

Guidance on Public Rights of Way / Access Land under the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020

In response to the events on the weekend of 21 and 22 March, when large numbers of people congregated at popular tourist routes in Wales, the Welsh Government introduced new legislation to limit the risk of spreading the Covid19 virus. This legislation enabled emergency closures of selected paths and areas of open access land by Local Authorities, National Park Authorities, National Resources Wales and the National Trust.

The **Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020** placed a duty on them to close certain rights of way or access land which they considered likely to attract large numbers of people and hence prevent effective social distancing. The duties also extended to keeping these closures under review and amending as necessary.

However, exercise is still important for people's physical and mental wellbeing, so Welsh Government do not wish to discourage people from leaving their homes for exercise once a day. Hence these limited closures are targeted to prevent overcrowding in specific areas only, and widespread closures of the rights of way network are to be avoided.

Following the lockdown landowners have raised concerns about increased use of public rights of way on their property, increased numbers of dogs, and perceived risks of exposure to Covid19 for residents and farm workers, particularly where family members are either vulnerable and/or self-isolating.

To help address this we have published guidance: <https://gov.wales/coronavirus-covid-19-stay-active-stay-healthy-stay-local> and increased messaging around responsible recreation e.g. the Deputy Minister for Housing and Local Government, Hannah Blythyn AM has issued a statement appealing to people to exercise responsibly in the countryside and reminding dog-owners of the need to keep dogs on leads in the vicinity of livestock.

The risk of the coronavirus being passed on to others from people using public rights of way is considered to be very low as long as people follow the Government's instructions to maintain social distancing and follow hygiene advice.

Landowners do not have the legal right to block or obstruct public rights of way or access land. However, in very limited circumstances where large numbers of people are using such routes or where residents are vulnerable or self-isolating, landowners may consider the following measures:

- temporarily displaying polite notices that encourage users to respect local residents and workers by following social distancing guidelines and consider using alternative routes that do not pass through gardens or farmyards.
- Note: this is a polite request only, and there is no power under the Countryside and Rights of Way Act 2000 (CROW) or the Highways Act 1980

for landowners to close or obstruct a public right of way or use of access land

- offering an alternative route around gardens and farmyards only where it is safe to do so (you must gain permission from relevant landowners and make sure the route is safe for users and livestock) provided that the original right of way is maintained.

Key points to Note under the Countryside and Rights of Way Act 2000 and the Highways Act 1980

- Under Section 137 the Highways Act 1980 and section 14 of CROW it is an offence to obstruct the free passage along a public right of way or Access Land.
- It is an offence under Section 57 of the National Parks and Access to the Countryside Act 1949 to display a notice that contains “any false or misleading statement likely to deter the public from using” a right of way.
- It is also an offence under section 14 of CROW to display a sign which deters the public from exercising their right to use that access land
- It is an offence under Section 132 of the Highways Act 1980 to display on the surface of a public right of way or on any tree or structure within the public right of way any unauthorised sign or mark.
- Land owners may be liable for personal injury under section 2 of the Occupiers' Liability Act 1957 and Section 1 of the Occupiers' Liability Act 1984 if they are reckless or intend to create a risk – for example by offering a dangerous alternative.

This means that

- If a land owner offers an alternative route, they must ensure that it is safe to use and that the existing right of way or use of access land is maintained so that users with differing abilities have a choice.
- A notice must not imply that there is any doubt about the use of the existing right of way or use of access land.

These temporary measures must be lifted as soon as social distancing measures are relaxed.