

Unlawful Obstruction of Public Rights of Way

What does the law say?

It is a criminal offence to obstruct a public right of way.

Common Law

The obstruction of the highway is a public nuisance. A nuisance is something that materially affects the reasonable comfort and convenience of the public when exercising their lawful rights. To commit a public nuisance is a crime at common law.

Highways Act 1980

Section 137 of this Act makes it a criminal offence for any person, without lawful authority or excuse, to wilfully obstruct free passage along a highway. A person found guilty of an offence under this section of the Act is liable to a **fine of up to £1000**.

A highway is any way over which the public have a right to pass and re-pass including footpaths, bridleways, restricted byways or byways open to all traffic.

Countryside and Rights of Way Act 2000

Under amendments made by this Act, a court has the power to order anyone convicted of an offence under Section 137 of the Highways Act to remove the offending obstruction. Failure to comply with such a court order is a second offence punishable by a fine of up to **£5000**. If the obstruction is not removed following conviction for the second offence then a third offence is committed punishable by an additional fine of up to **£250 for each day** the obstruction remains in place.

What could constitute an obstruction?

Almost anything has the potential to cause an obstruction. Common causes of enforcement action are arable crops, fences, walls, buildings, deposits of materials (e.g. silage bales), locked gates, cattle grids, planted trees and parked vehicles. Anything that is placed in such a way as to reduce the width of a right of way is an obstruction even if a user could easily pass around it.

What if a right of way on my land is blocked by natural vegetation?

Natural vegetation growing from the surface of the route is usually the responsibility of the council but anything growing from the sides is usually the responsibility of the landowner.

The council can require the owner or occupier to cut back any part of a hedge, tree, shrub or other vegetation which overhangs a right of way if it endangers or obstructs the passage of legitimate users. This can be done by way of a legal notice and the owner or occupier has the option of appealing to a magistrate to have the notice set aside. Subject to any appeal, if the work is not done within the period set down in the notice, the highway authority may undertake the work itself and recover the costs for the work from the owner.

Where can I get more information?

Where a landholder has any doubts as to whether or not they are obstructing a public right of way they should consult a member of the Countryside Access Team at Shropshire Council for advice.