The path might have been officially diverted – in which case the Society should have been informed – or unofficially diverted, perhaps with a sign directing walkers round the extended garden. Unless the diversion is clearly official, it should be reported. Note that planning permission is required to change a field or pasture to a domestic garden. Where no permission has been given the matter should be reported to the local planning authority. The presence of a PROW is a material planning consideration. Many walkers will be deterred from using a path across a garden unless it is clearly waymarked and signed. A diversion may well be a better solution if that is possible. Appropriate representations should be made to the local planning authority.
- 3.2.14 Car parks, football pitches, etc. These are often crossed by rights of way and may cause a temporary obstruction. They should always be reported.
- 3.2.15 Golf courses. These are increasing in number. Existing courses often have rights of way crossing the fairways, and the danger to walkers (who incidentally do have right of way) is very real. Good waymarking across the course is essential and any problems should be reported.

### **3.3 People**

- 3.3.1 An obstruction by a person is a very serious situation and is altogether different from the obstructions mentioned above. Landowners can put forward many different arguments, but usually all say one thing: there is no footpath here! It is important to be certain you are on the definitive line of the PROW, so check the map carefully. The policy of the Society is to be non-confrontational. Try showing the map and saying 'the green dashes on the map show a path' and ask where the owner thinks you should be walking. Suggest that signs or waymarks would be helpful in showing walkers which route to take. If this does not work and the landowner goes on refusing to admit there is a footpath, take careful note of what they say and try to obtain their name and status. If requested provide your name and the name and address of the Society. You will have to decide, based on the circumstances, whether to proceed or to withdraw gracefully. But in either case, submit a full report with as much detail as possible.
- 3.3.2 If the landowner tells you they have called the police await their arrival. When they do, explain the situation, stating that you have reason to suspect the landowner or agent is preventing you from using a public highway. Take the officer's name and collar number. Do not become involved in an argument or discussion; just listen to what is being said. Be as factual as possible and provide evidence of your position with the Society, i.e. your Inspector's badge. The officer will not be involved in any legal argument; he will just ensure there is no breach of the peace.
- 3.3.3 If you are subject to threats or abuse from a landowner or occupier this should be reported to the police without delay and a statement made. It is reasonable to expect the police to visit the person concerned and formally warn that a repetition of this behaviour may result in their being arrested and charged with a public order offence. It would also be appropriate to inform the highway authority.

### **3.4 Animals**

- 3.3.1 In the countryside we inevitably share the paths with our four-footed friends. Unfortunately they are not always as friendly as we would wish. Always put your own safety first.
- 3.3.2 Accompanied or mounted horses are of course allowed on bridleways, restricted byways and byways open to all traffic (BOATs), but not on footpaths. However, sometimes a landowner allows riders to use a footpath, so a walker could quite legally meet a horse and rider on a footpath. Horses may also graze in fields crossed by rights of way. There are two main concerns with regard to horses on rights of way: firstly, hooves can cause considerable damage to a path surface; secondly, on an enclosed way between walls or hedges, there might be insufficient room for walker and rider to pass. If you encounter either of these situations, you should submit a report.
- 3.4.3 Dogs come in even more varieties than Heinz products. Some cause no problem to the walker but others certainly do. Watch for the dog on a chain that is long enough to allow the dog to reach the footpath. Many farm dogs are used to nipping the rear legs of farm animals, so you might be able to deter them by brandishing a walking stick behind you. The best advice is to stand still and let the dog continue to bark and raise a hullabaloo, bringing its owner onto the scene. Take note of any advice they offer, such as 'keep walking' or 'it's really quite a soft dog, it won't harm you'. If the dog appears really unfriendly, insist that the owner comes out and takes control of the animal. Should a dog bite you, or any other walker, a report to the police is essential. Ask yourself – does this dog deter walkers from using the footpath? If the answer is yes, submit a report.
- 3.4.4 Bulls are sometimes found in fields through which a right of way passes. The law on bulls on footpaths is rather complex and is detailed more fully in the recommended reading. The Society's advice to all path users must be to take extreme care. The Health and Safety Executive's report detailing accidents to farm workers involving bulls makes sad reading. Report all incidents, giving precise locations.
- 3.4.5 Cows can be a problem. Do not walk between a cow and her calf; let your dog off the lead if the cows seem to be aggressive. Always report a situation where cows have deterred you from using a path or have made it difficult to use.

### **4 SIGNS AND WAYMARKS**

- 4.1 These come in a variety of shapes and sizes, but from the point of view of inspection, we need only consider three types: those erected by the Highway Authority, those erected by other voluntary bodies and those erected by the Society.
- 4.2 Highway Authorities have a statutory requirement to erect signposts where a PROW leaves a metalled road. Most authorities comply in part but very few can say the task is complete. Many authorities have a programme of renewing or replacing signposts in a different part of their area each year, so you should report missing, broken or misleading signposts.
- 4.3 Signposts are sometimes erected by other voluntary bodies, such as the Campaign to Protect Rural England. If you see this type of signpost, a brief comment on your report will ensure that details are included on the footpath file.
- 4.4.3 The Society has a large number of signposts, and more are being erected all the time. They are not normally placed where the HA has a duty to erect a signpost, but at junctions of footpaths, in situations where the sign will help walkers.
- 4.4.4 You may come across a suitable site where a signpost would be of benefit to walkers. If so, please send full details to the signpost officer.
- 4.4.5 Our signposts play an important role in publicising the Society and it is important that they are in good condition and do not look neglected. We have a signpost maintenance team who work hard at keeping these signs in good condition. Please report any sign which is in poor condition to the signpost officer

- 4.5 Signposts are sometimes in the correct position but difficult to see. They can be:
- hidden in or overgrown by a hedge
  - lying on the ground, perhaps knocked down deliberately or as a result of an accident
  - attached to a telegraph pole or lamp standard
  - on the wrong side of the road where they cannot be seen
  - missing an indicating finger
  - pointing in the wrong direction.
  - invisible: wooden posts can become covered with moss and blend into the background.
- 4.6 Waymarks: these must be installed by the highway authority to ensure that a person unfamiliar with the locality can follow the course of a PRoW. Discreet waymarking in certain areas, notably in and around farmyards and at difficult junctions, is of great benefit to both landowner and walkers. Waymarking can only be carried out with the consent of the landowner.

## **5 NOTICES**

- 5.1 For the purposes of this handbook there are two types of notice: legal and illegal. Legal notices of all descriptions give a positive and unambiguous message. Illegal notices, of which there are many, do not, and they cause the Society some concern.
- 5.2 One common notice takes the form 'PRIVATE ROAD TO WASHSIDE FARM'. This notice is, of itself, perfectly legal but the implication that there is no access for walkers causes concern. If a PRoW goes down the road, we ask the Highway Authority to erect a public-footpath signpost alongside the notice.
- 5.3 It is illegal to place a notice saying 'DANGER, BULL IN FIELD' where there is no evidence of a bull in the field. The National Parks and Access to the Countryside Act 1949 Section 57 makes it an offence to place or maintain a notice containing any false or misleading statement likely to deter the public from using a right of way.
- 5.4 Another notice occasionally found is 'PRIVATE – PROCEED AT OWN RISK'. On a right of way this is illegal and must be removed or amended. The local authority is responsible for doing this.
- 5.5 The use of 'PRIVATE, KEEP OUT' notices, located next to a path but said to refer to the adjacent woodland, is to be deplored, but the legality of this notice depends very much on where it is.
- 5.6 Beware of 'PLEASE USE ALTERNATIVE/CONCESSION/PERMISSIVE PATH'. Alternative paths are acceptable, with reluctance, provided that the definitive line is unobstructed and the new line is signed or waymarked to the same standard. Even then it is preferable, if possible, to walk the legal line.

## **6 CLASSIFICATION OF FAULTS**

- 6.1 Faults generally fall into three categories:
- 6.1.1 Faults or obstructions that are so serious that a notice needs to be served. For example: paths blocked by barbed wire, fences or other deliberate blockages; or a prolonged failure to act on the part of the HA. These should be reported to the appropriate C&IO
- 6.1.2 Faults such as broken stiles or damaged bridges. These should be reported to the Highway Authority and details copied to Taylor House for archiving. Please mark these as 'copies' to avoid any possible duplication.
- 6.1.3 Faults which the HA will have on a rolling programme and will eventually deal with (missing signposts, seasonal overgrowth, crops). These should be reported to the HA but not copied to the Taylor House Area Officer unless the fault is long-standing or there is another problem.

### 7 THE REPORT

- 7.1 We prefer volunteers to report faults by email directly to the relevant HA, copying the report to the Taylor House Area Office faults email address.
- 7.2 As a minimum the report should contain the following information:
  - Highway authority
  - Parish
  - Path number
  - Grid reference
  - Details of the fault
  - Fault category.
- 7.3 When possible the report should include a digital photograph.

### 8 RECORD KEEPING

- 8.1 We would expect you to keep your own records of the inspections you have carried out, and to develop your own method of reporting to, and chasing up, the Highway Authority. At Taylor House we usually allow three months for rectifying a fault considered dangerous' one year for rolling programme faults and six months for most other faults before we send a reminder. But this is just a guide, as much will depend on the fault – you will have a better knowledge of this than we do at Taylor House and you will be better able to judge when to send reminders. We do not need to know when you send reminders, but we do need details of cleared faults for the archives.
- 8.2 We welcome any comments, queries or suggestions you might have about this.
- 8.3 It is important to remember that when acting as a PNFS Inspector you should always follow the Society's guidelines and policy.

### 9 THE FOLLOW-UP

- 9.1 It is vitally important to check reported faults if the Highway Authority or Taylor House has not told you that the fault has been rectified. Local authorities can and do take years to remove obstructions and resolve other problems, but faults stay on our database until either the Highway Authority tells us they have been cleared or we receive a clearance or updated report from you. To enable us to keep the number of current files to a minimum, these follow-up reports are essential.
- 9.2 The timing of the follow-up inspection is left to you, but a good guide is eight to twelve months after the initial visit, with visits at your discretion thereafter. Some Inspectors prefer to do a yearly check on all their footpaths and this is perfectly acceptable. Another way is to check on previously reported faults and at the same time check any other footpaths in the area of the fault, or include checking old faults in your normal footpath inspection.
- 9.3 A follow-up report should indicate whether the fault originally reported has been resolved, is still the same, has worsened or has improved. Always give as much detail as possible. Please use the standard obstruction report form but indicate if the report is an update or a clearance. It is quite possible that on a follow-up visit you find new faults. Please report these as normal.
- 9.4 Where matters are not resolved and the fault is seriously detrimental to the interests of walkers because the path is obstructed or out of repair then the matter should be drawn to the attention of the appropriate Courts and Inquiries officer for investigation with a view to using procedures under s.130A or s.56 of the Highways Act 1980 after approval of the LPC.