



# Merseyside Rights of Way Enforcement Procedure

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**LOCAL TRANSPORT PLAN**  
MERSEYSIDE



## Recovery of costs.

Once notice has been served the authority may recover all costs associate with it, including officer time, travel and administration as well as any contractor costs.

Even if you do the work between the notice and the contractor attending site costs may be recovered, including those of the contractor and the council officers who may need to verify the state of the path and complete any works still outstanding. The charge for any notice is unlikely to be less than £150.00.

## Further Information

Contact for enquiries and further information.

Merseyside District	Contact	Contact Tel.	Email Address
Knowsley Metropolitan Borough Council	Mr Bernard Maloney	0151 443 2289	Bernie.Maloney@knowsley.gov.uk
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Sefton Metropolitan Borough Council	Mrs Val Hough	0151 934 4206	Val.Hough@technical.sefton.gov.uk
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## Why do we need an enforcement procedure?

Path users can encounter a variety of problems when using the public rights of way network. These range from the lack of a signpost to a crop growing across a path or even, perhaps, a development constructed illegally on a path. Many of these problems are caused by landowners or occupiers, unintentionally or otherwise, and not only cause great frustration to the user but also encourage trespass off the path.

Councils have a duty to ensure paths are kept free of obstructions at all times and so sometimes we have to take action against landowners or occupiers.

**Where we have to take action against landowners or occupiers to resolve path problems we think it only fair to state our procedure publicly.**

This procedure refers to the most common types of offence committed on public rights of way and is an approved document throughout the entire county of Merseyside and its constituent Authorities.

Note: in the document, use of the term "Authority" refers to the five district authorities of Merseyside: Liverpool City Council and the Metropolitan Boroughs of Knowsley, Sefton, St Helens and Wirral.

## Does it apply to me?

The procedure applies to any landowner / occupier who is responsible for a problem on a right of way. **The severity of the enforcement depends on the attitude of the landowner / occupier to their responsibilities.** We work well with most landowners / occupiers in the borough and would be reluctant to initiate the procedure against them over a minor slip up, however, **persistent offenders can expect rigorous enforcement action up to and including prosecution.**

## What types of enforcement are there?

Enforcement ranges from a standard letter asking you to do something by a certain time or a legal notice that can incur costs to the landowner/occupier, up to a formal caution or prosecution.

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## What is the procedure?

The procedure depends on the type of offence committed and to the service of a legal notice (referred to as “notice” in this leaflet) and the reclamation of all costs incurred from the landowner / occupier. The legal basis for action described here is the Highways Act 1980.

**An offence may be too serious, or the landowners or occupiers track record too poor to be dealt with through the notice process and this procedure will not affect our powers to take more serious action.**

There are three main types of offence committed on rights of way (byways, bridleways and footpaths – mainly referred to as paths in this leaflet):

## Disturbance of the surface and obstruction by crops.

The Highways Act 1980 only allows the ploughing or other disturbance of the surface of a cross-field footpath or bridleway for agricultural purposes, where this cannot be reasonably avoided.

The surface must then be restored to a condition suitable for the paths designated use within 14 days of the initial disturbance or 24 hours of any subsequent disturbance. The path must always be marked out clearly and either operation must be completed over its minimum width (see note).

	Footpath	Bridleway
Cross field	1m - 1.8m	2m - 3m
Field Edge	1.5m - 1.8m	3m (min & max)

Where crops have been planted on cross-field paths (because ploughing the path could not be reasonably avoided) they must not be allowed to become an obstruction. Crops that fall in, such as oil seed rape, should be cleared beyond the minimum width for the paths to ensure width is clear at all times. Neither must weeds be allowed to obstruct the path.

## The Procedure.

When a surface offence comes to the attention of the Authority the following procedure may be implemented:

1. If you have not been contacted about a rights of way offence within the last 3 years you may be contacted and advised of your obligations.
2. A letter may be sent giving you a time limit of 14 days before re-inspection.
3. If the necessary works are not completed within the time limit a notice may be drawn up and a contractor engaged on standby to carry out the works.
4. If, on final inspection, the path still does not comply with the Act the notice may be served and Council Officers and a contractor may attend site no earlier than 24 hours later and any outstanding works may be completed.
5. If you commit any further rights of way offence within a 3-year period of being contacted by the Rights of Way Officer, notice may be served without further communication or more serious enforcement taken.

## Disturbance of field edge paths and byways.

There is no right whatsoever to disturb the surface of a field edge (headland) path or Byway.

Where a field edge offence first comes to the attention of the Authority the following procedure may apply:

1. Where the surface has been disturbed but it is still convenient for the public to use and you have not been contacted about a right of way offence within the last 4 years, you may be given the opportunity to reinstate the path. This may be done by seeding with suitable grass seed in the spring or autumn, whichever comes sooner following the offence.
2. If the path is not convenient to use you may be given a short period of time to restore the surface prior to 1 above.

3. Failure to reinstate the path under either 1 or 2 above may result in a notice being drawn up by the Authority to make good the damage and a contractor may be engaged on standby to do the work.
4. If, on final inspection, the path still does not comply with the Act the notice may be served and the contractor and Council Staff may attend site no earlier than 24 hours from the time of serving notice.
5. Any further offence on the same or any other path on your land within a 4-year period may result in the serving of a notice without prior warning, or more serious enforcement action.

## Other Obstructions.

The Authority has the power to serve notice on landowners / occupiers to ensure obstructions and other nuisances are removed from public rights of way. These notices give the landowner / occupier a period of time to undertake the works. The Authority may serve notice wherever it feels necessary to ensure the speedy resolution of a problem. Examples of obstructions / nuisances include:

- Materials deposited on the highway
- Dangerous adjoining land
- Projections from buildings
- Overhanging vegetation
- Poorly maintained gates or stiles
- Restriction by the planting of trees
- Soil etc. being washed onto the path
- Water discharging onto the path
- Barbed wire
- Structures
- Cattle grids

Note: This list is not exhaustive.

Any landowner / occupier who needs to excavate or carry out an engineering operation on agricultural land which affects a right of way must contact the Rights of Way Office for permission.