

## Landowner Protection from Footpaths and Village Greens



- **Procedure** Statement and Deposit under Section 31(6) of the Highways Act 1980 and Section 15(A) of the Commons Act 2006
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- **Date** January 2014

### The Challenge

Many landowners are aware that their land is used by the public above and beyond established public rights of way. Unofficial footpaths and recreation areas do not usually create a problem but this extra public use can turn into extra public rights unless landowners are prudent.

Anybody can apply to register land as a public right of way or village green as long as it can be proved that the public has used it “as of right” for 20 years or more. This is a major concern to many clients as extra public rights can limit land use and ultimately affect the value of their property.

### The Solution

Provision is made under the Highways Act 1980 and the Commons Act 2006 for landowners to submit a Statement to their local Council setting out where any public rights already exist and making a declaration that they do not want to see any further rights created. This is lodged with the Council as a Deposit and is effective for 20 years from the date of submission. The Deposit brings to an end any periods of public use “as of right” that might have been claimed to exist and offers protection to the landowner going forward. The public can still be allowed to use the land at the owner’s discretion but the owner does not have to worry about the land becoming a footpath or village green.

### Role of BTF

Many clients have concerns about public rights of way issues and the first step is to discuss these concerns and explore the options available. In many cases a landowner Statement is a sensible way forward and I have advised a number of clients in Kent and Sussex on the process of submitting Statements to their local Council. The first stage is obtaining an accurate plan of the land and plotting where any existing public rights of way exist. This plan is then submitted to the Council with the landowner’s Statement and once approved it will be lodged with the Council as a Deposit

### Outcome

The Landowner’s intentions have been clarified with the local authority and this offers protection from future footpath and village green applications. Extra public use may still continue but without the risk that this will turn into extra public rights.