

FAQs – Town and Village Greens

Extract of Defra's Guidance to Applicants in pioneer implementation areas, v1.4, October 2013

Q: *How can I find out whether the right to apply has been excluded over the land I want to register?*

7.11.18 Check with the commons registration authority. Guidance to commons registration authorities has been published regarding Sections 15C and Schedule 1A of the 2006 Act. Although the guidance is aimed at commons registration authorities, not applicants, it provides a detailed explanation of the Section 15C exclusion and the trigger and terminating events in Schedule 1A, and how they work. In particular it contains a useful Q&A section which may be of assistance to you (see here: www.gov.uk/town-and-village-greens-how-to-register).

Q: *What does a landowner statement actually do?*

7.11.19 It enables a landowner to bring to an end any period during which as of right recreational use of his land has taken place. An important component of the criteria for registering greens is that the land has been used as of right for at least 20 years. If a landowner statement is submitted before 20 years use have been acquired then an application to register the land would fail (because the clock on years of accumulated use will have been restarted). But if 20 years or more use have been acquired then the landowner statement would commence the one year grace period during which it is possible to apply under Section 15(1).

7.11.20 If a landowner wishes to prevent his land being registered in the future then he would need to resubmit a new landowner statement in just less than every successive 20 year period. If he failed to do this then, assuming recreational use of his land continued, it would enable the users to acquire the 20 years use as of right required by the criteria for registering new greens.

Q: *How can I find out whether a landowner statement has been submitted in relation to the land I wish to register?*

7.11.21 You should check the register of landowner statements held by the commons registration authority, which you can inspect in person at an office of the authority or on its website.

Q: *What happens if a landowner statement has been made in relation to the land I wish to register?*

7.11.22 If the land has been used for 20 years or more by the time the landowner statement was submitted, then it would commence the one year period during which you could apply to register the land. You have one year from the date of the landowner statement. However, if the land was used for less than 20 years at the time of the landowner statement then it would take you back to year zero and your application would fail.

7.11.23 If a landowner statement was submitted in relation to the land 20 or more years ago, and if the as of right recreational use of the land continued during that time, then you would have acquired sufficient evidence to apply.

Q: *What is the period of grace?*

7.11.24 It is the one year period during which an application can be made after use of the land as of right has been brought to an end (e.g. a landowner statement has been submitted, or a fence has been erected around the land, or the landowner otherwise gives his permission to use the land). This criteria is specified by Section 15(3)(c).

Q: *How are registered greens protected?*

7.11.25 Town and village greens, including those newly registered, are protected by:

- Section 12 of the Inclosure Act 1857 against injury or damage and interruption to their use or enjoyment as a place for exercise and recreation. Causing injury to village greens is a criminal offence.
- Section 29 of the Commons Act 1876 makes encroachment or inclosure of a green, and interference with or occupation of the soil a criminal offence unless it is with the aim of improving the enjoyment of the green.

Q: *What happens if an offence has been committed?*

7.11.26 Where an offence has occurred, action in respect of Section 12 of the 1857 Act can be brought by a churchwarden, owner, or a parish or district council. Any parishioner can bring an action under Section 29 of the 1876 Act.

Q: *How are greens maintained?*

7.11.27 The owner of a green cannot do anything that interferes with the lawful recreational activities of the local inhabitants. Greens in local authority ownership are generally managed by the authority under the Open Spaces Act 1906 or by a scheme of regulation under the Commons Act 1899, but the law makes no provision regarding the maintenance of privately owned greens.