

to manage their herd so the animals within it present a low level of risk to members of the public who use fields with rights of way or other rights of public access.

To help farmers comply with their legal duties, HSE publication AIS17 "*Cattle and public access in England and Wales. Advice for farmers, landowners and other livestock keepers*" is freely available to download from our website at <http://www.hse.gov.uk/pubns/ais17ew.pdf>. This information sheet was drawn up in consultation with the farming industry and provides guidance to enable those with duties under the Health and Safety at Work Act to meet their legal obligations.

While HSE has a role to play in assisting farmers to comply with their legal duties by provision of information and guidance, it also has a regulatory role through inspection and investigation to ensure that farms meet minimum legal standards in controlling risk.

HSE works closely with members of Britain's Farm Safety Partnerships (FSPs) to improve the health and safety record of the farming industry. Further information on managing risks from cattle is available via members of Britain's FSPs. The information provided by many of its member organisations extends to provision of information directly for the public, as well as to the actions that farmers and landowners can consider where a risk is identified. The information provided by these organisations compliments that published by Natural England in "*The Countryside Code: advice for countryside visitors*" and "*The Countryside Code: advice for land managers*", both available at <https://www.gov.uk/government/publications/the-countryside-code>.

Dealing with the **MATTERS OF CONCERN** raised within your report:

1. Considerations regarding the field where the fatality occurred.

In relation to HSE's statistics and for clarity, over the last 5 years, there have been, on average, 6 deaths each year due to workplace cattle related incidents. These deaths are not solely related to trampling incidents. The numbers relate to all workplace cattle related deaths to farmers, workers and members of the public. Each year HSE publishes a report on the number of people killed as a result of farming and other agriculture-related activities. The latest report and previous reports can be found on HSE's website at <https://www.hse.gov.uk/agriculture/resources/fatal.htm>. The reports show that animals (particularly cattle) are one of the largest causes of farming workplace deaths. Many more people are very seriously injured. This is why it is so important that farmers follow HSE and industry guidance to reduce the risk to people from cattle.

On the issue of separation, HSE has fully considered reasonable control measures that are flexible and proportionate to the risk presented by a particular herd to walkers and others. These are outlined in AIS17.

The measures HSE would expect farmers to have considered and, where possible implemented, include:

- Preventing the keeping of dairy bulls in fields with public access at any time.
- Where possible avoiding putting cattle, especially cattle that are calving or have calves at foot, in fields with public access.
- Where there is a need to keep cattle, especially cattle that are calving or have calves at foot, in a field with public access, where reasonably practicable to do so the farmer should be keeping animals and people separated. This can be achieved by the use of fencing (permanent or moveable / temporary e.g. electric fencing). Segregation is particularly important at busy times or where fields with public access are heavily used.

- Assessing the temperament of all cattle before putting them into a field with public access.
- If cattle, especially cattle that are calving or have calves at foot, do need to be put into fields with public access, this period should be kept to a minimum.
- Positioning feed and water troughs away from the public footpath and away from public entrances and exits to the field.
- Having a reliable system to monitor all cattle in fields with public access at least daily.
- Preventing any animal that is suspected of showing, or has shown any sign of aggression from being kept in fields with public access. This should extend to consideration of culling any animal that shows signs of aggression.
- Clearly sign posting all public access routes across the farm. Display appropriate signage at all entrances to fields with cattle. Remove signage when the animals are no longer in the field.

I understand from your report, that the farmer made a formal application to divert the public footpath to the edge of the incident field and erect suitable fencing to create a safe corridor and segregate walkers from cattle. The legislation regarding rights of way falls under Defra's responsibility and is not a matter for HSE, although we understand that the divert process can take time and does not offer a prompt solution. The issue of diversions, whether temporary or permanent, and of the provision of permissive alternative routes, is not straightforward, and may not always offer the best solution to manage the risks.

In recognition of this HSE's AIS17 guidance gives pragmatic short-term options that landowners and farmers can consider with regard to offering alternative routes to the footpaths crossing their land if their risk assessment shows this to be necessary. The guidance provides sufficient information to allow farmers and landowners to comply with their legal obligations under the HSWA.

2. The general position in relation to dogs on Rights of Way.

Farmers have a duty to manage the risk created by placing cattle in fields with public rights of way. HSE does recognise that the presence of a dog(s) and cows with calves does increase the risk of incidents. However, the control measures already outlined, if followed, limit the times when cattle with calves are in fields with public access, and if there is no alternative provide reasonable mitigation to control the risk to a low level.

Your report states that dogs are "entitled to be brought onto a Right of Way", but that there is "uncertainty as to whether dogs are required to be on a lead when on a public footpath". These are not matters for HSE, the legislation regarding rights of way falls under Defra's responsibility. The purpose of HSE's AIS17 is to outline advice for farmers, landowners and other livestock keepers on how to comply with their legal responsibilities to reasonably control risk to people using public rights of way. As mentioned above, other publications exist to provide advice to members of the public on the control of dogs on public rights of way.

Members of the public using the countryside should play their part by staying on the right of way while walking through the field and if with a dog(s) keeping it under control and on a lead. Additional advice is outlined in the free online publication "[The Countryside Code: advice for countryside visitors - GOV.UK \(www.gov.uk\)](http://www.gov.uk)".

3. The power to restrict dogs on public footpaths, at certain times.

HSE has no role in empowering LA footpath officers to prohibit dogs from fields for specified periods so we can't comment on this aspect of your report.

In relation to signage, this is already a control measure that is available to farmers and mentioned in our guidance. We are aware that a number of organisations offer suitable signs to their farming [members](#). Although not the sole means of achieving a reasonable level of safety when coupled with other measures they can still have a part to play in effective control of risk.

The specific matter of posting notices at the entrance to particular fields specifically to advise walkers not to bring dogs into a field containing animals between certain dates is outside of HSE's remit as a regulator, and is more appropriate for others to offer comment.

4. The role of public bodies.

As explained earlier in this letter, there is a legal duty on all farmers to manage their herd so the animals within it present a low level of risk to members of the public who use fields with rights of way or other rights of public access.

Health and safety law applies equally to large and small companies. Recognising that many duty holders don't have in-house expertise, the Management of Health and Safety at Work Regulations 1999 require employers and partnerships to have arrangements to access competent advice from someone to help them understand and comply with their obligations and assist in the discharge of their health and safety duties. This competent advice is widely available from agricultural consultants, farming member organisations (e.g. NFU) or via insurance companies.

The maintenance and management of public rights of way is principally governed by local authority officers. HSE is not the appropriate authority to comment on the Highways Act provisions and the oversight matters you mention.

Finally, thank you for your suggestion to include additional information in AIS17 on the mechanism to apply for a public footpath to be re-routed. We keep guidance, including AIS17, under periodic re-evaluation. When next reviewed, we will take your comments into consideration.

Yours sincerely


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Agriculture Sector