

# How to divert or extinguish a Public Right of Way - Public Path Orders

## Guidance Notes

### Is it possible to make a legal change to the line of a Right of Way?

Public Path Orders can be made by Shropshire County Council under the Highways Act 1980. The Orders most commonly made to change the Rights of Way network are made under:

Section 119- Diversion Order  
Section 118- Extinguishment Order

### What is a Diversion Order?

Diversion Orders are used primarily to divert a route or part of a route, onto another line. These Orders can be made in the interests of the applicant or in the interests of the public.

### What is an Extinguishment Order?

Extinguishment Orders are used to extinguish all or part of a Public Right of Way. It must appear to the authority, that it is expedient to stop up the path or way on the grounds that it is not needed for **public** use. Any temporary circumstances preventing or diminishing the use of the path by the public must be ignored.

### Who can apply to Divert or Extinguish a Right of Way?

Diversions and Extinguishments can be applied for by:

- any owner, lessee, or persons using land crossed by a Right of Way (section 118 and section 119 of the Highways Act 1980)
- any owner lessee or occupier of any land used for agriculture, forestry or the breeding or keeping of horses (section 118ZA and 119ZA of the Highways Act 1980)

### What is the procedure for applying for a Public Path Order?

- An application form, details of the legal criteria, procedures and costs will be initially sent out to the applicant
- A site visit will be undertaken by the Rights of Way Public Path Orders Officer to determine the suitability of the proposal
- The applicant will be required to consult with the relevant user groups on the proposal prior to submitting the application form
- If objections are received to the proposal a report will be

written by Officers and presented to the Rights of Way Regulatory Committee for determination. If no objections are received, the issue can be dealt with by delegated powers.

- If approval is given the Legal Order can be made
- Once an Order is made there is then an objection period of 28 days during which formal objections can be made. If there are no objections, the Order can be confirmed after the necessary work has been undertaken to open up the new route and the route has been certified as operational by an Officer.
- If objections are received, the Council will consider the objections and try to resolve them. If this is not possible, then the Order has to be forwarded to the Planning Inspectorate for determination. The Planning Inspectorate will decide whether the Order should be determined via Public Inquiry, a hearing or whether the written representative procedure can be undertaken.
- The Order may or may not be confirmed or the Order modified following the Inspector looking into the case and determining the outcome.

### Right of appeal

Where an application has been made under sections 118ZA, 119ZA, 118C and 119C the applicant may appeal to the Secretary of State if the Council:

- refuse to make an Order on the application
- refuse to confirm as an unopposed Order an Order made on an application, or
- refuse to submit to the Secretary of State an Order which is made on the application and against which any representation or objection has been made and not withdrawn.

### How much does it cost?

Highways Act Orders are different to Wildlife and Countryside Acts Orders in that the Council can ask for administration costs to be met.

At present, the minimum costs for an application is in the region of £1340 to £1520, this may vary depending on how many Orders are made.