

GUIDANCE NOTES

Statutory Declaration

Protect your land from new public rights of way

Rights of way across farmland can be a headache for landowners and farmers, so stopping the creation of new rights of way is an important consideration.

If members of the public have been using a specific route for either walking the dog, a shortcut to the shops or just for general enjoyment and they have used it for a long enough period - usually 20 years and more - they can apply to have the route designated as a public right of way.

The use must be uninterrupted and no permission must have been granted for this to happen.

This, of course, can create problems for farmers and land owners alike.

However, the creating of new rights of way can be stopped by depositing what is known as a Statutory Declaration with your local council.

This is now done by completing an application form under section 31 (6) of the Highways Act 1980 which incorporates the declaration and statement.

The declaration will state the ownership of the land and will detail any rights of way currently on the land and, of course, if there are no rights of way present at all since the land came into the owner's possession. An OS map should be marked accordingly.

If the users of the route then apply to the local council to have it declared as a right of way, the council will then notify them that a Statutory Declaration has been deposited and that their application cannot proceed.

Also, as part of changes in legislation which came into force on the October 1st 2013, notices must be displayed on the land in question informing the public that a declaration has been made.

Once the initial Statutory Declaration has been deposited, the declaration should be renewed every 20 years to maintain the protection of the land and this will last for a further 20 years. At this stage, the map submitted with the original declaration can be referred to.

If you as a landowner are aware of members of the public straying away from a public right of way, or using a route that is not designated as a right of way, it is strongly recommended that you complete a Statutory Declaration in order to protect your land.

If you are a tenant and are aware of these happenings, we recommend that you notify your landlord so that they can take action if they so wish. In fact, there is often a clause in the tenancy agreement compelling tenants to notify the landlord and hence such action is imperative.

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