

## Public Rights of Way (PROW) Avoiding PROW – A Guide for Landowners

### Introduction

Public Rights of Way (PROW) are routes across land over which anyone can lawfully pass. Landowners should be aware of the methods by which PROW can be dedicated and protect themselves to the greatest extent possible from the inadvertent dedication of additional PROW.

#### What are PROW?

There are various types of Public Right of Way, being footpaths, bridleways, restricted byways and byways open to all traffic.

PROW come into being by the Landowner dedicating a route across their land for use by the public. This dedication can be express. It can also be implied, by the public showing they have used a way for a long period of time.

#### How are PROW recorded and added?

PROW are recorded on the 'Definitive Map', maintained by the local Council. If an applicant can provide evidence to the County Council demonstrating that the public have used a way for 20 years or more without interruption, and without express consent, the Council can order that the way added to the Definitive Map.

#### How can the addition of new PROW be avoided?

##### 1. Make a Section 31 Deposit

Section 31(6) of the Highways Act 1980 allows Landowners to deposit with the Council a map and statement showing which

ways over their land they recognise as PROW, and statements at 10 yearly intervals thereafter.

This will prevent ways which have been used informally for less than 20 years before the Section 31 Deposit from being deemed as PROW by presumed dedication.

##### 2. Display notices prohibiting public use

Any evidence that the landowner did not intend to dedicate a way as a PROW, and that he has taken steps to communicate that to the public, may be sufficient to defeat an application.

##### 3. Lock gates/ maintain fences

Installing gates and fences around land does help to interrupt public use of the land and evidences the landowner's intention not to dedicate the way for use by the public.

##### 4. Dealing with the Public

Landowners or their staff who encounter someone using a way, or finding them on the land, without express permission, should tell the individual(s) that the land/way is not a PROW, that they are not allowed to use

it, and they should be directed to the nearest public highway.

##### 5. Intermittent closures

Where there is a degree of permitted public use of a way, the landowner may be well advised to close off the way or land to the public at regular intervals.

##### 6. Record and document

Whatever steps are taken to prevent the public gaining a right to use a way over private land, it is important to keep a written record of them, and to document what is said/notified/advertised, both in respect of future actions and steps which may have been taken in the past.

*Our Agricultural department can provide thorough advice as to how to protect your land from the addition of public rights of way. We can provide specialist advice in all agricultural matters and would be happy to speak with you without commitment to see if we could help you, whatever your problem.*

*Please call Charles McDonald on 01233 625711 for more information, or email him on cam@hallettandco.co.uk.*