

Guidance:

Fencing & Public Rights of Way

Introduction:

This document provides information on fencing adjacent to public rights of way and the use of barbed wire and temporary electric fencing. It is aimed at land owners/managers and their tenants, but is limited to being guidance only and is not a substitute for land owners/managers and their tenants complying with the law and regulations relating to public safety/nuisance, including compliance with advice issued by the Health and Safety Executive.

Electric Fencing:

Electric Fences – the legal position:

An electric fence (whether permanent or temporary) across a public right of way is an unlawful obstruction. However, there may be circumstances and conditions where this may be considered acceptable, but on public footpaths only (see below).

Temporary Electric Fences across Public Footpaths:

On public footpaths where the user has a right on foot only the use of a single strand of electrified fence to control stock is generally acceptable under the following conditions:

1. **INSULATED HANDLE:** There must be a means of breaking the electric current at the crossing point of the public footpath by providing some form of safe option such as an expandable type barrier gate with insulated handle which can be easily and safely released by all users.



2. **INSULATED BUFFER:** Where the fence crosses the public footpath, the electrified fence must be insulated with tubing to a width of no less than 1.5 metres.



3. **WARNING SIGNAGE:** Hazard warning signs need be displayed. This will clearly identify the fence as being electrified to users.



4. **TEMPORARY ONLY:** The fence must be a temporary arrangement (e.g. for period of grazing only).

Permanent Electric Fences and Public Footpaths:

If the electric fence is used to permanently control livestock, there must be a break in the electric fence and a gate installed at the point where the footpath crosses. The electric fence should be housed in sufficiently insulated tubing, capable of withstanding current upon touch to a width of no less than one metre either side of the gate. A stile is unlikely to be authorised. However, if a stile is permitted (or in the event of an existing stile being present), the electric fence should be housed in sufficient insulated tubing prior to being properly fastened to one of the rails on a stile, and the fence should also be insulated to a width of no less than one metre either side of the stile (see image below).



In the case of a new gate or stile, this will need to be authorised by the Council under Section 147 of the Highways Act 1980 (for the ingress and egress of animals for agricultural purposes). Please contact rightsofway@iow.gov.uk.

Electric Fences alongside Public Footpaths (temporary or permanent):

Electric fencing must be set back from the edge of the public footpath to enable safe and convenient use by the public without any risk of users coming into contact with the fence. A minimum/clear width of 2m will be required if an electric fence is on one side only. A minimum/clear width of 3m will be required if an electric fence is erected on both sides of a public footpath. Warning signage (as referred to above) must be displayed at the beginning and end of the path/fence and at reasonable intervals in between.

Electric Fences and Public Bridleways:

The Council strongly advises that no electric fencing should run alongside or across a bridleway. It is difficult to envisage how electric fences may be arranged to allow horse riders to pass through safely. If a horse comes into contact with an electric fence, the affects can be very serious for both horse and rider, and other users (e.g. if the horse were to bolt). It is difficult and potentially very dangerous for riders to disengage a spring held grip hook while keeping control of their mount. If it is absolutely necessary to run an electrified fence at right angles to a bridle gate, landowners must ensure that sufficient space is available for the rider

to manoeuvre a horse while opening and closing the gate. **It is absolutely essential that there is no risk of the horse touching the live fence.** The fence will also need to be insulated within the vicinity of the gate and for a sufficient length either side of the gate opening to prevent this from happening. The fence will also need the appropriate warning signage. **If it is not possible to provide sufficient space, then electric fencing must not be used under any circumstances.**

Electric Fences and Byways Open to All Traffic:

The Council will not allow electric fences to be placed across a byway.

Other Fencing – position and the use of Barbed Wire

FENCING LOCATION/ALIGNMENT: A fence must not be erected across a public right of way or in a manner which narrows the legal width of the path, or otherwise causes a nuisance to the public. To do so would be an unlawful, and an enforceable offence under Highways Act and other legislation. Prior to erecting fencing in the vicinity of a public right of way contact should be made with the Public Rights of Way Service to ascertain the legal width of the path, with a view to agreeing on the exact position of the fence prior to installation. Please contact rightsofway@iow.gov.uk.

BARBED WIRE: **barbed wire must not be used alongside narrow paths** - Allow 2 metres (6ft) clear width for a footpath, 4 metres (13ft) for a bridleway and 5 metres (16ft) for a restricted byway or byway open to all traffic. **Barbed wire must not be affixed to any part of a gate or stile including supporting posts – to do so is a public nuisance and is likely to cause damage or injury to users** (see image below). In the case of a bridleway, manoeuvring space for horses must be considered at gates, and barbed wire not used in the vicinity.

In the event of the above widths not being possible, fencing alongside public rights of way must have two strands – barbed wire on the field side with plain wire running parallel and at the same height on the path side (see image below).



Good example – stock fencing alongside public footpath ✓



Poor example – barbed wire must not be attached to any part of a stile or gate, including supporting posts – dangerous to users X

Landowners' Responsibilities and Liability:

The Health and Safety Executive's website confirms landowners' responsibilities in respect of the use electric fencing and barbed wire. In the event of a user of a public right of way coming into contact with such fencing and suffering harm as a result, it is possible that the injured person could take legal action for damages against the person responsible for the fence.

This document should be read in conjunction with the Council's guidance on gates and stiles, a copy of which is available on request: rightsofway@iow.gov.uk