

A GUIDE TO PROW BY RICHIE REES, CHARTERED LEGAL EXECUTIVE AT THINGS SOLICITORS

CAN A PROW BE CLAIMED?

Any member of the public is entitled to contact the relevant local authority where a recorded PROW is not accessible.

Alternatively, if they believe a PROW exists but is not yet recorded, they can apply to have it added to the definitive map and statement. In both situations the landowner should be consulted.

The applicant's claim will be assessed in line with the underlying legal principle of 'once a highway, always a highway'

A landowner's awareness, or lack of, is irrelevant. If a PROW

is proven to exist on the land, it must be maintained and left open to the public.

“It is imperative that the application is assessed from the proper legal standpoint

RICHIE REES

Five top tips when responding to an application

1 Focus on the question at hand when faced with an application, does the PROW exist in law? Keep the underlying principle in mind: 'once a highway, always a highway'

2 Start with the definitive map and statement. A PROW which is recorded will have to be reinstated even if it cannot be seen on the ground today. Inconvenience and cost to you is largely irrelevant

3 If the PROW is not yet recorded, assess the applicant's evidence. Does it show continued use of the alleged route for more than 20 years? Is there anything you can say or show which contradicts this claim?

4 Consider the risks of objecting without strong evidence. A contested application can progress through several stages and may require a public inquiry. It can be an expensive process which still results in the PROW being confirmed

5 Act in your best interests and compromise where necessary. If an application has merit, considering acknowledging this and asking the local authority whether you can explore diverting the route. A diverted route must satisfy different legal requirements, but could leave you with a far less intrusive and expensive PROW through your land

DIVERTING PROWS IN RESPONSE TO COVID-19

THE CLA and NFU said they were working with Defra to ensure farmers and landowners affected by increased numbers of users on PROW networks have been given the correct advice.

During Covid-19, landowners are able to offer alternative routes to rights of way which pass through farmyards and gardens. Walkers are expected to use the safer alternative, providing a by-pass does not close the existing right of way.

In line with Defra, Public Health England and Public Health Wales advice, the public, when on their daily exercise, are advised to maintain social distancing requirements, keep dogs away from livestock and leave gates as they find them.

Signs encouraging people to follow the Countryside Code, which details the responsibilities for visitors to the countryside and those who manage the land, can be used.

Long-term impact

MR Rees said: "Applications claiming PROW can shock and anger landowners. This is entirely understandable given the potential impact on their property and lives.

"It is imperative, however, that the application is assessed from

the proper legal standpoint so the landowner's best interests are protected. If a PROW has to be reinstated, early recognition may enable the landowner to negotiate a more palatable route at a relatively low cost and long-term impact."

CREATING, CLOSING, UPGRADING, DOWNGRADING OR RE-ROUTING PROWS

HIGHWAY authorities have certain powers to make changes to the public right of way networks in their area.

Farmers and landowners can agree to create a new PROW or apply to their local authority to make an order extinguishing, diverting, upgrading or downgrading a footpath,

bridleway or restricted byway in some circumstances. Contact your local highway authority for details.

MORE INFORMATION
gov.uk/government/publications/definitive-maps-of-public-rights-of-way-change-the-legal-records

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