Path Maintenance

About Access Rights · https://scotways.com/ken/who-maintains-paths/



Maintenance v Improvement.

Before looking at who maintains what, it’s important to appreciate there is a difference between maintenance and improvement of paths. The terms are often used interchangeably, but they mean different things.

> Maintenance - The work of keeping something in proper condition
>
> *The Free Dictionary*

> Improvement - Something that improves, especially an addition or alteration
>
> *The Free Dictionary*

Consider a path across a grass field. As more people use it the path may lose the grass cover and become boggy. Maintenance work will concentrate on keeping the path as a grass path with work on drainage and using a more trample resistant grass mixture. Improvement work will concentrate on making the path better by creating a more robust stone surfaced path.

Whilst maintenance work may not require permission, improvement work will always require permission including from the landowner and possibly planning permission too.

Who's responsible for maintaining rights of way?

No one. Neither path users, landowners nor local authorities have any duties to maintain a right of way, however, all three can carry out maintenance work if they so choose.

Who's responsible for maintaining core paths?

No one. Neither path users, landowners nor local authorities have any duties to maintain a core path, however, all three can carry out maintenance work if they so choose.

Is anybody responsible for maintaining any type of path?

The answers to the above two questions could make you believe that nobody is responsible for maintaining any type of path, but that would not be so.

Where a path has been put in by agreement whether that be between a local authority or a community group and a landowner a requirement to maintain the path may have been included.

Some paths created by legislation such as public paths created under Section 33(1) of the Countryside (Scotland) Act 1967 must be maintained by the local planning authority.

Paths included on the List of Public Roads must be maintained by the local roads authority. For completeness, the local roads authority has the power, but no duty to maintain private roads too. Ken can tell you more.

Title deeds to a piece of land or property may include an obligation on one or more parties to maintain a particular road or path.

Is there a standard that a path needs to be maintained to?

In the majority of cases no. However, there is a lot of guidance and good practice. Any works should not make a path or track dangerous to use.

With the start of access rights, any non-motorised users can access many areas of land so any works, maintenance or improvement, should not block users who are entitled to use a particular path or track. However, the Land Reform (Scotland) Act 2003 doesn't envisage that every piece of land will be accessible to all types of users rather than access provisions as a whole will cater for everyone.

Whatever the standard a path is maintained to, any works undertaken must be done safely taking account of relevant health and safety requirements and in particular the Construction (Design and Management) Regulations 2015. Following appropriate guidance, taking advice and planning properly will help to do this.



Who's responsible for maintaining bridges?

It depends. Many bridges along rights of way and paths are not necessarily required to be maintained by anyone, but there are exceptions. Railway bridges, whether on an active railway or a long-closed railway line and those that form part of a route on the List of Roads are subject to inspection and maintenance by the relevant authority. Either the local roads authority, Network Rail or National Highways.

Be aware that the rules regarding bridge works are stricter than those for other types of pathwork.

Who maintains gates and stiles?

There is no general duty to maintain gates or stiles. Community groups, landowners or local authorities all may maintain the gates or stiles on any particular paths within their areas.

In some circumstances, any new gates and stiles on rights of way may need to be authorised by the relevant local authority.

Why aren’t paths managed for access users?

Some are, but many paths to which access rights apply have been created for a different purpose and the exercise of a right of way or access rights along them is a secondary consideration.

Where a path is damaged by access users who is responsible for repairs?

Any path or road whether it has a natural or a stone surface will be damaged through use and the more heavily it is used the faster the damage will happen. The weight and type of use also have an effect, thus motorised heavy lorries are the worst, but even pedestrians cause damage.

Where access rights apply, people only have the right if they exercise it responsibly and don’t cause damage. Where someone comes across a heavily eroded path they must decide if it is responsible for them to continue along the route and potentially cause further damage or whether they should come back another day.

Once a path has been damaged there is no general duty on anyone to repair it. However, a landowner may choose to repair a path to repair or prevent further damage and both local authorities and communities may come together to help repair paths damaged by access takers.

There is no requirement on any of the users that may have caused the damage to pay or help with the repair/maintenance of the damaged route although, schemes such as the National Trust for Scotland Footpath Fund or Outdoor Access Trust for Scotland enable people to contribute to the repair of damaged paths. Organisations such as The Conservation Volunteers, and some local authorities provide opportunities to allow people to actually repair paths.

Can I maintain or improve a local path?

Yes, you can! But before you go rushing out to your nearest path there are a few things you need to do. Start by discussing what needs to be done with the access officer at your local authority. They may already have planned the necessary work. They may run an Adopt-A-Path scheme or have a volunteer ranger scheme that you can join.

Speak to the landowner or landmanager. You may have the right to carry out the work you plan, but it's good practice to let them know. They know their land best and are perfectly placed to identify any unforeseen consequences of your plans and make sure what you’re planning doesn’t impinge on any works they have arranged themselves.

Some works will be bigger than you can manage on your own and a partnership approach will be needed. This will help to attract funds and any other resources that could be necessary. A partnership could be led by a suitable community group, the local authority or the landowner.

Have a look at the Paths for All Community Paths site for further help. You can always visit the National Path Demonstration site at Scotland's Rural College, Oatridge Campus, West Lothian to see what is possible.

Whatever works you feel are needed, make sure to plan them properly and carry them out safely.