

Frequently Asked Questions

What should I do if I am unable to use a path I believe to be public?

Complaints about the surface condition of public paths or problems found along them can be addressed to us using the details provided in the contacts link on this page.

If you think the path is open but due to a disability you are unable to use it we are willing to see what we can do, however the responsibility for the provision of the upkeep or maintenance of stiles lies with the landowner and they will need to be involved if an improvement is to be made. If you were able to use the path but the stiles were difficult for a dog to cross, the landowners who are responsible to ensure stiles and gates do not present an unreasonable interference of the public's right do not have to consider suitability of any structure for an animal. Although you are legally within your rights to take a dog along a path that does not mean you can cut or damage fences to allow it to pass awkward stiles. In areas of the county with high levels of path use and significant visitor numbers we are working Denbighshire Countryside Service Wardens and landowners to provide livestock safe dog gates to ease passage by dogs.

Who is responsible for clearing rubbish and litter from paths?

If you have used a path recently and found the main problem was litter, rubbish or abandoned cars and even dog fouling, we are unable to deal with these particular problems. They are a matter for the Council's Environmental Services Department which includes the waste management services who have the appropriate legal powers and equipment.

I have a path on my land can it be closed or moved?

Any landowner can apply to the council to have a path diverted or closed where they can show it is in the interest of the good management of the land. The process however is subject to a number of tests to ensure the path network is not whittled away by un-necessary applications. Extinguishment is very difficult as the applicant has to prove the way is no longer needed, if even less than a handful of people use it occasionally this may be impossible to prove. Diversions are less onerous but require for the diversion to be successful that the new route should start and finish on the same highways as the existing route does. The new route must also be as short and easy to use as the existing route. There is a wide public consultation including the local community councils, county councillors and groups representing path users. Any member of the public can object to an order. Orders that have objections have to be passed to the National Assembly for Wales for determination and can add significant delay to the process. There is a charge for these orders and a non-returnable deposit with applications. If an order is successful there may be some additional cost for works on the ground in connection with changes to the path. Before the process starts we are

happy to discuss proposals in confidence with potential applicants. For further details please contact the Rights of Way Unit.

Can I carry works out on a path?

Yes, although you will probably need consent. It is an offence to excavate or disturb the surface of any highway, even if the highway has a grass surface. Public paths under the law are highways. If you intend digging a path to lay cables or pipes under or across the path the law requires that an appropriate license is issued by this council. There is a cost to this, however, if the authority becomes aware works have been undertaken without a license there are significant fines that can be imposed on the persons involved. If you wish to improve the surface of a path for your own benefit you will require licensing by the highway authority, this is not restrictive and for the for-seeable future this licensing will be free of charge. for further details please contact us.

If however you have a path crossing grass or lawn you want to mow, no consent is needed.

Do you need to do work requiring that a path be closed for public safety

We can issue you with a temporary order to close the path for initially up to six months if we are satisfied that there is an issue of public safety being compromised by works adjacent to a path, such as tree felling, demolition or building. The process is controlled by legislation. this requires that an application is made at least 6 weeks before the closure is required. If the works are required because of an emergency a closure can be granted but for a much shorter duration period. This process is controlled by legislation and the council has little flexibility in the time scale. Because press advertising is within the process the council recharges its cost for these orders. These orders are handled by the council's Streetworks Unit however contact the Rights of Way unit for advice. If the council receives a complaint that a path is closed without authority of the council which is substantiated. We may commence legal proceedings against the unlawful obstruction of the path.

The legal definitive map recording the paths location and status

The Definitive Map of Public Rights of Way and accompanying statement is the legal record of the network. Each County in England and Wales was required to compile a Definitive MAP under the National Parks and Access to the Countryside Act 1949. The current map was prepared by Clwyd County Council in 1978 and is based on original definitive maps dating back to the 1950s that were prepared by the County Councils of Denbighshire, Flintshire and Merionethshire who covered the area at that time.

Our current Statutory responsibilities are

Making the Definitive Map available for public inspection at the council offices in Denbigh during normal office hours

The updating and continuous review of public rights of way on the definitive map which is the official legal record of public rights of way.

The Rights of Way Unit maintains the official copy of the map and statement . If you wish to check the rights of way network, require information or you encounter a problem please contact the unit who will be only too pleased to help. If possible, please telephone in advance of your visit to ensure that appropriate advice and assistance is available.

Searches

The unit also assists with the provision of information for local land charge searches. Enquiries are usually made through the land Charges office of our Legal department, for these enquiries we endeavour to turn around enquiries within 4 working days. When requested directly from the Rights of Way Unit they should be submitted in writing and we will reply within 15 working days and there will be a separate fee. Personal inspections of the map and statement during office hours are however free but staff are often unavailable to provide any help with interpreting the map.

Is the map ever wrong?

The definitive map is protected in law, by Act of Parliament where it is stated as being conclusive that on the maps 'Relevant Date' the paths shown on it did exist. This means that if a path shown on the map to be a public right of way is a public right of way no matter what local history or personal knowledge may consider about that fact. It should be noted that the map is infrequently updated , legal events can occur such as a path diversion or extinguishment order. Where these formal legal orders have been made the definitive map will not change until the next time the map is updated when it will be corrected to show the effect of the legal order. It is worth considering if you use public paths to always have the latest Ordnance Survey map with you. Each legal order we make is submitted to the Ordnance Survey who reprint their own leisuremaps more frequently than we alter the legal copy so will be more up to date in such circumstances

There will however be times opinion will be held that the map is incorrect and the path goes a different way, has a different status or is missing or should not be shown. There is a procedure for a legal challenge to be made to have the map changed. Until the time such an order is made and is successful in challenging the map, the definitive map stands as being correct. There is no direct charge for requesting or making an order to challenge the map. It is however quite a long process open to much public scrutiny and requires sufficient evidence to satisfy the legal test set down by law for a challenge to be successful. Any costs you incur in

this process can not be reimbursed. For further information if you believe a path is incorrectly recorded on the map please contact the rights of way unit

Can paths be lost if they are not used?

At present the law is quite specific if a path is public, there is no time period it must be used for to retain its public status. This legal principal dates back a long way in time and British law has been quite specific that no lack of use can cause a public right to be lost. This is not the case with private rights of access.

Can a right of way be created over private land?

Nearly all Public Rights of Way cross private land. Landowners can choose to dedicate to the public a right of way across land they own. Once formally dedicated the public right can not be removed without a legal order being made. In addition if unknown to the landowner a way is created and then used by the public across private land without permission, secrecy, or force and is used for 20 years without challenge by the landowner a public right of way can be created. If a land owner does not challenge this use until after the 20 years has expired the way may subsequently become recorded on the Definitive Map as a public path. The Highways Act 1980 S31(6) does however allow landowners to make declarations to the council about what public rights of way cross their land. These declarations have to be repeated every six years but can protect the landowner from a claim for any right of way along a way which is created during the time a declaration is in force. If you have any queries about routes which may fall into this situation or would wish to make the declaration about rights across land please contact the rights of way unit

What are 'Lost Ways'?

This term is used to describe paths which were public and used regularly many years ago but had become almost unused in the 1950's when the Parish Councils provided the County Councils with the first definitive maps. Often they were important old roads or bridleways which became unneeded at some point because of demographic changes or due to the improvement of other ways in the area providing better modal alternatives. Sometimes the existence of these ways was recorded in historical legal documents and because the law states that a highway can not be lost by lack of use they may be re-added to the definitive map when this evidence becomes uncovered. This is irrespective of what purpose the land these ways crossed has now been put to. In the Countryside and Rights of Way Act 2000, The Government introduced legislation to put an end to this practise, however the County Councils and Unitary Authorities in England and Wales have been told they must attempt identify and record those forgotten legal routes which can still be found to exist in old records by 2026 when this new law comes into effect.

The promotion of the path network to encourage access to the countryside for recreation and good health

Denbighshire is blessed with a great variety of countryside. There are diverse opportunities to explore different landscapes, from coastal dunes to high mountain, for the local, weekend or longer stay visitor. The Offa's Dyke National Trail runs the length of the County, ending in Prestatyn. The Clwydian Hills, one of Wales' five officially designated 'Areas of Outstanding Natural Beauty' [AONB], is very popular and there are a number of guide books to the area. The world famous eisteddfod town of Llangollen in the Dee Valley provides a gateway to the countryside of south Denbighshire and the spectacular Berwyn Mountains. Apart from the many options for all kinds of users to choose their own routes, there is the excellent 'Ride the Clwyds' cycling initiative which provides routes for mountain bikers of all ability on rights of way legally open for cyclists in the Clwydian Range.

The promotion of paths is undertaken by the Council's Countryside Service who are based at Loggerheads Country Park. There is a well stocked Countryside Centre with many guide books to local walks and maps of the area. The Centre can be found on the A494 half way between Ruthin and Mold and the visitor centre phone number is 01352 810586.

Denbighshire Local Access Forum

The county are required under the Countryside and Access to the Countryside Act 2000 to set up a forum in its area where those interested in the promotion and development of access to the countryside can meet and give the authority advise and guidance. Membership is by appointment initially by the county council but in future the forum will appoint its own members. For more information on the local access forum please follow the link

Statutory register of Public Rights of Way orders and declarations

These Registers of public rights of way-related applications, declarations and associated documents were established by the Countryside and Rights of Way Act 2000 and are maintained by each local authority in Wales for its area.

The registers will contain information relating to applications made to, declarations lodged with, and documents deposited with, the local authority having responsibility for public rights of way in the area concerned.

The registers are intended to increase knowledge among landowners and the public about matters which could result in changes to the public rights of way network; avoid duplication where more than one person may be considering making an application to a local authority requesting the same change to the definitive map and statement; increase certainty as to which paths or ways landowners intend to dedicate as public rights of way; and assist local authorities in managing their public rights of way functions.