

# CHESHIRE EAST COUNCIL

## Public Rights of Way Committee

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**Date of Meeting:** 24 September 2012  
**Report of:** Greenspaces Manager  
**Subject/Title:** Charging Policy for Public Path Orders, Temporary and Emergency Closures and Rights of Way Searches

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### **1.0 Purpose of Report**

- 1.1 To seek approval from Members of the Rights of Way Committee for the fees and charges levied by the Legal Orders Team for Public Path Orders, Temporary Closures and other work from 1<sup>st</sup> October 2012 onwards.

### **2.0 Recommendations**

- 2.1 That, subject to any departmental review of charging policy, or the implementation of statutory regulations relating to local authority charges, the charges outlined in Paragraph 8.1 to 8.13 below be approved.
- 2.2 That any increases in the charges outlined in Paragraph 8.1 to 8.13 below relating solely to inflation be implemented by Officers without the need for Committee approval.

### **3.0 Reasons for Recommendation**

- 3.1 To enable the Legal Orders Team and Public Paths Orders officer to continue levying charges for these areas of work at levels that enable the full cost of the administrative processes to be recovered.
- 3.2 The Portfolio Holder for Environment, Councillor Rod Menlove, is supportive of the proposals.

### **4.0 Wards Affected**

- 4.1 All Wards.

### **5.0 Local Ward Members**

- 5.1 All Ward Members.

### **6.0 Financial Implications**

- 6.1 Future charges levied by the Legal Orders Team for processing Public Path Orders and Temporary Closures shall be conducted according to the figures outlined in the report.

## **6.0 Legal Implications**

6.1 None arising.

## **7.0 Risk Assessment**

5.1 None arising.

## **8.0 Background and Options**

8.1 Charges are made to landowners and occupiers making applications for Public Path Orders to divert and extinguish paths and also for implementing temporary & emergency closures of public rights of way. These charges are made in accordance with "The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993" as amended by "The Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996" and DEFRA Rights of Way Circular 1/2009. Charges are also made for written responses for public rights of way searches.

8.2 A review of the charges and staff costs last took place in July 2008 to reflect full cost recovery. At the Public Rights of Way Committee meeting held on 1<sup>st</sup> June 2009 those charges were approved for Cheshire East Council. There is no profit element to these charges and none may be levied. Because the fees from applicants pay the salary of the officer dealing with these processes it is vital that costs are monitored to ensure that they reflect the true cost of the administrative process. A further review has been undertaken and the new proposed costs are set out below with the current costs in italics. The hourly rate has been calculated at the penultimate spinal column point for grade 8 plus an additional 20% to cover overheads.

8.3 **Public Path Diversion Orders:** For new applications the charge from 1<sup>st</sup> October for a public path diversion application resulting in a confirmed order will be £1575.00 (*it is currently £1134.68*) plus the actual advertising costs. Two advertisements are required for i) making and ii) confirming the order.

8.4 In circumstances where the Council has contributed to a situation which gives rise to the necessity for an Order, the administrative costs of the diversion/extinguishment may be waived by the Council, with the advertising costs being met by the applicant.

8.5 Where the Council initiates a diversion/extinguishment in the interests of the public and/or in the interests of public safety, the Council bears the full costs involved.

8.6 Section 5.37 of DEFRA guidance 01/09 sets out that it is not reasonable for a Local Authority to charge an applicant for pursuing an opposed Order and all costs relating to referral to the Secretary of State are excluded from the power to charge.

8.7 **Emergency and Temporary Closures:** Emergency and Temporary Closure Order charges have previously been based on those levied by the Highways Engineering Services. For emergency and 21 day closures the process is

straight forward involving the production of a notice and site visits to erect notices on site. The present charge to an applicant for an emergency 5 day or 21 day closure (not requiring press advertisement) is £165.03 and a further £82.51 to extend the closure for a further 21 days. It is not intended to increase these fees other than the 21 day extension fee which should be the same as the original fee (£165.03) as the work required is similar to the initial order.

- 8.8 A temporary closure for 6 months is currently charged at £415.13 plus advertising costs. However a 6 month temporary closure is a much more complex process, similar to some extent to a conventional PPO, involving the production of orders, order plans and advertising. These will be charged at £630.00 which is 40% of a full PPO and reflects the amount of work involved, plus the cost of two advertisements.
- 8.9 A 6 month extension to a 5 or 21 day closure is charged at £250.00 plus the cost of one advertisement. This will be increased to 50%, or £315.00 of the cost of a 6 month temporary closure to accurately reflect the work involved.
- 8.10 To extend a 6 month closure by 6+ months requires an application to the Secretary of State. This is currently charged at £311.60 plus the cost of one advertisement. This charge will remain the same.
- 8.11 Where the Council initiates a temporary/emergency closure in the interests of the public and/ or in the interests of public safety, the Council bears the full administration and advertising costs involved.
- 8.12 **Gating Orders:** Applications for Gating Orders ("Alleygating") may be made to the Public Rights of Way office in respect of paths which are recorded in the Definitive Map & Statement. Charges are made at the same rate as public path diversion orders; £1575.00.
- 8.13 **Property Searches:** Since 2008, a flat rate charge consistent with that levied by the Highways Engineering Service has been made for Rights of Way search requests which require a written response from solicitors, developers and other commercial interests. The charge for searches will be £68.00 (*it is currently £61.50*). They are not subject to VAT.

## 9.0 Access to Information

For further information:

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**Background Documents:** None