

The law and management of public access rights vary widely between the four countries of the United Kingdom. Practical elements of the following advice apply in all of them but the law in Scotland and Northern Ireland may differ from in England and Wales.

Riders and drivers of horses are referred to generically as equestrians.

More advice is available on [www.bhs.org.uk/accessadvice](http://www.bhs.org.uk/accessadvice).

**IMPORTANT** This guidance is general and does not aim to cover every variation in circumstances. Where it is being relied upon, The Society strongly recommends seeking its advice specific to the site.

## Access by right

Access by right includes public bridleways, restricted byways, byways open to all traffic and roads (plus, in some places, access by right on commons or beaches).

It is always preferred by the Society over access by permission, because it provides certainty for all, and the access is protected and can be asserted by the highway authority. It also appears on maps, so can be discovered by people at a distance, rather than potentially only known to a few locals.

## Access by permission

Access by permission can be welcome where there is no hope of gaining access by right on new public bridleways or byways. A landowner may be unwilling or legally unable to dedicate access by right (a public bridleway or restricted byway) which would be recorded on a council's Definitive Map and Statement of public rights of way (known as 'definitive access').

Care should be taken not to ask for or accept access by permission unless the possibility of unrecorded rights has been checked and ruled out, because unrecorded rights may need an application to show a bridleway or byway on Definitive Maps. Permission could reduce the value of evidence of past use, but

after the date of an application, it is worthwhile to enable access by equestrians until the application has been determined (see BHS Advice note *Researching an unrecorded equestrian route* on [www.bhs.org.uk/accessadvice](http://www.bhs.org.uk/accessadvice)).

## Points to consider

- Access by permission is less valuable than definitive access (public bridleways or byways) because permission can be withdrawn at any time and may be a significant loss, affecting people's choices of where they live, and whether to have a horse.
- Not all equestrians will be aware of it, especially at a distance, but it might be as valuable for those covering longer distances, or boxing to ride or drive in a new area. It is difficult to find out when there is no formal record.
- The Ordnance Survey will not add access by permission to maps unless it is of at least ten years guaranteed duration and with a recognised body such as a local authority or the National Trust, or via a government grant scheme.
- It will benefit local equestrians through word of mouth and is better than nothing where there is no possibility of definitive access.
- Where access by permission has been offered or suggested in the absence of definitive access, there are several points to clarify with the landholder:
  1. The landholder is inviting people onto their land which may have implications for their liability and insurance. Some insurers have considered the risk to be negligible and have not increased the premium, but it is recommended that they are informed.
  2. Will the route stand up to use without additional maintenance and if not, is the landholder willing to maintain it or can agreement be reached with local users to maintain it?
  3. A landholder giving permission may wish to limit access to certain people, such as people from a particular yard or Equestrian Access Group. How will this information be known or passed on? How will permitted users be identified and who will enforce it? Who will undertake the administration? Consider whether it is likely to be a problem and therefore whether it is worth doing anything about it.

4. If the proposed equestrian access is over a public footpath, there may be an issue of 'nuisance' to pedestrians if the horse use is considered detrimental so the landowner could be required to ensure (by attention to the surface or other action) to avoid nuisance. (This is the same as applies to the landholder's own use with vehicles or such as poaching from cattle feeding.) Where the footpath is wide and has a resilient, well-drained surface that can accommodate horse use without detriment, this is unlikely to be a problem unless horse use is excessive, or the footpath is particularly popular on foot. Equestrians should be made aware that they are using a public footpath and that permission may be withdrawn so courtesy and consideration are important.
  5. Signs on the permitted route are recommended to clarify to any user who may use it and that use with horses is by permission.
- Permitted access may be under licence to individuals, paid or otherwise. Licence holders may be required to carry a marker of their licence on the bridle, saddlecloth, hatband or tabard. Markers are usually designed to be visible from some distance so that the landholder or their agents are easily aware that the user they can see is permitted.
  - Toll rides are permitted access by paid subscription and in areas where there is no equestrian access away from tarmac roads it may be highly desirable and could be a useful income for a landholder which may assist in negotiation to gain new access. Equestrians in areas without bridleways may welcome the opportunity for quality off-road routes at a reasonable cost.
  - There is no standard formal process to grant or gain permitted access. Although an agreement can be written and signed, it would not be binding unless between the landholder and a 'body corporate', such as the council, parish council, or a registered charity, organisation or company. Depending on their constitution, some Equestrian Access Groups may be considered a body corporate. If the council is willing, guidance and proforma agreements for highway authorities are available.<sup>1</sup> They can be revised to also be used by a parish council or other organisation.
  - Where a formal agreement is not possible or appropriate, answering the questions above will guide the thinking to cover the key aspects of liability and maintenance. Beyond that, it is a question of ensuring the required

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<sup>1</sup> From the Institute of Public Rights of Way and Access Management [www.iprow.co.uk](http://www.iprow.co.uk)

people know about it and any conditions, which may require notices on site, or a notice to local yards or equestrian groups. Should a landholder wish to issue licences to individuals, this constitutes a contract, and written statement of the conditions under which the licence is issued and may be revoked is recommended to be held by both licensee and landholder.

- Where equestrian access is permitted over a public footpath, it may be helpful to advise the highway authority, if it has the means to record that information against the path, so it is fully informed if a pedestrian should comment on use with horses.

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