

APPENDIX 2

DECISION PAPER 3

MEETING DATE	RIGHTS OF WAY COMMITTEE 19 JULY 2001
REPORT OF Contact	COUNTY RURAL AND RECREATION OFFICER MR M TAYLOR - RIGHTS OF WAY MAINTENANCE MANAGER
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PUBLIC RIGHTS OF WAY ENFORCEMENT PROTOCOL (RWSS/0301)

INTRODUCTION

1 A report on Rights of Way Enforcement Policy was submitted to the Rights of Way Special Sub-Committee meeting on 10 July 2000. A copy of that report is attached to this report at Appendix 2. At that meeting, Members resolved to endorse the policy.

2 The purpose of this report is to provide an update about how the current policy operates in practice, as requested by the Sub-Committee. It will also give details of how the policy may be revised in order that the County Council can carry out its duties in relation to Public Rights of Way Enforcement more effectively. The protocol, incorporating proposed amendments and additions is attached to this report as Appendix 1.

BACKGROUND

3 The Public Rights of Way network is a significant and valuable resource for the community. The recent restrictions in respect of foot and mouth disease have emphasised the importance of Rights of Way for the people of Cheshire. It is clear from the thousands of queries that the County has received, that the Rights of Way network is not merely the preserve of a small number of user groups, but a fundamental part of the recreational and economic life of a considerable section of the population.

4 One of the National Targets for Public Rights of Way, detailed in the Annual Report, is for the network to be properly maintained, and this includes ensuring that the network is open and available for public use. One of the Best Value Performance Indicators measures the percentage of the network which is signed from a metalled road and is easy to use. Enforcement is an essential tool in ensuring that these targets can be achieved.

5 Rights of Way enforcement issues can be divided into three distinct parts and each aspect of enforcement will be discussed in turn;

- Interference by ploughing and growing crops.
- Obstructions and encroachments which can be readily removed

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Obstructions and encroachments which are more permanent.

INTERFERENCE BY PLOUGHING AND GROWING CROPS

6 This problem currently results in the loss of up to 30% of the network for a considerable part of the year in certain parts of the county, where arable farming predominates. Problems are at their greatest in parts of the Vale Royal area, City of Chester area and the southern area of Crewe and Nantwich.

7 During 2000/1, officers dealt with over two hundred cases of ploughing and cropping offences and had cause to serve legal notice on 114 occasions. It is apparent that the frequency of ploughing and cropping offences is not declining, despite the concerted efforts of officers. This year, with the closure of the network due to foot and mouth disease during the first quarter of the year, the failure of landowners to comply with obligations in relation to public rights of way is much more general and the percentage of the network that is obstructed is significantly greater than in other years.

8 The proposed amendments to the protocol are intended to

- increase the profile and seriousness of this offence in the minds of the farming community.
- reduce the incidence of re-offending.
- Minimise the risk of failure whenever the County Council is obliged to prosecute in order to provide an effective deterrent.

OBSTRUCTIONS AND ENCROACHMENTS WHICH CAN READILY BE REMOVED

8 When dealing with this type of problem, officers are frequently accused of various malpractices and some offenders lodge formal complaints with the County Council and others such as the Local Government Ombudsman. It should be noted that no complaints have ever been substantiated, but investigating and responding to complaints costs considerable time and effort.

9 The proposed leaflet "An A to Z of paths problems and protocols" is intended to explain to offenders the treatment they can expect from the County Council and to minimise the number of complaints against officers by "de-personalising" the management of the problems. A copy of the leaflet is attached to this report at Appendix 3.

OBSTRUCTIONS AND ENCROACHMENTS WHICH ARE MORE PERMANENT

10 Permanent obstructions, very often with informal diversions in place, are regularly encountered by rights of way officers. Most of these are dealt with quite amicably, with the landowner applying to divert the path, often formalising the existing unofficial diversion.

11 However, from time to time landowners refuse or are reluctant to apply to divert the path and the County Council is left with the problem of dealing with an obstruction which it is impractical to remove. The proposed additions to the

enforcement protocol is intended to make use of new legislation in the Countryside and Rights of Way Act 2000 which amended Highways Act 1980 with S137Z. This legislation provides courts with new powers to order the removal of obstructions and impose significant fines if offenders fail to comply.

12 By using these new powers it is hoped that in all circumstances where a path has a more permanent obstruction then the County Council will be able to achieve a resolution to the problem.

CONCLUSIONS

13 The implementation of a clear and unambiguous Enforcement Protocol is an essential part of ensuring that the Council Council can fulfil the statutory duty contained in Section 130 of the Highways Act 1980:

“It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority...”

14 The proposed amendments to the existing protocol have been made in the light of experience and also taking account of best practice in other authorities. The protocol, if approved, will provide firm support for officers in carrying out a potentially difficult duty.

RECOMMENDED : That

The Enforcement Protocol contained in Appendix 1 be approved

complete item

Local Member	N/A	
Background Documents	Enforcement files	
Available for Inspection at	Whitegate Station, Marton, Winsford	

RIGHTS OF WAY ENFORCEMENT PROTOCOL

The County Council, as Highway Authority, has a duty both at Common Law and under Statute (S130 Highways Act 1980) to keep Public Rights of Way open and available for use by the public.

A clear, unambiguous protocol on enforcement, enables the County Council and the Rights of Way Enforcement team in particular to carry out its duties effectively and in an even-handed, fair and consistent manner. It is the intention of the Rights of Way Enforcement team to publicize details of the protocol in the form of a leaflet entitled: "An A-Z of path problems and protocols" and this will be widely available to the farming community and to the public. The leaflet will be provided to all parties in disputes in order that they are aware of their rights and responsibilities in relation to Public Rights of Way at the outset of any investigation. The Rights of Way pages on the County Council website will also carry the same information. A copy of the leaflet is attached to this report at Appendix 3.

It is worth noting that the main representative organisations for farmers and landowners, the NFU (National Farmers' Union) and the CLA (Country Landowners and Business Association), give the clear message to their members that rights of way law should be respected and that no interference with rights of way should take place without lawful authority.

ENFORCEMENT ISSUES

Rights of Way enforcement issues can be divided into three distinct parts;

- interference by ploughing and growing crops.
- obstructions and encroachments which can be readily removed.
- obstructions and encroachments which are more permanent.

Each aspect of enforcement protocol is dealt with in turn. Details of the current enforcement policy and how it may be revised in order that the County Council's duties can be carried out more effectively will also be given.

INTERFERENCE BY PLOUGHING AND GROWING CROPS

Interference by ploughing or by growing crops are offences under the Highways Act 1980 as amended by the Rights of Way Act 1990. The ploughing and cropping of paths has a serious effect on the Rights of way network.

In carrying out its duty to keep Rights of Way open and available for public use, the County Council has a range of powers to deal with offenders, starting with the service of legal notices, carrying out the work itself and recharging the landowner and prosecution of an offender for ploughing and cropping offences. The County Council follows an approach which is as conciliatory

as possible, with the Rights of Way Enforcement team providing information and advice to the offender and prosecution being used as a last resort.

The main objective in introducing the following protocol is to minimise re-offending by increasing the profile of the offences and bringing home their seriousness.

The policy approved by the Rights of Way Special Sub-Committee on 10 July 2001 is set out below, with proposed amendments in italic type:

Wherever an offence of ploughing or cropping is discovered, the County Council will, if it is a first offence, explain the law to the offender and allow seven days for them to put matters right.

INFORMAL INTERVIEW FORM

At the informal warning stage an informal interview will be carried out. The interview will be recorded in writing following a specified format and at the end of the interview the offender will be issued with a carbon copy of the interview form. A specimen "informal interview form" is attached at Appendix 4. The form will give details of offences, penalties and Council protocol. It is hoped that the use of the form will raise the awareness of the seriousness of the offence and increase the likelihood of compliance with re-instatement of the path. This procedure is used by other authorities.

Upon expiry of the seven day period, if the path has not been reinstated to a satisfactory standard, (including the minimum legal width), the Council will serve legal notice upon the person responsible requiring them to reinstate the path within seven days.

If the path is still not reinstated to a satisfactory standard, the Council will carry out the necessary works, using contractors, and will recover the costs of doing so from the offender.

FORMAL INTERVIEW UNDER CAUTION

At the stage when the County Council has completed the sequence of warnings above and direct enforcement and prosecution is being considered, the offender will be invited to take part in an interview under caution. It is intended that this interview should be recorded and follow the procedures laid down in the Police and Criminal Evidence Act 1984 (PACE). The interview transcript can then be used as part of the evidence against the offender and will avoid the failure of cases for technical reasons, for example where a false name is given. It may also raise the awareness of the seriousness of the offence in the eyes of the Court.

Interviews under PACE are used as a matter of course by County Trading Standards officers.

OBSTRUCTIONS AND ENCROACHMENTS WHICH CAN READILY BE REMOVED

The Rights of Way Enforcement Team also encounters a large number of situations where a Public Right of Way has been obstructed by means other than ploughing or cropping and is, therefore, unavailable for public use. Obstructions are offences under the Highways Act 1980 S137 and S137Z as amended by the Countryside and Rights of Way Act 2000. Obstructions encompass everything from deposited piles of material to structures and buildings of varying nature.

In all cases, the first approach is one of conciliation and dialogue, explaining the legal issues involved and the Council's duty in these matters. The offender is requested to remove the obstruction within seven days or, if the structure is more substantial in nature, within a reasonable time limit determined by the officer concerned.

The informal notice for removal of the obstruction is confirmed in writing together with a summary of the meeting, the legislation involved and the County protocol.

If the obstruction is not removed the local member is informed and formal legal notice is served under Highways Act 1980 S 143 giving the offender one month to remove the obstruction.

If the obstruction is not removed on expiration of the S 143 Notice the obstruction is removed by County Council contractors and the costs of the works involved are sought from the offender.

If the obstruction recurs, the Council will consider prosecution.

It is proposed that a leaflet be produced which will set out the County Council's protocol with regard to certain issues. It will give guidance to the offender about the nature of the offence and what is likely to happen if they fail to comply with either an informal or formal notice to remove an obstruction. (Please refer to the A-Z of path problems and protocols at Appendix 3).

OBSTRUCTIONS AND ENCROACHMENTS WHICH ARE MORE PERMANENT

A large number of permanent obstructions on Rights of Way are encountered each year, often permanent structures are erected on Rights of Way (sometimes with planning consent) and an unofficial diversion put in place by the owner of the land. The usual course of action in situations such as this is to require the landowner concerned to apply to divert the path. The procedure for obstructions and encroachments which are more permanent is as follows:

Obstructions and encroachments which are more permanent

A large number of permanent obstructions on Public Rights of Way are encountered, often permanent structures are erected on Public Rights of Way and an unofficial diversion put in place by the land owner or occupier. The County Council has a duty at statute law to remove all obstructions and encroachments to public rights of way. *The Highways Act 1980 SS137 &137Z as amended by the Countryside and Rights of Way Act 2000.*

Cheshire County Council has a protocol of dealing with obstructions firstly by consultation and dialogue with the landowner/ occupier who will be given the opportunity to apply for a diversion of the path. If, after a certain period of time, no application is forthcoming enforcement proceedings will be commenced against the offender in the Magistrates Court. The Magistrates can make an Order requiring the offender to remove the obstruction within a specified time period and impose an ongoing fine if the offender fails to remove the obstruction.

PLOUGHING AND CROPS ON PUBLIC RIGHTS OF WAY.

Ploughing

In some circumstances occupiers of land are entitled to plough public rights of way if it is not reasonably convenient to avoid them. This only applies to cross-field footpaths and bridleways. All field edge public rights of way and cross-field Roads used as Public Paths (RUPPs) and byways should never be ploughed.

Where a cross-field footpath or bridleway is ploughed it must be reinstated within the "*statutory time limit*" otherwise a criminal offence is committed.

Reinstatement means indicating it on the ground and making the surface reasonably convenient for public use to not less than the statutory minimum width. In respect of footpaths the minimum width is 1m and 2m for bridleways. The "*statutory time limit*" is 14 days for the first disturbance of the cropping cycle and 24 hours for any further disturbance such as harrowing and drilling.

Rights of Way act 1990 section 134.

Crops

Where a crop (other than grass) has been planted or sown on land crossed by a public right of way the occupier has a duty to ensure that the line on the ground of the public right of way is indicated to not less than the minimum width (1m for footpaths and 2m for bridleways). Additionally the occupier has a duty to prevent the crop from encroaching within that width throughout the growing season.

Failure to fulfil this duty is a criminal offence.

Rights of Way Act 1990 section 137A.

Enforcement of ploughing and cropping protocol

Interference of public rights of way by ploughing and cropping is a major problem and the County Council has adopted the following protocol to deal with it.

For a first offence the County Council will, explain the law to the offender and an informal interview will be carried out which will be recorded in writing. At the end of the interview the offender will be issued with a carbon copy of the interview form giving him 7 days to re-instate the path. Upon expiry of that period if the path has not been reinstated to a satisfactory standard the Council will serve formal legal notice upon the offender requiring them to reinstate the path within a further 7 days. If the path is still not reinstated satisfactorily the Council will carry out the necessary work with contractors and recover costs from the offender.

On occasions where an occupier has responded to the first informal interview request but repeats the offence in subsequent years the County Council will immediately serve formal legal notice requiring the reinstatement of the path within 7 days as set out above and inviting the offender to accept a formal caution.

On occasions where an occupier re-offends after service of formal legal notice the County Council will again serve legal notice and additionally will consider prosecuting the offender. The offender will also be required to attend a formal interview session when s/he will be interviewed under caution.

All recipients of enforcement notices in any one-year are sent letters setting out the law and reminding them of their obligations before the next cropping season commences.

PUBLIC RIGHTS OF WAY.

There are four main categories of Public Rights of Way:

Public Footpaths – where the public has a right of way on foot and in an invalid carriage.

Public Bridleways- where the public has a right of way on foot, on horseback, leading a horse, with an invalid carriage and on a bicycle.

Road Used As a Public Path – (RUPP) where the public has a right of way on foot on horseback, leading a horse, with an invalid carriage and on a bicycle and may have vehicular rights.

Byway Open to All Traffic –(BOAT) where the public has a right of way on foot on horseback, leading a horse, with an invalid carriage, on a bicycle, in or on a vehicle and driving a horse or other animal.

As public highways Public Rights of Way enjoy the same protection, provided by the Highways Act as “proper roads”. They also enjoy additional protection provided by other legislation namely the 1949 National Parks and Access to the

Countryside Act, 1968 Countryside Act, 1981 Wildlife and Countryside Act and Countryside and Rights of Way Act 2000.

STILES AND GATES ON FOOTPATHS AND BRIDLEWAYS.

It is the duty of the landowner to ensure that any stiles and gates are kept in a good state of repair. The County Council's duty only extends to ensuring that the landowner complies with this obligation and to provide a grant of 25% towards repairing or replacing such structures.

The County Council has a discretionary power to extend this grant and will, in normal circumstances provide a 100% grant by arranging to carry out all the work at no cost to the landowner. This discretionary grant will be withdrawn if landowners fail to co-operate or are obstructing other rights of way. *Highways Act 1980 section 146.*

If an occupier of land wishes to install additional stiles or gates on footpaths or bridleways they must apply in writing to the County Council for authority to do so. To erect stiles or gates without this authority is an unlawful obstruction and is a criminal offence (**see obstructions**). The only circumstance for which the County Council can provide authorisation for the erection of new stiles/ gates is that the structures are required for stock control purposes. (This does not include horses.)

Highways Act 1980 section 147.

Stiles and gates cannot be erected for security or other purposes and may be regarded as obstructions to the highway. (See obstructions).

Stiles and gates cannot be erected on RUPPs (restricted byways) and byways.

SURFACE OF PUBLIC RIGHTS OF WAY.

The County Council as the highway authority owns the surfaces of all public rights of way, the landowners interest only extends to the sub soil. It is an offence to interfere with the surface of a public right of way to the detriment of users and the County Council has a duty to protect the interests of users and the public right of way. The County Council will take enforcement action to ensure the surfaces of public rights of way unlawfully disturbed are reinstated. (**See also enforcement and ploughing and crops**).

Occupiers of land can disturb the surface of a right of way by special licence if they first apply to the County Council to do so and by statutory licence in respects of ploughing. (**See ploughing and crops**).

TREE BRANCHES AND LIMBS ACROSS PUBLIC RIGHTS OF WAY.

If a branch of a tree has fallen across a public right of way such that the way is obstructed the County Council has adopted the following policy. It will contact the owner of the tree and request that the branch is removed within a predetermined time. If the owner fails to comply with this request the County Council will serve notice on the owner of its intention to remove the branch and recover from the person the costs incurred.
Highways Act 1980 section 150 (4) (c).

WIDTH OF PUBLIC RIGHTS OF WAY.

There is no general rule applying to the width of public rights of way and the width is a matter of fact to be determined on each occasion based upon the following. The width may be set out in an historical document or it may be the width of the way between boundaries such as hedges or fences. Alternatively the width may be that which the public have customarily enjoyed. In the absence of the foregoing the County Council will require a reasonable width to be made available which would be sufficient for two users to pass. In the case of a footpath, this can be regarded as 2 metres. In the case of a bridleway 3 metres and in the case of a byway 5 metres.

An encroachment into the width of a public right of way is an obstruction and a criminal offence and the County Council will deal with encroachments according to protocols. **(See also encroachment, obstruction and enforcement).**

Statutory default widths apply to all rights of way but only in relation to ploughing and reinstatement following ploughing. These are as follows. (See also ploughing and crops.)

	Headland path	crossfield path
Footpath	1.5 metres	1 metre
Bridleway	3 metres	2 metres
Road used as public Path (restricted byway) and byway		3 metres
<i>Rights of Way Act 1990 Schedule 12A</i>		3 metres

If you have any queries about the above matters or if you would like further advice about Public Rights of Way please contact the Rights of Way Maintenance Manager, Mr Michael Taylor at:

Whitegate Station
Whitegate Way
Clay Lane
Marton Winsford



DANGEROUS LAND ADJOINING A PUBLIC RIGHT OF WAY.

From time to time the County Council encounters unfenced dangers on adjoining land which present hazards to path users. The County Council has a duty to protect path users from such dangers and will in the first instance enter into dialogue with the owner of the adjacent land to urge him to remove or adequately fence the danger. The County Council can require the owner of the dangerous land to carry out the necessary works by service of notice. If the owner does not comply with the notice the council may carry out the work and recover the costs from the owner.

Highways Act 1980 section 165.

DEFINITIVE MAP

Definitive Maps are a legal record of the public's right of way. The County Council is responsible for the Definitive Map. If a way is shown on the Definitive Map then it is conclusive evidence of public rights along the way unless there has been a legally authorised change.

There may also be additional public rights over land which have not yet been recorded on the map or there may be rights which have been incorrectly recorded. The Definitive Map can be amended by legal order if evidence of missing rights of way is discovered or to correct errors in previously recorded information.

DOGS ON PUBLIC RIGHTS OF WAY.

Dogs are allowed on public rights of way but they must be kept under close control at all times. There is no requirement in law for a dog to be on a lead. A path user who allows a dog to wander off the right of way becomes a trespasser and owners and occupiers have a right to ask them to leave the land. If a dog is likely to wander off the line of the path or to worry livestock the owners are advised to keep the dog on a lead.

ELECTRIC FENCES.

Electric Fences across a Public Right of Way

An electric fence erected across a public right of way without a safe means of crossing is an offence. It is an obstruction to the right of way and a nuisance and a danger to members of the public wishing to use the right of way. The protocol the County Council has adopted in these matters is firstly to ask the owner of the electric fence to remove it immediately or if it is necessary for agriculture to provide an adequate means of crossing it on the line of the path. The latter will require authorisation by the County Council as it would constitute a new stile, (see stiles and gates). If the owner fails to agree to either of these

courses of action the County Council will remove the electric fence where it affects the path without further notice. If the owner continues to commit further offences of this nature the County council will consider prosecution for obstruction.

Highways Act 1980 section 137, 137Z, 143 and 149.

Electric Fences alongside a Public Right of Way

Where an electric fence runs alongside a public path it may be a danger to and a nuisance to members of the public. If in the opinion of the County council this is the case then the County Council has a protocol of firstly asking the owner to make the fence safe for members of the public using the path. If the owner refuses or fails to do so the County Council will serve legal notice requiring the owner to remove the source of danger within a specified time. Failure to comply with the notice will result in the County Council removing the fence and recovering costs from the owner.

Highways Act 1980 section 165.

ENCROACHMENT.

An encroachment is an unlawful obstruction of the highway. When an encroachment has occurred or alleged to have occurred the County Council is duty bound to investigate and the following action will be taken.

Consideration will be given towards whether the encroachment has actually occurred and is materially affecting the way or may do so in the future. This may require considerable research including historical research to establish the legitimate width of the highway, **(see width of public rights of way)**. If it is demonstrated to the County Council's satisfaction that encroachment has occurred but it is not materially affecting the path or the rights of users the County Council may regard it as *de minimis*. In these circumstances the County Council will inform the person responsible that their actions are unlawful and any additional encroachment will result in enforcement action to remove all the encroachment.

If the encroachment has been found to the County Council's satisfaction to be materially affecting the right of way and the rights of users the following approach will be taken to have it removed. Firstly the circumstances will be brought to the attention of the person responsible and they will be asked to remove the encroachment within a reasonable time-scale to be determined by the County Council. If this fails to secure the removal of the encroachment the County Council will commence enforcement action in respect of the obstruction. **(See Obstructions).**

GATES, (SEE STILES AND GATES).

HEDGES AND TREES ADJACENT TO PUBLIC RIGHTS OF WAY.
(SEE ALSO TREE BRANCH ACROSS PUBLIC RIGHT OF WAY).

In most circumstances the responsibilities of the County Council do not extend to the maintenance of hedges and trees at the side of public rights of way. Where a hedge overhangs or obstructs a public right of way the County Council has a right to remove so much of the overgrowth to prevent obstruction to pedestrians. Additionally the council has a power to require the owners of overhanging hedges to require them to lop or cut back the hedge within a period of 14 days.
Highways Act 1980 section 154.

If a byway open to all traffic is being damaged by the exclusion of light and air due to adjacent hedges or trees the County Council has a power to seek an order at a magistrates court to require the owner to cut back sufficient to prevent such damage. However before employing this power the County Council will discuss the matter with adjacent landowners and request that the hedges or trees be cut back or agree to carry out the work in conjunction with the owner as part of a larger project.
Highways Act section 136

LIABILITY FOR PATH USERS.

Landowners

Owners and occupiers of land crossed by public rights of way can be liable for injuries caused to path users by their negligence. For example if a stile were to collapse under a walker or if a path user were to be injured by an electric fence placed across a path then the injured party may pursue a claim against the occupier of the land.
Occupiers Liability Act 1957

The County Council

As Highway Authority the County Council is responsible for the surface of Public Rights of Way. In certain circumstances the County Council will be liable for injury caused to person using a Public Right of Way if the injury is due to a negligent act with regard to the surface of the path.

MISLEADING SIGNS AND NOTICES ERECTED ON PUBLIC RIGHTS OF WAY.

Misleading and unlawful signs can deter people from lawfully exercising their right to use paths and the County Council has a duty to prevent such occurrences. Signs erected on a Public Right of Way can be removed by the County Council. Signs erected affecting a public right of way but on adjacent land can be dealt with on application to the Magistrates Court. The Magistrates may impose a fine or order the offender to remove the sign on pain of a continuing fine for each day it remains.

Highways Act 1980 section 132. National Parks and Access to the Countryside Act 1949 section 57.

OBSTRUCTIONS

Obstructions and encroachments which can be readily removed

The County Council has a duty at statute law to remove all obstructions and encroachments to public rights of way. *The Highways Act 1980 SS137 & 137Z as amended by the Countryside and Rights of Way Act 2000.* The County Council also has a common law right to remove anything that it believes constitutes an obstruction, danger or encroachment without consultation with any other party.

Cheshire County Council has a protocol of dealing with obstructions firstly by consultation and dialogue, requesting the offender to remove the obstruction. Depending on circumstances, offenders are normally given 7 days to comply. This informal notice will be confirmed in writing. If after that period the offender has failed to comply, formal legal notice is served requiring the offender to remove the obstruction within a specified time. Upon expiry of that time the County Council will remove the obstruction and recover costs from the offender.

The County Council has a protocol of prosecuting for obstruction for any subsequent offence as well as taking the direct action outlined above.

Highways Act 1980 S143

In certain circumstances the County Council will consider prosecution rather than direct enforcement action for example if it is impractical to take enforcement action. In such circumstances the council will pursue a conviction and a magistrates court order to instruct the offender to remove the obstruction within a specified time. Magistrates may impose an ongoing fine if the offender fails to remove the obstruction within the time specified.

Highways Act 1980 section 137Z as amended by the Countryside and Rights of Way Act 2000.

The problem is discussed with the offender, the law and the County Council's protocol is explained.

An appointment is arranged with the Rights of Way Enforcement Officer and the Rights of Way Diversions Officer. The offender is given the opportunity to apply for the diversion of the path.

The meeting is confirmed in writing together with a summary of the legislation involved and the County protocol.

If no application is forthcoming after a three month period, a letter is sent to the offender allowing a further twenty eight days to submit the application.

If after the twenty eight day period, the offender has still not submitted an application, a final letter is sent. This explains that, if an application is not submitted within the next fourteen days, enforcement proceedings will be commenced under the Highways Act 1980 S137Z (as amended by the Countryside and Rights of Way Act 2000). The offender's local Member will also be informed of the situation at this stage, if he/she has not been involved already.

Recent changes in the law now mean that, in cases where the offender will not comply with a request to apply for the diversion of a path, a Court may order the offender under Highways act 1980 S137Z as amended by Countryside and Rights of way Act 2000 to remove the obstruction within a specified time period. If the obstruction is not removed during that time period, the offender may be fined (currently up to £20,000) and, if the obstruction still remains, the offender liable to a further fine equivalent to one twentieth of the original fine for each day the obstruction remains in place (currently up to £1000 per day).