

Obstruction by crops and disturbance to the surface of footpaths and bridleways

What the law says...

Ploughing

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

The surface must be restored to a suitable condition for path users within 14 days of the initial disturbance or 24 hours after any subsequent disturbance.

The Right of Way must always be marked out clearly on the ground to a minimum width of:

Cross-field footpath - 1 metre

Cross-field bridleway - 2 metres

Field edge paths must not be disturbed at all to a width of:

Field-edge footpath - 1.5 metres

Field-edge bridleway - 3 metres

Cropping

The minimum width of a cross-field footpath is 1 metre and for a bridleway it is 2 metres.

Where crops have been planted on cross-field paths 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 to ensure that the path is clear at all times. In this instance a footpath should be cleared to a width of **1.8 metres** or **3 metres** for a bridleway.

Throughout this document the term "occupier" refers to both owner of the land OR tenant of the landowner.

Why have an enforcement procedure?

The ploughing and cropping of the County's Rights of Way causes great frustration to path users and also encourages trespass off the path.

Herefordshire Council has a duty to ensure paths are kept free of obstructions at all times. We therefore need a robust enforcement procedure in place.

We recognise that many occupiers want to comply with the law. We will therefore help and advise in a proactive manner.

Who approved the procedure?

Herefordshire Council's enforcement policy has been approved in consultation with the Herefordshire Local Access Forum and the Rights of Way Liaison Group, which includes representatives from landowning and farming communities as well as user groups.

DEFRA Cross-compliance

Reinstating a path after ploughing or cropping is a requirement occupiers **MUST** meet as part of the Single Payment Scheme.

The details of occupiers who proceed to stages 3 & 6 of the procedure will immediately be forwarded to the Rural Payments Agency, who will decide whether to take further action (ie. Reduce payments etc.)

Further information

The Rights of Way Enforcement Officers are available for advice on **01432 260573/383221**



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Public Rights of Way
**Enforcement Policy
& Procedures**

ADVICE TO LANDOWNERS Ploughing & Cropping



Herefordshire Council makes a substantial investment each year in maintaining and improving its Rights of Way network. These footpaths, bridleways and byways are a valuable resource and asset to the community. They are used by visitors who bring income into the county and by local residents for enjoyment and recreation.

Both members of the public and the Council are reliant on landowners and occupiers to keep footpaths clear of crops all year round in order for people to be able to use them. Unfortunately, not all landowners carry out their legal obligation to keep rights of way across their land unobstructed. It is therefore important that Herefordshire Council has in place an enforcement policy and structured set of procedures to ensure consistency and openness.

This leaflet clearly explains this policy and aims to make landowners fully aware of their responsibilities to keep Rights of Way clear of crops and furrows. The likely implications of non-compliance are also made clear.

Ploughing & Cropping Procedure

Stage 1: Offence Reported

Upon receiving a report of a ploughed or cropped path, Herefordshire Council will inspect the site of the alleged offence within 10 days of notification.

Stage 2: Course of action to be taken

If a breach of legislation is confirmed the next stage depends on the occupiers previous history.

Checks will be made to ascertain whether the occupier has, within the last 5 years, been previously informed regarding a breach of legislation and if so, how many times and whether a notice has been served upon them.

First Offence (NOT previously informed or NOT informed within the last 5 years)

A letter will be sent to the occupier normally following a site meeting. The occupier will be advised of the time period in which they must re-instate the path.

Ploughing offences - within 14 days
Cropping offences - within 7 days

The right of way will then be re-inspected after the time given to the occupier has elapsed. If the work has not been carried out then a notice will be served (see Stage 3.)

Previous Offenders

If the occupier has previously been advised of their obligations in writing, in connection to a ploughing or cropping offence once within the last 5 years, then the matter will go straight to Stage 3.

If the occupier has been informed **twice or more** the matter will go straight to Stage 6.

Stage 3: Notice Served

A schedule 12A notice will be served upon the occupier. This notice allows the Council to recover costs from the landowner should it become necessary for the Council to carry out re-instatement work.

Stage 4: Enforcement Action

The path will be reinstated along its legal route by Herefordshire Council and if necessary, under the supervision of the Police.

Charges for any work preparing for enforcement action will only be cancelled if the Area Officer has been informed (**at least 2 days prior**) that the work has been carried out by the occupier.

Stage 5: Recovery of costs

Once Herefordshire Council has carried out path reinstatement works a bill will be forwarded to the occupier.

All reasonable costs will be included such as ground work team costs, officer time, travel and administration.

If the occupier fails to pay the bill, the matter will be pursued through the courts.

Stage 6: Prosecution

If the occupier has been advised of their legal responsibilities twice or more within the last 5 years (including the serving of a schedule 12A notice) prosecution proceedings may be initiated.