



Introduction

This Fact sheet is about public rights of way. It should be read together with our general information booklet about our service.

A public right of way is a right for a member of the public to pass along a route over land which might be in private ownership. There are different types of rights of way. These include footpaths, bridleways, cycle tracks and byways open to all traffic. A council, as the highway authority, maintains a definitive map and statement of the public rights of way in its area. This provides conclusive evidence of the existence of a right of way.

If a member of the public believes that a right of way should be added to or deleted from the definitive map, he or she can apply for an order for the map to be modified. Councils may also initiate the procedure. When considering whether to amend the definitive map, a council will gather evidence of historic usage in order to consider whether the order should be made. Applications can also be made from landowners to create, divert or extinguish a public right of way. The public and statutory consultees have a right to object to the making of these orders. If the objections are not withdrawn, the matter is referred to the Planning Inspectorate, for determination on behalf of the Welsh Ministers. When a right of way has been established, a highway authority has a duty to assert and protect the rights of the public to use it and prevent its obstruction, and has legal powers of enforcement.

What the Ombudsman can do

The Ombudsman can consider complaints that a highway authority has failed to ensure that obstructions to public rights of ways have been removed and the right to pass along the route maintained.

The Ombudsman can look at excessive delays and procedural irregularities in a council's assessment and determination of applications such as modification or diversion orders. Anyone who has applied to the local highway authority for modification to the area's definitive map and statement, and has not been advised of the decision within 12 months of the receipt of a valid application, can apply in writing to the Welsh Government for a direction. The Welsh Government may direct the authority to determine the

application by a certain date, although it is not legally binding.

The Ombudsman can investigate concerns about the way in which a council has responded to a complaint through its complaints procedure.

What the Ombudsman cannot do

The Ombudsman cannot look at a decision where there is a right of appeal to the Welsh Government. Such a right exists, through the Planning Inspectorate, when an application for a right of way to be included on the definitive map order is refused.

Applicants are expected to exercise their right of appeal – because the Planning Inspectorate is the appropriate body to determine the merits of an application.

The Ombudsman cannot investigate a complaint about a decision which has been taken without maladministration. In these circumstances, he cannot question the merits of the decision.

Issues to bear in mind

The consideration and determination of applications or claims to amend the definitive map and statement are sometimes drawn out due to the need for highway authorities to look at evidence obtained of the usage of a route under consideration. Rights of way officers are also under pressure due to the number and mileage of the pathways under their authority's jurisdiction.

Planning consent for a development that affects a right of way does not necessarily mean that the affected right of way will be extinguished or diverted.

Further information

Information about public rights of way in your area can be obtained from your local highway authority.

The following sources also provide useful information on rights of way:

The Ramblers Association www.ramblers.org.uk;

Open Spaces Society www.oss.org.uk;

Institute of Public Rights of Way and Access Management www.iprow.co.uk

Examples of cases that the Ombudsman has looked at can be found on our website. Please see www.ombudsman.wales

Contact us

If you are unsure whether the Ombudsman would be able to look into your complaint, please [contact us](#).

Easy Read

Public Rights of Way

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