

Open fields:

It is pretty easy to follow directions, signs, etc., legally and uncontroversially, when the route is along the edge of a field.

But there are occasions when you need, and are entitled, to cross open fields. Here too there is, on most occasions, no problem. But there are exceptions, as in Scenarios '2', '3' and '4' below.

Where walks go across open fields I have in some cases indicated this in the directions by a symbol **!!!F!!!** prompting readers, if in difficulty, to look at this page and consider the bit in italics below, which sets out various scenarios. In the vast majority of cases you will find this symbol completely unnecessary and wonder why it is there, as the way will be obvious! But the use, look and general state of fields sometimes changes dramatically, so even when I have found the paths totally clear I have not assumed this will always be so. Hence the symbol.

At this point it is appropriate to say a word of thanks to landowners and KCC for the generally high quality of footpath maintenance and signage. It is much better than what I have encountered in several other places at home and abroad. These notes have to do with the relatively rare exceptions where all is not as good as it might be and walkers are faced with problems.

I should also say that, as will probably be obvious, I am not a lawyer, so am just sharing what goes through my mind in these situations, in the hope that I am not breaking any laws or causing unreasonable problems for people whose work is wrapped up these fields. I hope this all seems sensible; and would be grateful to be told about any alternative views. What follows in italics is just my opinion – you must judge whether to go along with it! And the grey area under '4' below is one which we do encounter from time to time, and about which I have found surprisingly little discussion to guide us.

So here, for what they are worth, are my thoughts. I think '1' is obvious. '2' and '3' are important in justifying our reasonable actions. And '4' presents me with a problem to which I have no easy answer – just a vague compromise. See what you think!

As I understand it we have a right to use rights of way so long as we do no harm. And landowners have, in general terms, an obligation to make this possible.

While I would hope ramblers would never act irresponsibly, we should also not be discouraged from using legitimate routes just because they are unclear and perhaps unwelcoming on the ground.

Scenarios

1 *A path has been cleared for us on a right of way: we must stick to it and not stray outside it.*

2 *The line of a right way has not been marked or specially cleared, but it is possible to use it safely and without undue difficulty: we can use it, making our best efforts to stick to the correct line. The landowner is not at fault for not marking or clearing (since not preventing our access), but cannot complain if, within reason, we get the line wrong or do a little damage to what is growing. (But see '4' below.)*

3 *It is physically difficult or dangerous to follow the right of way (including where there are ankle-twistingly deep furrows): the landowner is probably at fault, and in any case cannot complain if we choose to depart from it and go round the edge of the field, even though this is not a right of way in itself. (There are circumstances in which a field can legitimately be left in a ploughed state for a limited period, even if the ploughing crosses a right of way.)*

4 *(A variant of 2 above.) The right of way has not been cleared and confronts you with, say, a standing crop. It is perhaps passable, but would take a bit of effort, and you would demonstrably be damaging the crop by going through. To me this seems the tricky case: to exercise the right to cross, or to slip round the edge even though we have no right to.*

I suppose the landowner, even though at fault, would prefer us to go round, and would welcome the favour if we did. And would not complain. But what about the field margins, where we might be disturbing the wildlife? And can we be expected to go out of our way to help landowners who are doing us no favours? I know many ramblers who, as a point of principle, would insist on our strictly exercising our right, if only to make a point.

I confess that I find it difficult to be so hard-line, and I duck the issue, making one decision or the other depending on the particular circumstances. How much damage would I be doing, either to crops or to hedgerows? How difficult is the direct route? How much further would the detour be? A cop-out perhaps – but a commonsense one?

I would genuinely welcome comments on this occasional problem, from both the farming and rambling communities.

Meanwhile, the following link to the Ramblers' website is of interest, though it does not directly address the issue in '4' above.

<http://www.ramblers.org.uk/go-walking/the-expert-view/rights-of-way-and-access-issues/basics-of-rights-of-way-law.aspx>