Permitted Access

in the

Lake District National Park

Frequently Asked Questions
PERMITTED PATHS – FREQUENTLY ASKED QUESTIONS

What are permitted paths?
A permitted path is one which the landowner allows the public to use but, usually, with the intention that it should not become a public right of way. They are not public rights of way. They can be near towns or in remote countryside; they can be wide tracks or narrow trails. Sometimes a path may not be visible on the ground at all. There are numerous permitted paths in the National Park. Some are available under agreement between the landowner and an authority, for example the Lake District National Park Authority (LDNPA) or the Department for Environment, Food and Rural Affairs (DEFRA) and some have no written records. You may also hear them referred to as ‘permissive’ or ‘concessionary’ paths.

How do permitted paths develop?
Permitted paths come into being for a number of reasons. Usually, the landowner does not want the route to be permanent and, therefore, ‘permits’ people to use a route for a specific reason. These include:

- Roadside paths: often developed for safety reasons
- Link paths: extending the network to create circular routes
- Unofficial diversions: often around farmyards and gardens
- Higher rights over footpaths for cyclists and horse-riders

Who is responsible for permitted paths?
There are several different types of permitted path but, in most cases, the landowner is responsible for the path and the safety of the public using it. The LDNPA may take on responsibility for certain aspects of managing a path, for example, signposts and surfacing, but only through a legal agreement with the landowner. Permitted paths without agreements can be closed temporarily or permanently by the landowner at any time and for any reason.

What can the public do on a permitted path?
What the public can do depends on the permission that the landowner has given. The status is usually shown on a sign at each end of the path. This may be permission to walk, ride a horse and/or cycle, although the majority of permitted paths in the National Park are for walkers only. A permitted path is usually a linear route between two points. It does not usually entitle the public to roam wherever they want, or to use the path or surrounding land for some other purpose. However, it is usually considered reasonable behaviour to stop for a
while – to admire the view, take a photograph, make a sketch, eat a sandwich or sit down, and rest – providing users stay on the path. If a user does anything that is not reasonably part of their journey (such as deliberately disturbing people or animals) then they may be regarded as a trespasser.

Finding out about permitted paths in your area

Permission to use a path can, in many cases, be withdrawn at any time. This means that it is difficult to accurately map the available routes. In the majority of cases there is no requirement to tell the Ordnance Survey about permitted paths. Large organisations such as the National Trust and the Forestry Commission often ask for routes on their land to be shown but many others are only advertised locally. Ordnance Survey 1:25,000 “Explorer” maps show permitted paths as orange dashes. They are not shown on the 1:50,000 “Landranger” maps.

Many organisations such as the Wildlife Trusts and Woodland Trust allow access to their sites and provide leaflets on site and via their websites: [http://www.cumbriawildlifetrust.org.uk](http://www.cumbriawildlifetrust.org.uk) and [http://www.woodlandtrust.org.uk](http://www.woodlandtrust.org.uk)

DEFRA Countryside Walks and Rides are advertised on their website [http://cwr.naturalengland.org.uk](http://cwr.naturalengland.org.uk) and through on-site signs, usually at each end of a path.

Permitted paths are often waymarked with white arrows but are sometimes signed with text or coloured waymarks to indicate a circular or named route.

Permitted access to areas

Some landowners allow access to an area of woodland or fields, rather than along a set route. In these cases, signs should be erected at access points, clearly stating the area involved and any conditions imposed on members of the public using it.

Other linear access

Open Access land

There are many tracks and paths over Open Access land which may be referred to, and are shown on maps, as permitted paths. However, there is a legal right to use the land on foot, so, unless higher rights are granted, for example, the landowner allows cyclists or horse-riders to use them, they are not used by permission. In the Lake District National Park, we refer to such paths as ‘suggested routes’ or ‘desire lines’.
**GUIDANCE FOR LANDOWNERS**

If landowners permit access to their land, there are certain measures that can be taken to ensure that members of the public understand the status of the route(s). If it is not clear, a member of the public may claim the route to be a public right of way. A landowner can be very specific about the access they wish to permit, for example by allowing only one category of user, or allowing access only at certain times of the year.

**How does a path become public?**

The legal phrase used to explain how rights of way come into existence is ‘dedication’ — a landowner dedicates to the public a right of passage over an area of land. Sometimes the landowner does this through a formal dedication process, but usually it can be inferred or ‘presumed’ that the path was dedicated, based on the landowner’s and the public’s behaviour over many years. For example, if the public uses a path without interruption or challenge for at least 20 years, a right of way is presumed to have been dedicated, even though the landowner made no formal dedication. A challenge can include putting up a notice, closing a route on one day a year or overtly making people using the path aware that access is by permission only.

If a permitted path is successful, a landowner may work with Cumbria County Council (CCC) or the LDNPA to dedicate it as a public right of way. There are a number of benefits to doing such as public liability, surface maintenance and signing, being taken on by CCC.

**How do you prevent a claim for a public right of way?**

*Signs*

The wording of signs on both public and permitted paths needs to be clear. On a permitted path, for example, ‘This path may be used by permission of the landowner; it is not a public right of way’.

![](image1)

![Permitted Cycleway](image2)

![NOTICE](image3)
**Legal declarations**

A landowner may not want to dedicate a right of way even though he knows that the public are crossing his land and he has no objection. To protect their interests, landowners can make a declaration to the highway authority (Cumbria County Council) or to us, as their Agent.

Declarations are made under section 31(6) of the Highways Act 1980. This involves depositing a map and description of their property and any rights of way crossing it along with a signed, statutory declaration. We can provide guidance notes and sample forms but it is advisable to seek independent advice.

Statutory declarations need to be renewed within 10 years of being deposited, stating that no additional rights of way have been dedicated. This is sufficient, in the absence of proof to the contrary, to prevent claims for new routes, showing an intention by the landowner not to dedicate new rights of way across their land.

A declaration will have no effect:

- on the existence of public rights of way already shown on the definitive map (the legal record of public rights of way).
- on any rights which have already been established through past use before the statement was deposited, for example: claims based on historical evidence or through 20 years use prior to the first section 31(6) deposit.

However, depositing documents will fix a date at which it is shown that there is an intention not to dedicate further public routes.

Relevant user groups are consulted when a declaration is received. As required by legislation, maps, statements and statutory declarations are included on the list of declarations which can be seen on Cumbria County Council’s website: [http://www.cumbria.gov.uk/roads-transport/public-transport-road-safety/countryside-access/Definitive_Map/Section_31_6_of_HA.asp](http://www.cumbria.gov.uk/roads-transport/public-transport-road-safety/countryside-access/Definitive_Map/Section_31_6_of_HA.asp). This may therefore stimulate a claim under deemed dedication or at common law.
LDNPA POLICIES ON PERMITTED ACCESS

We have, for many years, been involved in managing permitted access. This has included entering into permitted path licence agreements but also informal activities such as providing signs, gates and clearing vegetation. We have made the following policies to try to clarify our role in managing permitted paths.

Primary Policies

1.1 Permitted paths will be a secondary tool when seeking to extend and improve the access network in the National Park. Other options will be considered first, including a Creation Agreement or Creation Order.

1.2 Our long term aim will be for all existing permitted paths to be converted to definitive paths (or removed unless landowner takes on full liability). The strategic value of the path will be considered before a decision is made to create a permanent route.

1.3 The HoPM will have delegated powers to enter permitted path agreements.

1.4 We will not carry out any works on an existing or proposed permitted path until:
   - We have assessed the need for the path (criteria to be used will relate to the factors mentioned throughout this paper);
   - We have a valid licence agreement;

1.5 Where we are directly involved, all permitted paths will have a licence agreement. These should last for at least 10 years with regular reviews and an understanding that part of the review will be looking at converting it to a definitive path.

1.6 The cost of creating and maintaining permitted paths will be met from the rights of way budget. We will not make annual payments for permitted access, unless under an existing agreement. Licence fees will take the form of one peppercorn to the licensee (a “pepper corn rent”). We may make one-off payments where we believe the access to be of sufficient public benefit.

1.7 How much cost / liability the Authority takes on for a permitted path must be balanced against the gains from having the path. This should be assessed using wide-ranging criteria, including the following:-
   - Benefit to public e.g. – through routes, particularly valley paths, new links to facilitate circular walks or rides, forms a link to other routes, provides access to a viewpoint or feature, off road bridleways, or there is likely to be a lot of use;
   - Cost of installing the furniture, upgrading surface and paying solicitors fees (The payment of these should be conditional on the completion of the agreement);
   - Cost of maintenance;
   - Cost of personal injury liability and occupiers liability (very difficult to assess);
   - The comparison of all these costs against the same costs if we were to create a definitive path.
1.8 Our maintenance and liability responsibilities on permitted paths will always be lower than for definitive paths unless there are compelling reasons to extend responsibility. We should only accept public liability for the surface and possibly the furniture. We will not maintain the following on, or adjacent to, a permitted path unless they are within an existing agreement:

- Boundary structures, including roadside walls, fences & hedges
- Trees

1.9 A condition of any agreement must be that information on the path is provided to the Ordnance Survey for depiction on future editions of their commercial maps.

**Secondary Policies**

2.1 We will not enter into permitted path agreements for the following path types:

- Unofficial diversions
- Landowner ‘alternatives’ to the definitive line
- Routes covered by grants, for example, Woodland Grant Scheme, Heritage Management Plans and agri-environment schemes. We may consider entering into agreements when the grant period has expired.
- New roadside paths which are to address road safety issues, unless they form a strategic link in the rights of way network.

2.2 No permitted footpath agreements should exist over CROW open access land or other land with public access rights.

2.3 No permitted bridleway agreements should exist over Urban Commons or land with other presumed equestrian rights. Permission may be negotiated for use of routes by pedal cyclists.

2.4 On LDNPA land, the presumption should be that all linear access is via dedicated rights of way. Permitted paths should be dedicated as definitive rights of way unless there is a compelling reason not to.

2.5 All licensed permitted paths will be surveyed at least once every three years, as part of the rights of way cyclical surveys.

2.6 We will work with our partners to clarify responsibility and liability for permitted paths and promote good management practice throughout the National Park.