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1 INTRODUCTION

This handbook is produced to guide the newly appointed inspector through the labyrinth of problems likely to be found on the country's Rights of Way network. It does not, nor does it attempt, to cover every possible situation which might be encountered.

It will also usefully serve as an aide-memoire for inspectors of longer standing.

Newly appointed inspectors will be invited to provide a passport type photograph which will be affixed to an identity card. This card (encapsulated against the weather) will be returned to you and will no doubt prove useful if you are asked to identify yourself whilst in the field.

As a newly appointed inspector, please be assured that you will shortly begin to have a far greater awareness of the path network and its problems. You will begin to see and appreciate situations not previously apparent. Enjoy the job and its challenges.

2 THE LAW & FOOTPATHS

It was the original intention to list under this heading a selection of points of law which would be of assistance to the Inspector.

After further consideration it was felt that by far the best way for inspectors to gain an appreciation of footpath law was to recommend as essential reading, the book - *Rights of Way a Guide to Law and Practice* - by John Riddall and John Trevelyan.

The second edition of this book is now available from -
The Ramblers' Association
1/5 Wandsworth Road
London SW8 2XX.

3 MAPS

The inspector will be concerned with two types of Ordnance Survey sheets.

a) The 1:25,000 or 2½" to one mile *Pathfinder* map, which should show all rights of way, the information having been transferred from the Definitive Rights of Way Maps held by local authorities.

Apart from some cartographical omissions and errors awaiting insertion or amendment by the O.S., it should be noted that these maps do carry errors of path line – usually in respect of headland paths i.e. paths alongside walls or hedgerows. Sometimes these are mis-registered and appear on the wrong side of, say, hedge, stream or wall. It is a useful exercise if possible to compare definitive path lines with *Pathfinder* lines of the same rights of way. Any difficulties in this respect should be referred to the Secretary.

Another useful exercise, when first receiving these maps, is to use a highlighter pen to highlight the parish or district boundaries where these are shown. This then allows the Parish or District name to be entered on, say, an obstruction report form (of which more later) even though the path number may not be known at this stage.

b) The Definitive Rights of Way maps were prepared by local authorities following the introduction of the *National Parks & Access to the Countryside Act 1949*. Copies of these maps are mainly on a scale of 6" to one mile or 1:10,000 and are held at the Society's office at Hazel Grove; they are also available at some public libraries. It should be noted that some authorities preferred their maps to be 2½" to one mile O.S. base (this is the smallest scale legally accep-

table). All these maps are quite large and are therefore difficult to copy and in any event cannot legally be copied without first obtaining a licence from the OS, a very costly exercise.

However, an inspector can usually find all the information he requires by reference to the *Pathfinder* map or maps of his own area.

The Definitive Map shows all legal rights of way, each one being allocated a number. Numbering systems vary between authorities but usually a path will carry a number to a junction with another path when the number will change. For example, a long path between two main roads with three paths leaving it at intervals could have four different numbers along its length, the number changing at each intersection. Just to confuse the issue, this is not always the case, for some authorities will allocate one number for a through path despite the number of intermediate paths. There is no common factor, each authority just did its own thing.

However, a path will always change its number on reaching a parish or district boundary but then of, course, the name changes also. Beware of the occasional situation where a path is say *number 5* in one parish and continues as *number 5* in the next but of course with a different name. This situation does occur reasonably frequently in some areas.

Reporting techniques are discussed more fully in chapter 8 but the point to be made at this early stage is that eight figure grid references are essential to enable a path or stile to be pin-pointed and the correct path number recognised.

4 OBSTRUCTIONS

These take many forms and a selection is listed below.

a) Physical

i) The missing bridge

When reporting these it is useful to record the width of the stream or water-course. Is there evidence of there being a bridge there previously, shattered remains, abutments, footbridge shown on the map? Always consider ... is it possible there never was a bridge, perhaps a ford or stepping stones? Also, because of modern excavation machinery, some dykes have been widened or deepened to such an extent that crossing is now impossible without a bridge; these should be reported.

ii) The damaged or unsafe bridge which still exists

Give details of construction, metal, concrete, wood, railway sleepers etc. Is there or was there a hand rail? If bridge is damaged state exactly in what way.

iii) The locked gate

What sort of gate is it – wooden, metal? How is it locked – chain and padlock, nailed up, secured by wire? Does it have to be climbed to make progress, is there barbed wire atop? Even though the gate will not perhaps open, consider if it is properly hinged. Many these days are secured at the hinge end by barbed wire or binder twine used as a hinge and consequently the gate would require a weightlifter to open it.

iv) The ranch type fence consisting of say three or four flat boards

These often masquerade as a stile and so the question to be asked is – when does a fence of this type become a stile? The answer could well be when a

through step is provided and a good hand hold post is in position. If these two factors are not present, then it is just a fence and should be reported as an obstruction.

v) The building erected across the line of path

Tending to fall into two main categories–

● Farm type building, barn, hen house, silo, etc.

These are all obstructions if fully or partly across the line of path and should be reported as such giving as much detail as possible: size, location, estimated age are all items of useful information. It should be noted that under present legislation agricultural buildings under a certain size do not normally need planning permission and so do not have the same control applied at the planning stage as those in the next section. They are however illegal obstructions and should be reported as such.

● Housing or industrial development

These of course do need planning permission and if the normal procedures have been followed it is highly likely though not absolutely certain, that the society will have been consulted at the planning application stage. It should be noted that the Society can only comment at this stage on the general planning aspects of the development and its possible effect on rights of way, but it is *comments only* at this stage.

Unfortunately there are still quite a few authorities who do not consult at the Planning Stage and we could therefore end up with a house across the line of path. However, it should be noted that recent legislation

requires that planning applications affecting rights of way (note defined more precisely) must be advertised in the local press and by notice on site.

Full details of instances involving both the above situations should be the subject of a report by the inspector.

vi) The large hole!

Often caused by, or as a result of open-cast mining or quarrying. Again the Society may well have been consulted but please don't presume this and submit a report anyway. It is not unusual to have Temporary Closure Orders for such workings and these can sometimes be for 50 years or more.

vii) Undergrowth/overgrowth

The former with roots in or adjacent to the line of path and the latter caused perhaps by overhanging branches, brambles etc. Both can constitute an obstruction and if appropriate should be reported as such. Most inspectors will carry secateurs and incursions of hawthorn etc, particularly at stiles can usually be dealt with by a quick SNIP - SNIP!!

viii) A new road/by-pass/road widening scheme

If any of these situations are located, check with the Secretary that all legal requirements have been complied with. Check also that there is no obstruction by crash barriers. Please don't presume that the Society is aware.

ix) Extended gardens/paddocks/tennis courts

This type of situation is pretty common and if there is evidence of such, should be reported.

x) Car parks/football pitches etc

These often appear across rights of way and whilst they may only provide a temporary obstruction to the right of way, they should be reported.

xi) Golf courses

More of these are being constructed every day. In the case of new courses then the Society will most probably have been consulted at an early stage but again don't presume this. Existing courses often have rights of way crossing fairways and the danger to walkers (who incidentally have right of way) is very real. Good waymarking across the course is essential and again any problems should be reported to the Secretary.

b) By Person

An obstruction by person is a very serious situation and is altogether different from the physical types of obstruction. This situation will almost certainly confront the active Inspector reasonable frequently and the arguments advanced by the landowner can be many, varied and sometimes enlightening. Here are a few from our records:-

The Council closed the path in 1966

There has never been a path here in the last 60 years since I came to live here

Get out or I will send for the Police

Its not shown on my Deeds

The Council said it would be all right to close it

I know it says that on the map but the line is over there ... pointing to the middle distance.

It doesn't go anywhere

The postman used to use it but its not public

Its never gone through my farmyard

I've closed it

As I say, many and varied, but how should the Inspector deal with them?

First of all, stand fast and seek to encourage the landowner/tenant/employee or their family to do all the talking. Try saying *the green dashes on our map brought us to this point* or ask the person if they know when the path was diverted/closed so that you can find a copy of the plan. If the obstructing person refuses to allow you to continue ask them to take you or shown you where they think you should be walking. Suggest that it would be helpful if there were signs/waymarks showing walkers which route to take.

The answers you will receive will always be revealing, try to create a quiet 'event' without being officious, but at all times take note of what is being said. Try to obtain the name and address of the landowner and the name of the property; note that these often change and are different than that shown on the map. Converted barns, farm houses are often split from the main house and acquire a new name. If not already made known, ask the obstructor his/her name (and status) and if requested provide your name and the name and address of the Society.

If there is a suggestion that the Police have been or will be called, indicate that you will await their arrival and when they do arrive explain the situation stating that you have reason to suspect the landowner or agent is preventing you from using a public highway. Take the officer's name and collar number.

Do not become involved in a three way argument or discussion, just listen to what is being said. Speak to the police officer out of earshot of the complainant and be as factual as possible. You will probably need to provide evidence of your position with the Society. Do not expect the officer to become involved in any legal argument as to the status of the path, their knowledge of highway law usually ends at the roadside. What the officer will be trying to ensure is that there is no breach of the peace.

You will have to decide, based on the circumstances whether to proceed or gracefully withdraw, but in any event please submit a full report with as much detail as possible.

5 PLOUGHING

Recent legislation (*Rights of Way Act 1990*) has made the situation regarding the ploughing and non-reinstatement of rights of way much clearer. New terminology has been introduced, the term *ploughing* is out and *disturbing the surface* is in. This makes the task of the local authority, who have the responsibility for ensuring that reinstatement takes place or prosecuting, much easier although there is still, in many authorities, a reluctance to prosecute.

Briefly, a farmer is allowed to disturb the surface of a path but he must reinstate within 28 days. Headland paths (defined in the act as *field edge paths*) must not be ploughed and a minimum width is prescribed.

Cross-field paths must be restored to a stated minimum width and subsequently crops must not be allowed to encroach within the prescribed area. This does not apply to paths through grass.

The Society's policy on ploughing is to ensure that a good record of paths subject to ploughing is maintained, so regular inspections and updating reports from inspectors are essential.

The Society will invite local authorities to prosecute only when consultation efforts have failed and we see the same path ploughed and not reinstated year after year.

6 HORSES, HOUNDS and BULLS

In the countryside it is inevitable that we share the paths with our four footed 'friends', unfortunately they are not always friendly friends.

a) Riddden horses

are of course allowed on *Bridleways* and *Byways Open to all Traffic (BOATS)*, but not on footpaths. However, there are occasions where a farmer will allow riders to use the field through which a path passes and it follows therefore that you could meet a horse and rider on a footpath and the situation could be quite legal. Also, horses may be turned loose to graze in fields crossed by rights of way. There are two main concerns with regard to horses on rights of way, firstly hooves can cause quite considerable damage to a path surface and, secondly, on say an enclosed way between walls or hedges, there may be insufficient room for both walker and rider to pass. Reports please if you find either of the above situations.

b) Hounds

come in even more varieties than *Heinz* products. Many cause no problem whatsoever to the walker but others most certainly do. The question the inspector must ask himself is – does the presence of this dog or dogs deter walkers from using the way. If the answer is *yes*, then a report is appropriate. Watch for the dog chained but with the chain long enough to allow the dog access to the path line. In the event that the Inspector or others are bitten by a dog a report to the police is essential. How to deal with the immediate situation? A walking stick or a *Dog Dazer* can be very useful but the latter

can be rather costly and it must be said that it is not an item which can be charged against expenses. If carrying a walking stick, wave it behind you – farm dogs are used to nipping the rear legs of farm animals. *The Dangerous Dogs Act 1991* makes it an offence to allow *any dog* to be dangerously out of control in a public place.

Perhaps the best advice is to stand still and let the barking animal continue to raise a hullabaloo, thereby bringing master into/onto the scene. Watch for the face at the window or door and take note of the advice offered such as *keep walking or it's really quite a soft dog it won't harm you*. If the dog appears really unfriendly, insist that the owner comes out and takes control of the animal.

c) Bulls

The Bulls on footpaths law is rather complex and is detailed more fully in the recommended reading on page 1. The Society's advice to all path users must be to take extreme care. The Health and Safety Executive's report detailing accidents to farm workers involving bulls makes despairing reading. Please report all incidents giving precise locations.

7 SIGNPOSTS, WAYMARKS & NOTICES

a) Signposts

These come in a variety of shapes and sizes, but from the Inspectors point of view, I think we need only consider three; namely those erected by the local authority, those by other voluntary bodies and those by the Society.

i) Local authority signposts are more likely to be found indicating the route of a right of way where it leaves a metalled road and the Countryside Act 1968 imposes a statutory requirement on local authorities to do this. Many authorities comply in part but there are very few if any who can say that the task is complete. Always include an item on the signpost situation on every report.

ii) Signposts erected by other voluntary bodies such as the C.P.R.E. and others can sometimes be found. Some of these seem to be located in what can best be described as 'hidden' locations, placed probably to satisfy the landowner but failing to make a positive contribution towards directing the walker. If this type of signpost is located, a brief comment on your report will ensure that details are included on the particular path file for posterity.

(iii) The Society will not normally erect its signposts where a local authority has a statutory duty to do so. The Society's posts are, therefore, more likely to be found at difficult path junctions in open country.

Be aware that signposts are sometimes on site but unseen. For example they can be

- Hidden/overgrown in the hedge
- Lying on the ground, possibly deliberate or perhaps knocked over by farm machinery or as a result of road traffic accident.
- Attached to a telegraph pole or lamp standard.
- Positioned on the wrong side of the road.
- On site but minus indicating finger or arm.
- On site but almost invisible. Wooden posts can become 'mossed over' thereby blending into the background.

Inspectors should report on the condition of Society signposts when seen if these have been damaged, have deteriorated, or been displaced in any way. Please quote the signpost number (to be found on the plate) and Grid reference.

b) Waymarks

There is no statutory requirement for local authorities to waymark paths, although there is a suggestion in the *Countryside Act 1968* that they should assist persons unfamiliar with the locality to follow the course of the way. On the ground, there is no doubt that discreet waymarking in certain areas, say in and around farmyards could be of great benefit to both landowners and walkers alike. It should be noted that waymarking can only be carried out with the consent of the landowner. Inspectors could well discuss this issue with farmers and landowners as and when appropriate.

c) Notices

For the benefit of this handbook, these fall into two neat categories, those which are legal and those which are illegal. Legal notices of all descriptions are all about U9 and with respect to rights of way they will most usually indicate *Footpath* or *Bridleway*, some will have wording thereon and others will just have the walking man or the horse displayed. Whichever is used the indication is positive and not open to confusion.

Not so the illegal notices of which there are many and it is these which cause the society some concern. One common notice is *PRIVATE ROAD TO WASHSIDE FARM*. The notice itself is legal, the road probably is private but it is what is not said that causes concern. The road will possibly carry a public footpath and if it does, we would invite the local authority to erect a countering *Public Footpath* signpost alongside *DANGER BULL IN FIELD* when there is no evidence of a bull in the field at the material time. This notice is illegal under the *National Parks and Access to the Countryside Act 1949 Section 57*. The offence is to place or maintain ... a notice containing any false or misleading statement likely to deter the public from using the way. Another notice which we find from time to time is *PRIVATE - PROCEED AT OWN RISK*. On a right of way this is illegal and must be removed or amended, a local authority responsibility. *PRIVATE KEEP OUT* located adjacent to a path but said to refer to the adjacent woodland. The legality of this depends very much on the siting but its use is to be deplored.

PLEASE USE ALTERNATIVE/ CONCESSION PATH -

Beware of this type of notice, alternative paths are acceptable, and then with some reluctance, only if the definitive line is unobstructed and signed or waymarked to a degree equal or better than the legal right of way.

8 CLOSURES, DIVERSIONS and CREATIONS

The Society's Policy Document on these matters is shown in *Appendix A*. Potential inspectors will need to confirm in writing their acceptance of this policy prior to the Society's Council approving their appointment. Inspectors will not normally need to get involved in closures, diversions or creations as local authorities are statutorily required to inform the society of these by forwarding a copy of the Order and Plan. A team of volunteer assessors, meeting weekly at Hazel Grove, will look at these and decide whether to oppose.

However, there are occasions when a site visit will be needed to clarify an important aspect and it is in these cases when the inspector will receive a questionnaire which will, hopefully provide sufficient evidence to allow a decision to be made.

Inspectors should be aware of landowners/developers bearing gifts of alternative *better* lines for paths. Please never make a commitment on behalf of the Society. Take note of what is said and indicate that you will convey the comments to the appropriate officer of the Society. An indiscreet word of approval in the ear of the landowner/developer can, and most probably will, be used at an inquiry to the detriment and embarrassment of the society. That which would appear reasonable to you *on the ground* might have an entirely different connotation when viewed against a background of archive documents detailing say previous diversions in the area.

9 THE INSPECTION

The golden rule is *never believe that which you see on the ground until you have investigated it thoroughly.*

Your inspection of any path will be as a result of (a) your finding a possible problem on a routine walk, or (b) your being asked to look at a problem on a path, reported by a third party who may not be too adept at location or give an incorrect map reference. Your approach in each case will be similar -

i) Check the *Pathfinder* Map: if the path leaves a metalled road, confirm that a signpost is in position.

ii) Check that the stile and signpost (if present) are in the correct position; do not presume that because there is an official looking stile and or a local authority signpost, that they are correctly positioned. Check against other features on the map - hedgeline on the other side of the road, pond, adjacent road junction etc (bearing in mind that hedges are easily and often removed). If you are satisfied that you are on the correct line, then is the stile in good condition, is there barbed wire adjacent, is it dangerous? Then proceed, checking each boundary crossing point until the obstruction problem is located. It is often useful to note if there is evidence of use. Note any ploughing and non-reinstatement and if so give an eight figure Grid Reference of the field involved. If cropped state type of crop i.e. root, cereal, grass. Check any gates, do they open easily and is there a stile adjacent?

You will find that stiles come in a variety of guises -

- A gap/squeeze stile
- A ladder stile (with wooden or concrete steps)
- An ancient 'V' shaped stile constructed with stone slabs.
- A conventional county council type.
- A rustic, hand-hewn, homemade type.

Stiles which are too high, too narrow, too wobbly, decorated with barbed wire, lacking a through step, far too close to the road and on a blind corner ... all these and many more. Please describe the type of stile and its condition when reporting.

Frequency of reporting

With regard to the frequency of inspections and reports, one cannot begin to lay down any sort of criteria. The Society recognises that, as a volunteer, you will undertake to do as much or as little as you are able and this is perfectly acceptable.

You will of course wish to institute a system which will ensure that, if at all possible, you cover all or most of the paths in your area against your own time scale and that you will maintain a record of your inspections for your own benefit.

Please don't forget the follow-up reports mentioned in Section 10.

10 THE REPORT

Make it precise and easily understood. Use the official report form if possible though good typewritten or hand-written reports are quite acceptable. Remember to insert the date, including the year; many reports omit this vital piece of information.

Remember that the report needs to paint a word picture which can be fully understood by someone who has probably never even been in the area.

Most important, make a separate report on a separate form or sheet of paper for each path. Reports go on to a Path File and, if several paths are mentioned on the same form, these have to be copied to allow the appropriate path reference to go on its own file. If you are aware of the Society's file reference then please quote it, this is a great help to the Secretary.

Please draw a sketch map showing different points of reference, eg, roads, adjacent property, streams, pylons etc, anything which will help to locate the path precisely. Show the point or points of obstruction clearly.

A copy of the standard obstruction report is shown in *Appendix B*.

11 THE FOLLOW-UP

The follow-up inspection is vitally important and should take place some eight to 12 months after the initial visit, with regular visits thereafter. Local authorities can, and do, take years to resolve obstruction and other problems but if we are to keep the number of

current files to a minimum, then clearance reports are essential.

A follow-up report should indicate either *path clear* or *no change* or *slight improvement* as appropriate. Always give as much detail as possible. Please use the standard obstruction report form but substitute the word *Obstruction* with the word *Clearance*.

Inspectors should note that reports on obstructions in their area can and are occasionally filed by Inspectors from another area. In such cases the area Inspector will not be asked to confirm, as he would be if the report were filed by a member of the public. Follow-up reports for these cases are, however, required from the area Inspector. Please check the obstruction report section in the Council minutes each month and make a note of any in your area which you have not reported.

12 THE INSPECTOR IN THE ARMCHAIR

If possible check the newspaper local to your inspection area. Be aware of proposals for industrial or private development; scan the planning approvals - is there likely to be a path involved? Search the statutory Public Notices in every issue for temporary closures and planning applications affecting rights of way, these must now be advertised. Keep the Secretary informed of foot-path related *happenings* in your area.

13 EXPENSES *by Stephen Shaw, Honorary Treasurer*

As a national charity with over £50,000 assets it is incumbent upon us to keep proper accounts. As your Treasurer much of that responsibility falls upon me. Can I therefore set out a few guidelines which I would ask you to recognise when making claims.

First of all may I say that the Society is grateful for the time given to it by its workers and is happy to pay all reasonable expenses incurred in work carried out on its behalf. Some workers may choose to further support the Society by meeting some of their expenses themselves and we are extremely grateful for such support.

Travel:

The Society will, upon request, pay any rail or bus fares incurred. If it is necessary to use a private car then the Society is prepared to pay up to a maximum of 10p per mile. Where there is adequate public transport, claims for car expenses should not exceed the cost of public transport. For all travel claims, a record of each journey should be kept and supplied with the claim. Only brief details are required, indicating the purpose of the journey, eg footpath inspection, site inspection, archive work, public inquiry and so on.

Maps

Please specify scale and map reference. A receipt is required.

Stationery and copying

Please give details and if possible provide a receipt.

Postages

Please keep a record of each letter. Your claim should state a total of postage claims only and your records should

be retained by yourself. They should be retained for at least 15 months in case of any enquiry.

Telephone

Calls are cheaper before 9a.m. and in the afternoons and are even more so after 6pm or at weekends. Please estimate a total if you wish to claim under this heading.

Other items

Please give as much detail as possible, supported by a receipt. Note that any major item of expenditure must receive Council's prior consent.

Frequency of claims

To keep operating costs to a minimum, it would be appreciated if claims under £10 are not made except of course at the end of December each year.

Accounts

These are authorised by Council at their meeting which is normally held on the third Thursday in each month. Variations to this are notified in the minutes. To enable me to have accounts properly authorised at meetings, it is requested that claims are posted to me at least six days before a Council meeting. Even if you are coming to the meeting you are requested to post your claim. Should I then not be able to attend it will still be possible to have your claim authorised. Cheques are usually posted within ten days of the meeting, by second class post.

A supply of claim forms may be obtained from the General Secretary. A specimen *Expenses Claim Form* is shown at *Appendix C*.

Thank you for your support.

Appendix A

PEAK & NORTHERN FOOTPATHS SOCIETY

POLICY ON CREATIONS, CLOSURES AND DIVERSIONS

This Society adopts the following policies when dealing with all footpath creation, closure, diversion and planning proposals affecting pedestrian rights of way and their environment.

As amended by Order of Council

19 November 1987

New Section 'B' added

Section 'D (i)' amended

Section 'D (ii)' amended

15 November 1990

Section 'D (vii)' added.

A. Creations

Creations will be supported but not at the expense of existing rights of way.

B. Anticipated Orders

All Closures and Diversions will generally be opposed whenever the Order line is obstructed.

C. Closures

Closures will normally be opposed, since the loss of any part of the existing right of way network reduces the value of the system to the public.

D. Diversions

- i) Reasons advanced which are not legally valid will be unacceptable;
- ii) Objections will normally be made if a proposed new route exposes pedestrians to traffic, or if such a new route is on a road or roadside footway;
- iii) Objection will be made automatically in all cases of anticipated development or if the provisions of the *Town & Country Planning Act* are misused, eg if the date of the Order predates the date of the planning permission, or if the Order relates to a part of the right of way not affected by the authorised development;
- iv) Proposals resulting in the diminution in the length, availability, safety or environmental quality of any specific right of way, or group of rights of way, will be unacceptable;
- v) Diversion of paths across enclosures on to boundaries will normally be opposed;
- vi) In assessing diversions, due weight will be given to the intrinsic merits, including historical associations etc, of the right of way concerned;
- vii) Subject to the approval of two members of the assessment panel, discretion is allowed on path diversion orders where there is little chance of success;
- viii) In general, unnecessary alterations will be opposed and the strictest legal criteria applied.

PEAK & NORTHERN FOOTPATHS SOCIETY

OBSTRUCTION REPORT

..... Phone No.

.....

This form should be returned to –
Mr D Taylor, Hon General Secretary, 15 Parkfield Drive, Tyldesley, Manchester M29 8NR

PEAK & NORTHERN FOOTPATHS SOCIETY

EXPENSES CLAIM FORM

To: The Honorary Treasurer, 10 Alstone Road, Stockport, Cheshire SK4 5AH