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NOTICE OF MEETING

Meeting	Executive Member for Recreation, Heritage, Countryside and Rural Affairs Decision Day
Date and Time	Tuesday, 12th January, 2021 at 2.00 pm
Place	Remote meeting
Enquiries to	members.services@hants.gov.uk

John Coughlan CBE
Chief Executive
The Castle, Winchester SO23 8UJ

FILMING AND BROADCAST NOTIFICATION

This meeting is being held remotely and will be recorded and broadcast live via the County Council's website.

AGENDA

DEPUTATIONS

To receive any deputations notified under Standing Order 12.

KEY DECISIONS (NON-EXEMPT/NON-CONFIDENTIAL)

None.

NON KEY DECISIONS (NON-EXEMPT/NON-CONFIDENTIAL)

1. 2021/22 REVENUE BUDGET REPORT FOR CULTURE, COMMUNITIES AND BUSINESS SERVICES (Pages 3 - 18)

To consider a report from the Director of Culture, Communities and Business Services and Deputy Chief Executive and Director of Corporate Resources setting out proposals for the 2021/22 budget for Recreation, Heritage, Countryside and Rural Affairs services.

2. GRANT FUNDING TO CULTURE AND COMMUNITY ORGANISATIONS (Pages 19 - 26)

To consider a report of the Director of Culture, Communities and Business Services regarding grant funding to culture and community organisations in Hampshire.

3. HCC PUBLIC RIGHTS OF WAY ENFORCEMENT POLICY (Pages 27 - 60)

To consider a report of the Director of Culture, Communities and Business Services seeking approval of the Public Rights of Way Enforcement Policy.

KEY DECISIONS (EXEMPT/CONFIDENTIAL)

None.

NON KEY DECISIONS (EXEMPT/CONFIDENTIAL)

None.

ABOUT THIS AGENDA:

On request, this agenda can be provided in alternative versions (such as large print, Braille or audio) and in alternative languages.

ABOUT THIS MEETING:

The press and public are welcome to observe the public sessions of the meeting via the webcast.

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Recreation, Heritage, Countryside and Rural Affairs
Date:	12 January 2021
Title:	2021/22 Revenue Budget Report for Culture, Communities and Business Services
Report From:	Director of Culture, Communities and Business Services and Deputy Chief Executive and Director of Corporate Resources

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Section A: Purpose of this Report

1. The purpose of this report is to set out proposals for the 2021/22 budget for Recreation, Heritage, Countryside and Rural Affairs services in accordance with the Councils Medium Term Financial Strategy (MTFS) approved by the County Council in November 2019 and updated subsequently in July 2020 to reflect the financial impact of the Covid-19 crisis and the County Council's response.

Section B: Recommendations

To approve for submission to the Leader and the Cabinet:

2. The revised revenue budget for 2020/21 as set out in Appendix 2.
3. The summary revenue budget for 2021/22 as set out in Appendix 2.

Section C: Executive Summary

4. The Medium Term Financial Strategy (MTFS) update presented to Cabinet and County Council in July 2020 sought to assess the medium term impact of Covid-19 on the financial sustainability of the County Council. It explained that we were treating the medium term impact of Covid-19 as a one off financial impact that we aimed to address through a financial response package of Council resources and further government support and concluded that further

government funding of £52.4m was required to ensure that the Council was financially sustainable in the medium term.

5. An update was presented to Cabinet in November and County Council in December which reaffirmed that a minimum level of government support of at least £50m was still required to help balance the deficit after the application of the financial response package.
6. The aim of the approach to Covid-19 was to place the County Council in the same financial position it would have otherwise been in if Covid-19 had not happened in order to ensure that the tried and tested financial strategy which the County Council operates could be protected and retained.
7. This strategy works on the basis of a two year cycle of delivering departmental savings targets to close the anticipated budget gap. This provides the time and capacity to properly deliver major savings programmes every two years, with deficits in the intervening years being met from the Budget Bridging Reserve (BBR) and with any early delivery of resources retained by departments to use for cost of change purposes or to cash flow delivery and offset service pressures. The model has served the authority well.
8. In line with this strategy, the Transformation to 2021 (Tt2021) Programme has been in place for some time to develop the £80m of savings required to balance the budget for 2021/22. Detailed savings proposals for each department were approved by the County Council in November 2019, in order to allow more time for delivery of the savings; including the requirement to undertake a second stage of service specific consultations where necessary.
9. Since the transformation programme is already in place to deliver approved departmental savings, there are no new savings proposals to be considered as part of the 2021/22 budget setting process. The anticipated delay to delivery of some aspects of the transformation programmes has been factored into our financial planning and sufficient one-off funding exists both corporately and within departments to meet any potential gap over the period.
10. The report also provides an update on the business as usual financial position for the current year. The outturn forecast for the Culture, Communities and Business Services (CCBS) Department (of which the Recreation, Heritage, Countryside and Rural Affairs Services are a part) for 2020/21, excluding the financial impact of Covid-19, is a saving against the budget for business as usual activity of £5.2m. It should be noted that business as usual activities have been affected by resources being diverted to deal with the Covid-19 response and recovery and that the Department has also been mindful of the need to avoid non-essential spending in the light of the County Council's overall financial position resulting from the pandemic response.
11. The proposed budget for 2021/22 analysed by service for CCBS as a whole is shown in Appendix 1, and for Recreation, Heritage, Countryside and Rural Affairs services is shown in Appendix 2.

12. This report seeks approval for submission to the Leader and Cabinet of the revised budget for 2020/21 and detailed service budgets for 2021/22 for Recreation, Heritage, Countryside and Rural Affairs services. The report has been prepared in consultation with the Executive Member and will be reviewed by the Culture and Communities Select Committee. It will be reported to the Leader and Cabinet on 9 February 2021 to make final recommendations to County Council on 25 February 2021.

Section D: Contextual Information

13. The Medium Term Financial Strategy (MTFS) update presented to Cabinet and County Council in July explained that we were treating the medium term impact of Covid-19 as a one off problem that we aimed to address through a financial response package of Council resources and further government support.
14. The report concluded that further government funding of £52.4m was required to ensure that the Council was financially sustainable in the medium term and an update, presented to Cabinet in November and County Council in December, reaffirmed that a minimum level of government support of at least £50m was still required to help balance the deficit after the application of the financial response package.
15. The aim of the approach to Covid-19 was to place the County Council in the same financial position it would have otherwise been in if Covid-19 had not happened in order to ensure that it still had sufficient fire power in its reserves to address the business as usual deficits of at least £40m per annum predicted after the current Transformation to 2021 (Tt2021) Programme has been implemented and in line with the strategy being adopted to manage the financial impact of Covid-19 as a separate one off issue.
16. The current financial strategy which the County Council operates, works on the basis of a two year cycle of delivering change to release resources and close the anticipated budget gap. This provides the time and capacity to properly deliver major transformation programmes every two years, with deficits in the intervening years being met from the Budget Bridging Reserve (BBR) and with any early delivery of resources retained by departments to use for cost of change purposes or to cash flow delivery and offset service pressures. The model has served the authority well.
17. The County Council's action in tackling its forecast budget deficit and providing funding in anticipation of further reductions, placed it in a very strong position to produce a 'steady state' budget for 2020/21, giving itself the time and capacity to develop and implement the Tt2021 Programme to deliver the next phase of savings totalling £80m. This also avoids the worst effects of sudden and unplanned decisions on service delivery and the most vulnerable members of the community.
18. Consequently, the majority of the decisions in respect of major changes to the budget were taken early however, other factors will still affect the budget, such as council tax decisions and inflation.

19. Members will be aware that following previous delays in the Comprehensive Spending Review (CSR) it was hoped that a three year CSR would be announced in November this year. Following increasing rates of Covid-19 throughout October and the uncertainty over the long term economic impacts of Covid-19 the Chancellor announced that only a single year Spending Review would be put in place.
20. The Spending Review announcement took place on 25 November 2020 and the key elements were as follows:
- For salaries set by the Government (such as teachers and police) there will be a public sector pay freeze in 2021/22. The exceptions are for those earning less than £24,000 (who will receive a minimum £250 increase) and the NHS. The Government does not set pay for most council staff, although it is likely to set grant levels at amounts which assume a pay freeze.
 - Councils with social care responsibilities will be allowed to increase council tax by up to 5% in 2021/22 without holding a referendum. This consists of 2% for main council tax and 3% for the adult social care precept.
 - The business rates multiplier will be frozen in 2021/22 (with local authorities fully compensated for the lost income). Further Covid-19 business rates reliefs may be announced in the new year.
 - The Government expects to provide local authorities with over £3bn more to help with Covid-19 pressures in 2021/22. It comprises:
 - £1.55bn to help with expenditure pressures.
 - £670m additional funding for council tax support schemes (which reduce council tax bills for households on low incomes).
 - £762m (estimate) to compensate local authorities for 75% of council tax and business rates losses resulting from 2020/21.
 - Extending the Covid-19 sales, fees and charges reimbursement scheme for three months until the end of June 2021.
 - An additional £300m for adults' and children's social care (£1.2m for Hampshire) and continuation of the existing £1bn annual grant put into social care previously will be maintained, along with £2.1bn provided through the improved Better Care Fund (pooled with the NHS). Proposals for reforming adults' social care will be brought forward next year.
 - The New Homes Bonus scheme will continue for a further year, with no new legacy payments. Reforms to the New Homes Bonus will be consulted on shortly, with a view to implementing changes in 2022/23.
 - The Chancellor also announced how the Government would deliver the next stages of its infrastructure investment plans to drive the UK's recovery with £100bn of capital spending next year and a £4bn Levelling Up Fund

21. The provisional Local Government Finance Settlement has not been announced at the time of writing this report but is anticipated during week commencing 14 December 2020. This will provide more clarity as to the impact of the Spending Review on Hampshire County Council and details will be provided in a separate briefing to members and within the Culture and Communities Select Committee Briefing presentation in January 2021.
22. The final grant settlement for 2021/22 is not due out until January / February 2021 and should there be any changes to the figures that are released in December 2020 these will be reflected in the final budget setting report to County Council.
23. The Culture, Communities and Business Services Department, which includes Recreation, Heritage, Countryside and Rural Affairs services, has been developing its service plans and budgets for 2021/22 and future years in keeping with the County Council's priorities and the key issues, challenges and priorities for the Department are set out below.

Section E: Departmental Challenges and Priorities

24. Recreation, Heritage, Countryside and Rural Affairs services are delivered by the Culture Communities and Business Services (CCBS) Department. The CCBS Department delivers a wide range of services with gross expenditure in the region of £111m a year and income streams of around £69m, leaving a cash limit of £42m. In addition, the Department is responsible for the Coroners Service, three business units, and the River Hamble Harbour Authority budgets, all of which sit outside the cash limit. The diversity of the Department is illustrated below:
 - Business units with a combined turnover of £57.8m.
 - Managing the repairs and maintenance of the corporate estate (£8.1m).
 - Service level agreements with c460 schools (£13.7m).
 - HM Coroner Service in Hampshire (£2.4m).
 - The relationship with various major Trusts including the Hampshire Cultural Trust.
25. The whole range of CCBS services already rely on income and recharges to fund 61% of the cost of service delivery. Maintaining and developing new external sources of funding remains a high but challenging priority for the department.
26. The financial impacts of Covid-19 on the County Council have been comprehensively covered in the regular update reports to Cabinet so will not be repeated here but are significant for CCBS with a particular pressure on the income generating services such as HC3S, the Council's catering service, which saw significant reductions in turnover while schools were closed in the initial period of lockdown; Hampshire Outdoor Centres where postponements or full refunds were offered for bookings cancelled due to lockdown and on-

going restrictions; and the Countryside Service where events and indoor catering have been significantly impacted. The net pressure on all CCBS activities this year including business units is expected to be £16.3m and will be met corporately in line with the strategy set out in the Cabinet report.

27. Services have taken significant steps to ensure as far as possible that service provision to the public and the County Council has continued in a safe way in accordance with latest Government guidance. For example:
- The Library Service has expanded its range of eBooks and introduced 'click and collect' borrowing (Ready Reads).
 - The Registration Service established a phone-only Death Registration service following the initial lockdown and more recently worked for fourteen hours on the Sunday immediately after the lockdown announcement to reschedule planned wedding ceremonies to take place where possible in the remaining three working days before the lockdown commenced.
 - Construction and maintenance activity within Property Services has now broadly returned to a business as usual position.
 - The Facilities Management team has supported HCC and Partner Estates to re-energise building systems in buildings 'hibernated' during lockdown.

Section F: 2020/21 Revenue Budget

28. Enhanced financial resilience reporting, which looks not only at the regular financial reporting but also at potential pressures in the system and the achievement of savings being delivered through transformation, has continued through periodic reports to the Corporate Management Team (CMT) and to Cabinet.
29. Given the diverse nature of the services provided by CCBS reporting of the overall CCBS budget has always been split across more than one Executive Member portfolio. A review of where individual CCBS budgets are reported has been undertaken this year with the aim of reducing the number of detailed budget areas reported to the Executive Member for Policy and Resources. As a result, the original budget set in February 2020 has been re-stated to show the original and adjusted allocations across the Executive Member for Commercial Strategy, Human Resources and Performance and the Executive Member for Recreation, Heritage, Countryside and Rural Affairs. This is set out in Appendix 1 with Appendix 2 showing the service budgets now reported to the Executive Member for Recreation, Heritage, Countryside and Rural Affairs.
30. The anticipated business as usual outturn forecast for CCBS for 2020/21 is a saving against the budget (excluding the net impact of Covid-19 referred to in Section E) of £5.2m. It should also be noted that business as usual activities have been affected by resources being diverted to deal with the Covid-19 response and recovery and that the Department has been mindful of the need to avoid non-essential spending in the light of the County Council's overall

financial position resulting from the pandemic response. The £5.2m is made up as follows:

- £1.856m (36%) from planned early T21 and other savings (including what is now looking like sustainable over-achievement of earlier T19 saving plans).
- Vacancy management and other support cost savings across a range of services totalling £1.248m (24%).
- Savings on direct service provision of £1.043m (20%) for example, delayed book purchases in the Library Service and grant savings after allowing for payments to support the transition to independent community libraries.
- Planned savings against the Strategic Land budget of £1.233m (24%), which will be used to offset spend in future years.
- Pressures totalling £211,000 (-4%) including a shortfall in printing recharges to other Departments as a result of reduced usage, which will be funded from the specific Printsmart reserve.

31. The budget for Recreation, Heritage, Countryside and Rural Affairs services has been updated throughout the year and the revised budget is shown in Appendices 1 and 2. The revised budget for CCBS as a whole, of which Recreation, Heritage, Countryside and Rural Affairs services are a part, shows an increase of £10.7m made up of:

- £3.311m temporary funding from the CoC reserve to support the delivery of transformation savings programmes and other priority projects e.g. the Library Service restructure, the refurbishment of the Empire Rooms at the Royal Victoria Country Park, investment in improved IT systems, and temporary staff posts to manage the transformation programme.
- £3.757m drawn down from the funding agreed by Cabinet to support the Strategic Land Programme in 2020/21 together with additional one-off funding from the Manydown project of £1.23m.
- £700,000 drawdown from the funding agreed by Cabinet for strategic school planning fees.
- A net increase of £141,000 from transfers between departments including funding for the transfer of the relevant HantsDirect services.
- A net increase of £257,000 for minor changes and technical adjustments (for example to reflect the financial impact of re-procuring a facilities management contract).
- An increase of £1.352m for pay inflation.

Section G: 2021/22 Revenue Budget Pressures and Initiatives

32. A key priority for the Department is to understand the medium to long term changes resulting from the pandemic and their impact on service delivery and

operating models including identifying a sustainable financial basis for future operation.

33. This work will need to inform the 2023 Savings Programme requirement for CCBS to deliver a further £3.239m of savings by April 2023 as agreed by the County Council on 3 December. To achieve further ongoing savings after over a decade of austerity will be challenging and the need for the savings to be fully delivered in cash flow terms by April 2023 underlines the scale of the challenge. Preliminary work is underway to identify options.

Section H: Revenue Savings Proposals

34. Savings targets for 2021/22 were approved as part of the MTFS by the County Council in September 2018. Proposals to meet these targets have been developed through the Tt2021 Programme and were approved by Executive Members, Cabinet and County Council in October and November 2019.
35. The CCBS savings target for Tt2021 is £3.382m. Despite the challenges of Covid-19 response and recovery the Department remains on track to deliver these savings in full by 2021/22. Of this total, £1.193m is expected to be achieved early.
36. Progress has also been made against the one outstanding Transformation to 2019 (Tt2019) saving for CCBS relating to Office Accommodation where spend is impacted by decisions of all departments of the County Council. A modest balance of £160,000 remains to be achieved and options are being considered by the Corporate Office Accommodation Board to deliver the remaining sum.
37. Rigorous monitoring of the delivery of the programme will continue during 2021/22, to ensure that the Department is able to stay within its cash limited budget as set out in this report.
38. This early action in developing and implementing the savings programme for 2021/22 means that the County Council is in a strong position for setting a balanced budget in 2021/22 and that no new savings proposals will be considered as part of the budget setting process for the next financial year.

Section I: 2021/22 Revenue Budget Other Expenditure

39. The budget includes some items which are not counted against the cash limit. For CCBS these are the Coroners Service and the four business units, including the River Hamble, as shown in Appendix 1. Detailed business plans for the three business units excluding the River Hamble will be reported to the Executive Member for Commercial Strategy, HR and Performance on 23 March 2021 for approval. The 2021/22 Revenue Budget for the River Hamble Harbour Authority will be reported to the River Hamble Harbour Board on 8 January 2021 for approval.

Section J: Budget Summary 2021/22

40. The budget update report presented to Cabinet on 24 November 2020 included provisional cash limit guidelines for each department. The cash limit for the CCBS Department in that report was £43.1m, a £0.4m decrease on the previous year resulting from:
- £3.382m permanent reduction reflecting full removal of the Tt2021 savings from the base budget.
 - £2.567m increase covering the full year effect of pay and non-pay inflation.
 - A net increase of £435,000 from transfers and technical adjustments including the full year effect of the transfer of some HantsDirect services to CCBS.
41. At that stage, the cash limit guidelines did not include the following item which has now been adjusted for, reducing the cash limit to £42.1m (and will be included in the February budget report):
- A technical adjustment to transfer £1.003m from the 2021/22 revenue repairs and maintenance budget to the CCBS capital programme. As part of the on-going response a package of essential capital works to improve the useful life of some of the properties has been prioritised as reported to Cabinet in November 2020 and funding from the 2021/22 repairs and maintenance revenue budget has been transferred to the CCBS capital programme as a result.
42. Appendix 2 sets out a summary of the proposed budgets for the service activities provided by Recreation, Heritage, Countryside and Rural Affairs services for 2021/22 and shows that these are within the cash limit set out above.
43. In addition to these cash limited items there are further budgets which fall under the responsibility of the CCBS Department, which are shown in the table below:

	2021/22	
	£'000	£'000
Cash Limited Expenditure	111,132	
Less Income (Other than Government Grants)	(69,019)	
Net Cash Limited Expenditure		42,113
Trading Units Net (Surplus) / Deficit		(890)
Coroners		2,391
Total Net Expenditure		43,614

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	Yes / No
People in Hampshire live safe, healthy and independent lives:	Yes / No
People in Hampshire enjoy a rich and diverse environment:	Yes / No
People in Hampshire enjoy being part of strong, inclusive communities:	Yes / No

Other Significant Links

Links to previous Member decisions:	
<u>Title</u>	<u>Date</u>
Transformation to 2021 – Revenue Savings Proposals (Executive Member for Recreation and Heritage) https://democracy.hants.gov.uk/documents/s38258/2019-09-9%20EMRH%20Final%20T21%20Savings%20Proposals.pdf Medium	19 September 2019
Medium Term Financial Strategy Update and Transformation to 2021 Savings Proposals http://democracy.hants.gov.uk/ieIssueDetails.aspx?Ild=22267&PlanId=0&Opt=3#A122852	Cabinet – 15 October 2019 / County Council – 7 November 2019
Medium Term Financial Strategy Update https://democracy.hants.gov.uk/ieListDocuments.aspx?CId=134&MId=6499&Ver=4	Cabinet – 14 July 2020 / County Council – 16 July 2020
Budget Setting and Provisional Cash Limits 2021/22 https://democracy.hants.gov.uk/documents/s60700/Nov%202020%20Financial%20Update%20Budget%20Setting%20-%20Cabinet%20FINAL.pdf	Cabinet – 24 November 2020 / County Council – 3 December 2020

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

The budget setting process for 2021/22 does not contain any proposals for major service changes which may have an equalities impact. Proposals for budget and service changes which are part of the Transformation to 2021 Programme were considered in detail as part of the approval process carried out in October and November 2019 and full details of the Equalities Impact Assessments relating to those changes can be found in Appendices 5 to 8 in the October Cabinet report linked below:

<http://democracy.hants.gov.uk/mgAi.aspx?ID=21194#mgDocuments>

For proposals where a Stage 2 consultation was required the EIAs were preliminary and were to be updated and developed following this further consultation when the impact of the proposals could be better understood.

Executive Member for Recreation and Heritage Decision Day 28 July 2020:
Library Service Transformation – Strategy to 2025, Appendix 6
<https://democracy.hants.gov.uk/mgAi.aspx?ID=27968#mgDocuments>
<https://democracy.hants.gov.uk/documents/s54663/Library%20Service%20Transformation%20-%20Appendix%206.pdf>

Budget Summary 2021/22 – Culture, Communities and Business Services

Service Activity	Original Budget 2020/21 £'000	Revised Budget 2020/21 £'000	Proposed Budget 2021/22 £'000
<u>CCBS Cash Limited Services</u>			
Transformation	577	1,031	997
Rural Broadband	307	314	130
CCBS IT Budget	80	80	81
Business Development Team	610	762	671
Regulatory Services	924	948	815
Community Grants	938	1,002	862
Energise Me Grant (Sport)	133	133	116
Library Services	11,553	11,580	10,356
Business Support	454	577	634
Scientific Services	123	152	177
Asbestos	25	43	111
Countryside Service	2,718	3,050	2,815
Outdoors Centres	377	440	474
Arts and Museums (including HCT grant)	2,434	2,434	2,326
Archives	689	761	659
Risk, Health and Safety	27	0	0
Rural Affairs	275	259	268
Corporate Estate	(205)	(205)	(205)
County Farms	(495)	(495)	(493)
Development Account	(346)	(346)	(345)
Sites for Gypsies and Travellers	29	37	39
Property Services	3,579	4,724	3,816
Facilities Management and the Great Hall	3,371	3,562	3,757
Hampshire Printing Services	(50)	(35)	(14)
Total	28,127	30,808	28,047
Net Contribution to / (from) Cost of Change	1,498	4,495	638

Service Activity	Original Budget 2020/21 £'000	Revised Budget 2020/21 £'000	Proposed Budget 2021/22 £'000
CCBS Net Cash Limited Budget ⁽¹⁾	29,625	35,303	28,685
<u>CCBS Managed Services</u>			
Sports Bursaries	18	18	18
Manydown and other miscellaneous	(36)	(36)	(23)
Feasibility	1,035	1,035	1,035
Strategic Land	1	4,988	0
Strategic Land disposal of sites	228	228	231
Office Accommodation ⁽¹⁾	3,990	3,896	4,040
Repairs & Maintenance	8,635	8,812	8,127
CCBS Managed Services Budget	13,871	18,941	13,428
CCBS Cash Limited and Managed Services Budget	43,496	54,244	42,113
Coroners	1,998	2,294	2,391
River Hamble	8	(44)	(53)
County Supplies	(460)	(476)	(407)
HC3S	374	374	(410)
Hampshire Transport Management	(29)	(13)	(20)
Trading Units	(107)	(159)	(890)

⁽¹⁾ Office Accommodation had previously been included within the CCBS cash limited services, but the original budget above is restated to show this within the CCBS managed services.

Budget Summary 2021/22 – Recreation, Heritage, Countryside and Rural Affairs Services

Service Activity	Original Budget 2020/21 £'000	Revised Budget 2020/21 £'000	Proposed Budget 2021/22 £'000
<u>Recreation, Heritage, Countryside and Rural Affairs Cash Limited Services</u>			
Regulatory Services	924	948	815
Community Grants	938	1,002	862
Energise Me Grant (Sport)	133	133	116
Library Services	11,553	11,580	10,356
Business Support	454	577	634
Scientific Services	123	152	177
Asbestos	25	43	111
Countryside Service	2,718	3,050	2,815
Outdoors Centres	377	440	474
Arts and Museums (including HCT grant)	2,434	2,434	2,326
Archives	689	761	659
Risk, Health and Safety	27	0	0
Rural Affairs	275	259	268
Total	20,670	21,379	19,613
Net Contribution to / (from) Cost of Change	881	4,136	663
Net Cash Limited Expenditure	21,551	25,515	20,276
<u>Recreation, Heritage, Countryside and Rural Affairs and Managed Services</u>			
Sports Bursaries	18	18	18
Managed Services Net Expenditure	18	18	18
Recreation, Heritage, Countryside and Rural Affairs Services Net Expenditure	21,569	25,533	20,294

Service Activity	Original Budget 2020/21 £'000	Revised Budget 2020/21 £'000	Propose d Budget 2021/22 £'000
CCBS Commercial Strategy, Human Resources and Performance Services	21,285	28,711	21,819
CCBS Policy & Resources Services	642	0	0
CCBS Net Cash Limited and Managed Services Expenditure	43,496	54,244	42,113
Coroners	1,998	2,294	2,391
River Hamble	8	(44)	(53)
Recreation, Heritage, Countryside and Rural Affairs Trading Units	8	(44)	(53)
County Supplies	(460)	(476)	(407)
HC3S	374	374	(410)
Hampshire Transport Management	(29)	(13)	(20)
Other CCBS Trading Units	(115)	(115)	(837)
Total CCBS Trading Units	(107)	(159)	(890)

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Recreation, Heritage, Countryside and Rural Affairs
Date:	12 January 2021
Title:	Grant Funding to Culture and Community Organisations in Hampshire
Report From:	Director of Culture, Communities and Business Services

Contact name: Emma Noyce
Rosellen Lambert

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Purpose of this Report

1. The purpose of this report is to recommend approval of grant funding to culture and community organisations totalling £40,000 in 2020/21 and £179,000 in 2021/22.

Recommendations

2. That the Executive Member for Recreation, Heritage, Countryside and Rural Affairs approves grant funding to culture and community organisations totalling £40,000 in 2020/21 as set out in Appendix 1, and
3. That the Executive Member for Recreation, Heritage, Countryside and Rural Affairs approves grant funding to culture and community organisations totalling £179,000 in 2021/22 as set out in Appendix 2, subject to approval of the Council budget for 2021/22.

Executive Summary

4. The report considers applications from four community organisations to support transitions to Independent Community Libraries and recommends awards totalling £40,000 in 2020/21.

5. The report also considers applications from four cultural and community organisations and recommends awards totalling £179,000 in 2021/22, subject to approval of the Council Budget.

Contextual information

6. On 28 July 2020, as part of decisions on the Library Service Transformation – Strategy to 2025, the Executive Member for Recreation and Heritage agreed that, as part of an offer for community organisations to take on closing branches and deliver services through them as Independent Community Libraries, one-off pump-priming awards of up to £10,000 could be made. These awards are intended to support start up and transition costs. Applications have been received from five organisations to date for such funding, totalling £50,000.
7. The Executive Member has declared a potential conflict of interest in one of these five applications, from Lyndhurst Community Association. In accordance with Part 3, Chapter 2, Para 2.3 of the Constitution, the Leader has deputed the decision to another Executive Member and it is therefore not included in this report.
8. Further details of the remaining four Independent Community Library applications, each of which are recommended for approval, are set out in the table titled Grant Funding to Culture and Community Organisations 2020/21 in Appendix 1. Further applications are anticipated and will be brought to future decision days.
9. As part of a restructure of grant schemes, on 14 January 2019, the Executive Member for Recreation and Heritage took a decision to transition from ongoing revenue funding to cultural organisations through the Culture and Recreation Investment Fund to one-off awards through the newly created Recreation and Heritage Community Fund. As part of this decision, it was agreed there would be a phased reduction in awards for five organisations, and this was extended to a sixth organisation in a decision taken on 25 February 2019. On 16 January 2020, final awards in 2020/21 for five of these organisations were agreed by the Executive Member, with a recommended award in 2021/22 for The Spring Arts and Heritage Centre, and subject to application, assessment, and approval of the County Council budget for 2021/22. An application for £75,000 has been received and is recommended for approval. Further details are set out in the table titled Grant Funding to Culture and Community Organisations 2021/22 in Appendix 2.
10. Four community organisations delivering neighbourhood services in some of the most deprived wards in Hampshire, previously funded through the Community Investment Fund, have continued to be supported through the Recreation and Heritage Community Fund. Applications from two of these

organisations for funding totalling £17,000 in 2021/22 have been received and both are recommended for approval. Further details are set out in the table titled Grant Funding to Culture and Community Organisations 2021/22 in Appendix 2.

11. At his Decision Day on 16 July 2015, the Executive Member for Culture, Recreation and Countryside agreed that the County Council's Sports Team, known as SHIOW, would form as a Community Interest Company, known as Energise Me, and move out of the Council in April 2016. A three-year funding package was agreed which was £196,000 for 2016/17, £150,000 for 2017/18 and £100,000 for 2018/19. On 7 December 2017, the Executive Member for Culture, Recreation and Countryside agreed a further £100,000 for 2019/20. The Executive Member for Recreation and Heritage agreed a further £100,000 for 2020/21 on 14 January 2019 and a further £87,000 for 2021/22 on 16 January 2020. Details of an application to support this award for 2021/22 are set out in the table titled Grant Funding to Culture and Community Organisations 2021/22 in Appendix 2.

Finance

12. The recommended awards can be met from within existing budget provision.

Consultation and Equalities

13. Equality Impact Assessments (EIAs) were carried out and published alongside the Changes to Culture and Communities Grants report which went to the Executive Member for Recreation and Heritage on 14 January 2019.

Other Key Issues

14. Legal Implications: The Council has wide powers under Section 19 Local Government (Miscellaneous Provisions) Act 1976 to provide recreational facilities and to contribute by way of a grant or loan towards the expenses incurred by voluntary bodies in providing such facilities and activities.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	no
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes
OR	
This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because:	

Other Significant Links

Links to previous Member decisions:	
<u>Title</u>	<u>Date</u>
New Governance Arrangements for the Sport Hampshire and Isle of Wight Team	16 July 2015
Grant Funding for Culture and Community Organisations in Hampshire 2018/19	07 December 2017
Changes to Culture and Communities Grants	14 January 2019
Grant Funding for Culture and Community Organisations in Hampshire 2019/20	25 February 2019
Grant Funding to Culture and Community Organisations in Hampshire	16 January 2020
Library Service Transformation – Strategy to 2025	28 July 2020

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

A high-level Equalities Impact Assessment has been undertaken. The grants are intended to have a positive impact and advance equality.

Grant Funding to Culture and Community Organisations, 2020/21

Organisation	Proposal	Amount Requested	Amount Recommended
Elson Community Library and Hub	The organisation intends to operate an Independent Community Library from the Elson Library building and seeks funding to support transition through the purchase of IT and reprographics equipment, a booking system, furnishings and equipment, signage and promotional resources. This is a new organisation which has completed registration as a Charitable Incorporated Organisation. It is recommended that Elson Community Library and Hub is awarded £10,000.	£10,000	£10,000
Horndean Community Association	This established community organisation intends to operate an Independent Community Library from its own facilities, following the closure of Horndean Library. This will allow the community library services to be embedded within other community services delivered by the Community Association and for each element to benefit from cross-referral and footfall. It seeks funding to support transition through removal costs for items to be handed over by Hampshire County Council Library Service, reconfiguration of existing spaces to provide suitable venues for both community library and existing community activities and IT equipment to support community library service delivery. It is recommended that Horndean Community Association is awarded £10,000.	£10,000	£10,000
Lee Hub - Independent Community Library	The organisation intends to operate an Independent Community Library from the Lee-on-the-Solent Library building and seeks funding to support transition set up costs such as signage, training, Library Management System software and IT equipment, furniture, community cafe equipment, accessibility equipment (hearing induction loop) some running costs while reserves are and some costs which would not be eligible such as establishment of a future book fund. As the overall project costs are significantly more than the funding available through this grant, ineligible elements can be discounted without impacting on the recommended award. This is a new organisation in the process of registration as a Charitable Incorporated Organisation. It is recommended that Lee Hub - Independent Community Library is awarded £10,000, on condition registration as a Charitable Incorporated Organisation, or similar eligible organisational structure, is completed.	£10,000	£10,000
Odiham Parish Council	The organisation intends to operate an Independent Community Library as a Book Exchange from the Odiham Library building and seeks funding to support transition set up costs including IT equipment and broadband and Wi-Fi connectivity to support running of community library services and community access to the internet, and promotional activity and marketing to establish the Book Exchange as a brand and service within the community. A portion of the grant would be used to fund the administrative support needed during the first year to coordinate and manage the community library, library premises and volunteer administration including processing volunteer DBS applications, volunteer induction training and volunteer rotas. It plans to support the formation of a separate independent constituted organisation who would take over this administrative role. It is recommended that Odiham Parish Council is awarded £10,000.	£10,000	£10,000
Total		£40,000	£40,000

Grant Funding to Culture and Community Organisations, 2021/22

Organisation (District / Division)	Proposal	Amount Awarded 2020/21	Amount Requested 2021/22	Amount Recommended 2021/22
Alamein Community Association (Test Valley / Andover West)	<p>This is a small community association serving a community in the top 15% most deprived areas in Hampshire and the top 40% in England. It develops and delivers a range of activities and projects to address local needs including drop-in advice groups, job club, food bank, IT skills and activities for vulnerable groups including children and young people and older people. The building, owned by Test Valley Borough Council, is small and its layout and location limit commercial use. A new lease is in the process of being negotiated. Through 2020, the organisation had to close between March and September and for November but has hosted a food bank and continued to deliver community services outside these times. Income generation through room hire has been impacted.</p> <p>The organisation expects to receive £3,000 from Test Valley Borough Council. Test Valley Borough Council also support the organisation through provision of the building.</p> <p>It is recommended that Alamein Community Association is awarded £5,000, on condition the lease is agreed. If the lease is not secured by the start of the grant period and the organisation continues to operate from the building under a 'holding over' agreement, it is recommended the award is paid in staged payments rather than in one payment up front.</p>	£5,000	£8,000	£5,000
Energise Me (Countywide)	<p>Formerly part of Hampshire County Council and known as Sport Hampshire and the Isle of Wight, Energise Me is one of Sport England's 43 Active Partnerships across England who work collaboratively with local partners to create the conditions for an active nation using the power of sport and physical activity to transform lives. The organisation manages two funding schemes on behalf of the Council: the Hampshire Talented Athlete Scheme supports athletes to reach their goals in Olympic, Paralympic and Commonwealth Games disciplines, and a bursary scheme for coaches, volunteers and officials in Hampshire, to develop a better qualified and better educated workforce to support the development of physical activity and sport across Hampshire in clubs, schools and community. In 2020 it supported 190 athletes through the Talented Athletes Scheme, including £39,750 in grants awarded to 117 athletes and 15 physiotherapy sessions. Grant funding also contributes towards some running costs and LGPS pension contributions.</p> <p>It is recommended that the organisation is awarded £87,000, in line with the decision taken on 16 January 2020.</p>	£100,000	£133,000	£87,000

Organisation (District / Division)	Proposal	Amount Awarded 2020/21	Amount Requested 2021/22	Amount Recommended 2021/22
The Spring Arts and Heritage Centre (Havant / Emsworth and St Faiths)	The Spring is Havant's only professional arts venue and museum and is an Arts Council National Portfolio Organisation. Previously funded through the Culture and Recreation Investment Fund, this is the final award in an agreed withdrawal of HCC funding, linked to capital investment grants agreed on 07 December 2017 to support new income generation opportunities and reduce reliance on local authority support. It is recommended that the organisation is awarded £75,000. This will be the last award from the Council to support revenue costs.	£86,000	£75,000	£75,000
Wecock Community Association (Havant / Cowplain and Hart Plain)	A large community association, this organisation delivers a wide range of activities and services to address the social and economic needs of the area which is ranked in the top 1% most deprived areas in Hampshire and the top 20% in England. There is a strong volunteering ethos in the centre with over 100 volunteers of all ages. It provides activities for children and young people, older people, skills development and work experience for volunteers, job club, healthy lifestyles programmes, adult and community learning, food bank, charity shop, community café, launderette and IT access. During 2020, it has remained open to deliver community services and support, hosted a food bank and worked in partnership to develop a supported accommodation offer for six vulnerable individuals. Income generation through room hire has been impacted. Havant Borough Council supports the Association through provision of the building and rates exemption, including a discretionary rate relief element. It is recommended that Wecock Community Association is awarded £12,000.	£12,000	£12,000	£12,000
Total		£203,000	£228,000	£179,000

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Recreation, Heritage, Countryside and Rural Affairs
Date:	12 January 2021
Title:	HCC Public Rights of Way Enforcement Policy
Report From:	Director of Culture, Communities and Business Services

Contact name: Jo Heath

Tel: 07545 735629

Email: jo.heath@hants.gov.uk

Purpose of this Report

1. To seek approval from the Executive Member for Recreation, Heritage, Countryside and Rural Affairs for the adoption of the Public Rights of Way Enforcement Policy.
2. The Policy will come into immediate effect following adoption and will be reviewed on an annual basis.

Recommendation

3. It is recommended that the Executive Member for Recreation, Heritage, Countryside and Rural Affairs approves the Public Rights of Way Enforcement Policy (Appendix 1).

Executive Summary

4. This report seeks approval of the Public Rights of Way Enforcement Policy for Hampshire County Council. This will ensure that officers fulfil their duty to safeguard the right of the public to use and enjoy the public rights of way network. It will allow officers to carry out that duty to enforce the provisions within current legislation in respect of public rights of way on behalf of Hampshire County Council.
5. Recent enforcement action has highlighted the need for a robust Enforcement Policy to provide a visible and transparent approach to protecting the public rights of way network. Some other authorities have adopted such a policy and these have provided the basis for the development of this proposal.

6. Consultation was carried out with the Hampshire Countryside Access Forum and other key stakeholders prior to submission of this report.

Contextual information

7. Hampshire County Council has statutory duties regarding the management and maintenance of over 4600 km of rights of way. Section 130 of the Highways Act 1980, sets out the duties 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.
8. The Countryside Access Management System (CAMS) holds a record of all the issues that have been reported on the county's public rights of way network, often by members of the public. A large number of reports that are reported on CAMS can be identified as offences under the various legislation pertaining to rights of way. These issues include obstructions such as fencing, cropping/ploughing, and fallen trees as well as reports of nuisance, such as illegal vehicle use or intimidation. Whilst 2020 is likely to be a slightly different profile of reporting due to the issues experienced by users and landowners on the network during the Covid 19 pandemic, the table below does indicate an increase in the number of reports that can be attributed to obstructions and nuisance.

	2020 (ytd)	2019	2018
Total number of Issues reported on CAMS	3111	4102	3562
Obstructions (No.)	1159	1049	861
Obstructions % of total	37%	26%	24%
Nuisance (No.)	129	93	76
Nuisance % of total	4%	2%	2%

9. Wherever possible, officers attempt to resolve the issue through standard letters and guidance documents rather than resort to legal action and /or prosecution.
10. The adoption of an Enforcement Policy will support officers in taking the appropriate course of action and to provide a policy that is publicly available for reference.
11. Hampshire County Council officers have used the legislative framework to assert and protect the rights of the public. This has resulted in 13 notices served to resolve obstructions and nuisances over the past 3 years with 2 cases requiring court action in the past two years.

12. The Enforcement Policy will ensure all decisions are transparent and aims to ensure that the County Council acts in a fair, reasonable and proportionate manner, to ensure that the County Council duty under Highways Act 1980 section 130 is achieved. The intention remains to ensure that advice, guidance and persuasion is the initial course of action taken by officers in all cases.

Finance

13. There are no direct financial implications resulting from the adoption of the Enforcement Policy, however there may be an avoidance of costs occurred through legal action.

Consultation and Equalities

14. In preparing the Enforcement Policy, officers have consulted with the County Council's Legal Team, who have supported the service in the development of the document. The draft policy was presented to the Hampshire Countryside Access Forum (a statutory advisory body established under the Countryside and Rights of Way Act 2000).
15. Key stakeholders including the New Forest Access Forum, the South Downs Local Access Forum, the Ramblers Association, and the British Horse Society have been given the opportunity to comment. Appendix 2 details the comments received, and the amendments made in the policy.

Other Key Issues

16. Officers have dealt with issues where landowners have challenged the lack of an enforcement policy and this has generated unreasonably large volumes of additional work to justify why certain courses of action are being taken.
17. In dealing with issues that have been reported via CAMs officers assign a priority based on the following:-
 - the level of danger to the public;
 - the level of use, or likely use, of the path and the type of path (e.g. strategically important, route to school, etc.);
 - inclusion as part of a recognised and promoted recreational route;
 - the volume of complaints received from different sources;
 - the degree of obstruction, encroachment, or inconvenience;
 - likely duration of problem;
 - the cause of problem – whether it is within Hampshire County Council powers to rectify.
18. The following risks and consequences of no Enforcement Policy have been identified:

- *Risk of notices being served to compel the Council to act:* the Highways Act notice under s.130a can compel the Highway Authority to act to open a highway. Notice has been served on the County Council before and it is likely this could occur again, as a number of user groups are intimately familiar with the legislation governing the management of rights of way and have the resources to pursue action;
- *Risk of reputational damage:* Failure to take action will lead to a fragmented and impassable network. This will have a negative impact on people's perception of Hampshire as a place and the County Council more widely;
- *Failure to secure benefit from the asset:* the network delivers benefit in terms of health, wellbeing, travel and the rural economy. Closure as a result of obstructed routes deprives the public of use and the local economy of the value associated with that use.

Future direction

19. The policy will be reviewed annually to ensure a consistent and current approach to enforcement is maintained.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard to:

- The need to remove or minimize disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

An EIA has been prepared to complement this report - The proposed policy should not raise any equality or diversity issues. The decision to take enforcement action will be implemented in a non-discriminatory manner. Members of the Countryside Access Group administering the policy are responsible for ensuring that in its application, those to whom the policy applies shall not receive less favourable treatment because of their age, colour, disability, ethnic or national origin, gender re-assignment, marital status, nationality, race, religion, sex or sexual orientation.

ENFORCEMENT POLICY PUBLIC RIGHTS OF WAY

Public Rights of Way and Access Group
Hampshire Countryside Service

2020

“Our duty is to protect and assert the rights of the public to use and enjoy the Public Rights of Way network.”

Equality and Diversity Statement

Hampshire County Council (the County Council) is committed to the principles of equality and diversity as well as the elimination of discriminatory practices. These principles are embodied in the equality duty of the Equality Act 2010. The equality duty has three aims. It requires public bodies to have due regard to the need to:

- **eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
- **foster good relations** between people who share a protected characteristic and people who do not share it.

These aims apply to the treatment of all individuals whether members of the public, PROW officers, other HCC staff or volunteers.

This document together with any supporting procedures should be implemented in a non-discriminatory manner. Members of the Countryside Access Group administering the policy are responsible for ensuring that in its application, those to whom the policy applies shall not receive less favourable treatment because of their age, colour, disability, ethnic or national origin, gender re-assignment, marital status, nationality, race, religion, sex or sexual orientation.

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Version Control

Version No.	Date	Editor	Change or Comment

Public Rights of Way - Definition

There are four categories of Public Rights of Way:

1. Public Footpaths – where the public has a right of way on foot only*
2. Public Bridleways – where the public has a right of way on foot, on horseback, leading a horse, and on a bicycle.
3. Restricted Byways – where the public has a right of way on foot, on horseback, leading a horse, by bicycle and by riders of non-mechanically propelled vehicles (such as horse drawn vehicles).
4. Byway Open to All Traffic (BOAT) – where the public has a right of way on foot, on horseback, leading a horse, on a bicycle, in a motorised vehicle or non-motorised vehicle and driving animals.

As public highways, Public Rights of Way enjoy the same protection provided by the Highways Act 1980 as “proper roads”. They also enjoy additional protection provided by other legislation namely the National Parks and Access to the Countryside Act 1949, Countryside Act 1968, Wildlife and Countryside Act 1981 and Countryside and Rights of Way Act 2000.

* ‘on foot’ includes the use of a pram, pushchair or wheelchair, or mobility vehicle where possible

HAMPSHIRE COUNTY COUNCIL

PUBLIC RIGHTS OF WAY ENFORCEMENT POLICY

There are over 4,500km (2,800 miles) of Public Rights of Way within Hampshire made up of Public Footpaths, Public Bridleways, Restricted Byways and Byways Open to All Traffic. There is a statutory duty imposed under Section 130 of the Highways Act 1980 for the County Council to:

“assert and protect the rights of the public to the use and enjoyment of”, “prevent, as far as possible, the stopping up or obstruction of”, and “prevent any unlawful encroachment on” all these public rights of way.

The Public Rights of Way Officers (Countryside Service, Countryside Access Group) carry out the duty to enforce the provisions within current legislation in respect of public rights of way on behalf of the County Council.

The overarching duty is to safeguard the right of the public to the use and enjoyment of the public rights of way network:

- For recreational purposes, benefiting the health and well-being of the public and of value to the tourist industry in Hampshire; being an important element in the support of many small local businesses.
- For utilitarian purposes, important in allowing people to go about their everyday business.

When issues occur that require legal action, the County Council will use advice, persuasion, direct action and/or prosecution proceedings to resolve them. This policy aims to ensure that the County Council acts in a fair, reasonable and proportionate manner, to ensure that duty under s.130 is achieved. Our intention is to ensure that advice and persuasion are the methods used in the vast majority of cases.

To reduce the need to resort to enforcement action, the County Council is committed to raising awareness and understanding of responsibilities, liabilities and duties and, where appropriate, will offer advice and guidance to help landowners and occupiers to comply with the law.

This document explains relevant concepts and background and concludes with a formal statement of the County Council’s Policy.

Enforcement action is the general term used in this document to cover the range of options open to the County Council including negotiation, advice, direct action to remove obstructions and other legal action up to and including prosecution.

Approved by Executive Member on 2021

HAMPSHIRE COUNTY COUNCIL
PUBLIC RIGHTS OF WAY ENFORCEMENT
POLICY STATEMENT

POLICY EP1

Wherever obstructions or other breaches of relevant legislation are identified or notified, Hampshire County Council will utilise its various powers and where necessary its enforcement powers, to remedy the problem.

POLICY EP2

In dealing with enforcement cases, priority will normally be given to cases where it is considered by the County Council that one or more of the following criteria are met:

- 1) The obstruction provides an unacceptable health and safety risk;
- 2) The resolution of the obstruction will result in a significantly enhanced Public Rights of Way network.
- 3) The obstruction adversely affects a promoted route or strategically important path;
- 4) A significant number of valid complaints have been received about the obstruction from a variety of independent sources.

POLICY EP3

In pursuing an enforcement case, the County Council will follow a fair and reasonable process to try to remove the obstruction(s), with the aim of resolving the problem at the earliest possible stage. The following sequence of steps will normally be adopted:

- i advice
- ii written warning
- iii enforcement notice / direct action
- iv legal caution
- v prosecution

Scope of the Policy

Enforcement will be considered wherever appropriate statutory powers exist to deal with actions or inactions that may lead to risks to the health and safety of the public or to their rights being infringed, but the County Council will operate within the principles outlined within the Central and Local Government's Enforcement Concordat (see below). The main areas to which this policy applies are listed below (further detail is included within Appendix 1):

- 1) Barbed wire
- 2) Bulls and dangerous animals
- 3) Cross compliance
- 4) Dogs on Public Rights of Way
- 5) Dangerous land adjoining a Public Right of Way
- 6) Electric fences
- 7) Encroachment
- 8) Gates
- 9) Hedges and trees adjacent to Public Rights of Way
- 10) Liability to path users
- 11) Misleading signs and notices on Public Rights of Way
- 12) Obstructions
- 13) Ploughing and crops on Public Rights of Way
- 14) Ropes etc across Public Rights of Way
- 15) Stiles and gates
- 16) Surfaces of Public Rights of Way
- 17) Tree branches and limbs across Public Rights of Way
- 18) Widths of Public Rights of Way

Other nuisances, obstructions and offences will be dealt with in a comparable manner according to the circumstances of the case.

Principles of Enforcement

The County Council has signed the Central and Local Government's Enforcement Concordat to show its commitment to good enforcement practices. The proportionality principle set out within the Government's Enforcement Concordat will be taken into account when deciding which course of action to pursue: **"The action pursued should be balanced, reasonable and commensurate to the scale of the offence."** This policy requires that enforcement activities should be carried out in a way which is:

- 1 **Transparent** – ensuring that those against whom enforcement action is taken are aware of the legislative requirements and aware of the likely consequences of non-compliance. Distinction will need to be made between statutory requirements and what is good practice or desirable but not compulsory. Transparency should aid those being regulated in complying with statutory requirements and minimise the need for further enforcement action. Where enforcement action is required an explanation (usually in writing) will be given of why that action is necessary and when it must be carried out.
- 2 **Accountable** – having a process for complaints, appeals and feedback – well publicised, effective and timely.
- 3 **Proportionate** – relating the enforcement action to the seriousness of any breach of the law and the potential risks or impact on the public. Some incidents have the potential to place the public's health and safety at risk, others interfere with people's enjoyment and rights and the County Council's ability to carry out its activities. Enforcement action will be proportionate to the risks posed and to the seriousness of any breach.
- 4 **Consistent** – fair and impartial, taking a similar approach in similar circumstances, whilst exercising a level of judgment and professional discretion in individual cases. Taking all relevant factors into account, such as the seriousness of the breach, the impact or potential impact on the public, the attitude of those responsible for the breach and the history of previous breaches.
- 5 **Targeted** – ensuring that enforcement action is directed primarily to where the risks or impact on the public is greatest. Action will be focused on those directly responsible for the breach and who are best placed to control it. Prioritisation will be based on a number of factors including assessment of risk, impact on the public and complaints from the public.

Courses of Action

There are several possible courses of action available depending upon the nature of the offence.

- 1 **Advice** – Advice may be given when it is considered that the infringement is of a minor nature, and the County Council is confident the owner or occupier involved will take the required corrective action. The owner or occupier will be requested to take appropriate remedial action within a given time period depending upon the circumstances of the case.
- 2 **Written Warning** – Given by the County Council, this may be appropriate for trivial matters, first offences and reminders where prosecution could result in adverse publicity or prove not to be an effective use of officer time.
- 3 **Enforcement Notices & Direct Action** – A formal notice may be served if an offence has been committed and where a request to take remedial action has failed. Such notice may include provision for the County Council to take direct action to remove obstructions or nuisances or to deal with the appropriate restoration of paths and to recover its costs.
- 4 **Prosecution** – In some circumstances the County Council will prosecute if it believes it to be in the public interest to do so. Certain offences require the service of a Notice before an application can be made to the Magistrates' Court for an order to remedy the problem.

Whilst the County Council would normally commence enforcement action by giving *Advice*, and only escalate to a more severe course of action if that was unsuccessful, it will reserve the right to issue an *Enforcement Notice* or instigate *prosecution proceedings* immediately where it is appropriate to do so. This may be considered justified if the breach was particularly serious or the offender had a history of similar offences.

Prosecutions will normally be a last resort but remain an important part of the enforcement process. In cases where there is sufficient evidence, the County Council will prosecute suspected offenders if there are grounds for believing that the offence is likely to be continued or repeated and where it is appropriate to deter others.

Each case will be considered on its own merits, taking into account all the circumstances and in accordance with the Code of Practice for the Crown Prosecution Service.

Prosecution may be considered appropriate where there is sufficient evidence and prosecution is in the public interest. Prosecution may be appropriate where one or more of the following applies:

- There is a significant risk to public safety.
- There is a flagrant breach of the law, or if notice had been given that legal proceedings will be considered for future breaches.
- There has been a failure to heed advice or instructions or take corrective action.
- There is a history of infringements by the defendant.
- A conviction is likely to result in a significant fine or other penalty.
- The Offence is widespread within the County Council area.

Each case will be subjected to an ongoing process of review to ensure the level of enforcement action continues to be appropriate. Once the County Council decides to prosecute, it will proceed without undue delay.

REFERRAL TO THE RURAL PAYMENTS AGENCY

There are several current cross compliance rules farmers and land managers must follow if they are claiming payments from the Rural Payments Agency to ensure Public Rights of Way (PROW) passing over land in their ownership or control are kept open and unobstructed to their full width. This requirement further reinforces existing legislation. Future compliance regulations are yet to be adopted

Where reports of obstruction/nuisance have been investigated and substantiated by officers and evidence has been gathered (photographic) which results in Notice being served then the offence should be reported to the Rural Payments Agency or any future over-seeing government body.

Prioritising Enforcement Work

There are a significant number of unresolved obstructions to the Public Rights of Way network. Whilst only a small number seriously impact on the public's enjoyment of the network, it is important that all these issues are addressed so that users and landowners/occupiers have certainty about the extent of the public's rights. As a consequence, it is necessary that a system of prioritising the enforcement work is in place.

In some cases, as time passes it may become progressively more difficult to secure the removal of an obstruction. Officers retain discretion to deal with "new" obstructions immediately, regardless of the below prioritisation, where it is considered an effective use of resources. This applies to all seasonal obstructions.

1 - Priority Obstructions	Obstructions where one or more of the criteria set out in Policy EP2 are met. These obstructions will be dealt with as a matter of urgency.
2 - Routine Obstructions	Obstructions which do not meet the criteria set out in Policy EP2 but which nonetheless may have a negative impact on the public trying to use the path.
3 - De Minimis Obstructions	Obstructions which appear negligible in their impact on the public. These will be recorded on file and actioned when resources are available. Resolution of the issue will be sought if an opportunity arises, for instance if the obstructed path is identified on a search in the process of the sale of the surrounding land, or if development is proposed for the affected land. Priority will increase if de-minimus obstructions are part of wider issues

Appendix 1 - A Guide to Problems and Protocols

This is a guide to Hampshire County Council's protocols regarding issues and queries, including enforcement, commonly associated with Public Rights of Way. It will help the understanding of some of the legislation which applies to Public Rights of Way and how the County Council is obliged to apply legislation to the various issues.

The effectiveness of the legislation in protecting the Public Rights of Way network and the rights of the public depends on the compliance of those regulated. The County Council has adopted the Central and Local Government "Concordat on Good Enforcement".

The Public Rights of Way team provide advice and information in relation to Public Rights of Way issues. We are open about how we go about our work. We are keen to discuss general issues or specific problems. We believe that prevention is better than cure and that our role involves actively working with both landowners and users.

We provide a courteous and efficient service, and our staff will identify themselves by name and provide contact details, unless it is not appropriate to do so. In cases where disputes cannot be resolved any right of appeal or complaints procedure will be explained, with details of the process and the likely timescale.

This information is intended as a guide only and is not an exhaustive text on Public Rights of Way legislation and case law. The landowner / land manager is entitled to seek independent legal advice on any aspect covered by this information; it is not intended as a substitute for that advice.

Barbed wire

Barbed wire across a Public Right of Way:

A barbed wire fence or exposed barbed wire erected across a Public Right of Way without an adequate means of crossing is an offence. It is an obstruction to the Public Right of Way and a nuisance and a danger to members of the public wishing to use the Public Right of Way.

The County Council will in these matters firstly ask the owner of the 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 structure (see stiles and gates).

If the owner fails to agree to either of these courses of action, the County Council will consider prosecution for obstruction.

Highways Act 1980 sections 137 and 149.

Barbed wire alongside a Public Right of Way:

Where a barbed wire fence is situated alongside a Public Right of Way it may be a danger and a nuisance to members of the public. If in the opinion of the County Council the barbed wire does represent a danger to the public, then the County Council will firstly ask 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.

Highways Act 1980 section 164.

Bulls and dangerous animals

It is an offence for the occupier of land crossed by a Public Right of Way to allow a bull over 10 months old and on its own and/or any bull of a recognised dairy breed (even if accompanied by cows/heifers) to be at large in it.

Bulls which are less than 10 months old or of a recognised beef breed and at large with cows/heifers are exceptions to this rule.

If any animal, which is known to be dangerous by the keeper of the animal, causes injury to a member of the public using a Public Right of Way, an offence may be committed and the occupier could be sued by the injured party.

Wildlife and Countryside Act 1981 section 59. See also Animals Act 1971 section 2.

Crops on Public Rights of Way

Also see Ploughing and crops on Public Rights of Way.

Cross compliance

If a landowner/occupier breaches legislation in relation to Public Rights of Way they may also be in breach of the Department for Environment Food and Rural Affairs (DEFRA's) Good Agricultural and Environmental Condition Standards (GAEC's) and Statutory Management Requirements (SMRs). DEFRA requires that these standards are met by landowners/occupiers in order for them to qualify for the Basic Payment Scheme (BPS). If a landowner/occupier fails to comply with an enforcement notice issued by the County Council in relation to Public Rights of Way, details of the offence will be sent to the Rural Payments Agency (RPA) and their BPS may be affected. The County Council will undertake to do

this only as a last resort and every effort will be made to resolve the problem by co-operation first.

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 County Council may carry out the work and recover the costs from the owner.

Highways Act 1980 section 165.

Dangerous Dogs

Also see - Bulls and dangerous animals

Dogs on Public Rights of Way

Dogs are allowed on Public Rights of Way and are classified as a 'usual accompaniments' 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 a Public Right of Way becomes a trespasser and an owner/occupier has the right to ask them to leave the land. If a dog is likely to wander off the line of the path owners are advised to keep their dog under close control and may require the use of a lead. It is a criminal offence if a person's dog worries livestock on agricultural land. Worrying is defined as attacking livestock, chasing livestock in such a way that injury or suffering to livestock is likely to be caused and being at large in a field or enclosure in which there are sheep.

Dogs (Protection of Livestock) Act 1953

Dogs on Land with a Right of Way crossing it

Landowners can keep dogs on land with rights of way crossing it. If a dog acts in such a way that it either prevents a person using the route or frightens users this constitutes a public nuisance at common law and may be seen as an obstruction. The effect of dogs being on the right of way or adjacent to the right of way has on a user will depend on the user and the type of right of way e.g. A horse rider on a public bridleway is likely to be more affected by a dog barking and growling alongside a public right of way than a walker on a footpath.

It is an offence to have a dangerous dog or a dog dangerously out of control in a public area – public areas include public rights of way.

The County Council's protocol in these situations is to report any incident or near incident to the police who can assess the incident and take the necessary measures.

Highways Act 1980 section 137 and Dangerous Dogs Act 1991

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 Public Right of Way and a nuisance and a danger to members of the public wishing to use the Public 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 structure (see stiles and gates). If the owner fails to agree to either of these courses of action the County Council will serve legal notice requiring the owner to remove the source of danger within a specified time. 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, and 149.

Electric fences alongside a Public Right of Way

Where an electric fence runs alongside a Public Right of Way it may be a danger 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 may 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 to whether the encroachment has 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 "the law is not concerned with trifles". 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 Public 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 timescale to be determined by the County Council. If this fails to secure the removal of the encroachment, the Council will commence enforcement action in respect of the obstruction (see Obstructions).

Hedges and trees adjacent to Public Rights 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 the obstruction to users.

Where a hedge or trees overhang or obstruct a Public Right of Way, from adjacent land or hedges forming the boundary of land, the landowner is responsible for the removal of the vegetation from the legal width of the highway, to allow legal passage. The County Council has the power to require the owners of overhanging hedges and trees 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 or restricted byway 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 of it to prevent such damage. However, before employing this power, the County Council will discuss the matter with adjacent landowners and request 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 1980 section 136.

Also see Tree branches and limbs across Public Rights of Way.

Liability to path users

Landowners:

Owners and occupiers of land crossed by Public Rights of Way can be liable for injuries caused to path users by the negligence of the owner or occupier. 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.

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.

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 to remove all obstructions and encroachments to Public Rights of Way (Highways Act 1980). 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.

Hampshire 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 28 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 landowner.

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

Highways Act 1980 section 143.



Obstructions which are longstanding:

Longstanding obstructions of Public Rights of Way are regularly encountered. The obstructions have often occurred through a lack of understanding by the landowner and/or issues relating to the planning process. Indeed, many such obstructions are historical and have been inherited by the current owners.

In these circumstances the County Council will deal with the problem in the following manner:

- Where the obstruction is minor it must be removed by the owner. If the owner fails to remove the obstruction within a period of time deemed reasonable by County Council officers, enforcement action using powers available under section 143 of the Highways Act 1980 will be taken and the obstruction removed. The costs of the enforcement action will usually be recouped from the offender.
- If the offence recurs prosecution of the offender will also be considered. The County Council will only consider a request to divert the path following the removal of the obstruction.
- Where the obstruction is substantial and it would be costly and impractical to remove it, the owner will be requested to apply for the diversion of the path rather than remove the obstruction. The County Council will expect the owner to make an alternative route available whilst the diversion process is completed.
- If the owner fails to acknowledge the problem or does not co-operate with the County Council to remedy it either by diverting the path or removing the obstruction, then this failure should be given considerable weight. In these circumstances' consideration should be given to prosecution and seeking a Magistrate's order to remove the obstruction.
- If an application to divert the path fails, then the County Council would expect the original route to be made available by the owner. If the owner fails to do this then the County Council would consider prosecution and seek a Magistrate's order to remove the obstruction.

Obstructions which are more recent:

Obstructions which can be readily removed will be dealt with by taking direct and immediate enforcement action using powers available under section 143 of the Highways Act 1980 and the obstruction removed. The costs of the enforcement action will usually be recouped from the offender and consideration will be given to prosecution.

Where the obstruction is more substantial, and it is costly and less practical to remove it then consideration will be given to prosecution and seeking a Magistrate's order to remove the obstruction.

Highways Act 1980 section 137 and 137A.

DRAFT

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 Public Footpaths and Public Bridleways. All field edge Public Rights of Way and cross-field Restricted Byways and Byways Open to All Traffic (BOATS) should never be ploughed.

Where a cross-field Public Footpath or Public 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 Public Footpaths, the minimum width is 1m for cross-field and 1.5m for field-edge. Field-edge paths must never be ploughed. For Public Bridleways the minimum width is 2m for cross-field and 3m for field-edge. Field-edge bridleways must never be ploughed. 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.

Highways Act 1980 section 134.

Crops:

Where a crop (other than grass) has been planted or sown on the 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 clear and walkable width (1m for cross-field and 1.5m for field-edge . For Public Bridleways the minimum width is 2m for cross-field and 3m for field-edge.) 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.

A non-cereal grass crop (such as grasses used for pasture, silage or haymaking) are not covered under section 137A but if they grow in such a way that they cause an obstruction this becomes an offence under section 137. In the first instance the County Council will negotiate with the landowner/occupier to ask them to remove the section of grass that is causing an obstruction. Failure to adhere to this request will result in the standard procedures for obstructions being followed. See above

Highways Act 1980 sections 134, 137 and 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 usually in writing, but can be verbal communication, requesting that the crop be removed from the width. If the crop is not removed this will be followed up with a written request giving 14 days to remove the crop. Following this period, if the path has not been reinstated to a satisfactory standard the County Council will serve formal legal notice upon the offender requiring them to reinstate the path within a further 14 days. If the path is still not reinstated satisfactorily the County Council will carry out the necessary work with contractors and recover costs from the offender. As a follow on to this initial action a letter will be sent to the offender advising them of the offence and informing them that in subsequent years, notice will be served immediately if the offence reoccurs.

Where notice has been served then the offence should be reported to the Rural Payments Agency.

Highways Act 1980 section 134 Highways Act 1980 for ploughing matters, 137A for interference by crops

Ropes etc across Public Rights of Way

Where a rope has been placed across a Public Right of Way, the rope will be removed by officers and the owner contacted. If removal of the rope will cause livestock to stray, rather than remove the rope immediately, the landowner will be contacted and asked to remove the rope. Failure to comply with the request to remove the rope or if the offence reoccurs following the removal of the rope and contact by officers the County Council will consider prosecution of the offender. The County Council will also remove the rope if encountered by officers on subsequent occasions.

Highways Act 1980 section 162.

Stiles and gates

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 providing a grant of 25% towards repairing such structures.

Highways Act 1980 section 146.

If an occupier of land wishes to install additional gates on Public Footpaths or Public Bridleways they must apply in writing to the County Council for authority to do so. To erect stiles or gates without 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 a new gate is that the structure is required to prevent the ingress or egress of animals onto agricultural land or under section 115E of the Highways Act 1980

Highways Act 1980 section 147.

Surfaces of Public Rights of Way

“Ownership” of the surface: Hampshire County Council is the Highway Authority and as such, ordinarily*, the surface of any Public Right of Way is “vested” in the County Council. Effectively, the County Council owns the surface in most cases. (*See below Enclosure of a Public Right of Way).

“Disturbance” of the surface: The majority of Public Rights of Way do not have a bound or metalled surface and as such can be susceptible to damage.

It is an offence to interfere with the surface of a Public Right of Way to the detriment of users. This means that a landowner/occupier may not dig up or even re-surface a Public Right of Way without the prior authorisation of the County Council. Landowners/occupiers must ensure that their private use of the route; for example in motorised vehicles, does not damage the surface of the path. If damage is caused it must be re-instated by the landowner/occupier. (See also Ploughing)

How the County Council will deal with this offence: For a first offence the County Council will explain the law to the offender and advise about re-instatement of the surface. The offender will then be given an appropriate period* to re-instate the surface to the satisfaction of the County Council. *The period given will be at the discretion of the Officer concerned and will be dependent on the level of damage and the works required. If there is a danger to the public immediate re-instatement will be required.

If the offender fails to re-instate the path or if the re-instatement is unsatisfactory a notice will be served giving a reasonable period for the surface to be properly

reinstated. Failure to comply with the notice will result in the County Council's contractors carrying out the works with the costs being recouped from the offender.

If the offence recurs the County Council will immediately serve a formal notice requiring re-instatement, it will also consider prosecuting the offender.

Enclosure of a Public Right of Way: Where a Public Right of Way crosses previously unenclosed land and the landowner/occupier encloses his land e.g. by erecting a fence or planting a hedge alongside the path, he then becomes responsible for the maintenance of the surface of the route. This liability relates to the section of route which as a result of long usage, a right to deviate has become established

If a path is enclosed in this way, particularly if the path is made very narrow, there can be problems with the surface falling into disrepair very quickly. If the surface does fall into disrepair the landowner/occupier will be required to make it good for example, by providing a better surface, carrying out drainage works or by increasing the width available.

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 protocol. 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 owner / person the costs, it has incurred.

Highways Act 1980 section 150 (4) (c).

Widths 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 determined by reference to the width 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 Public Footpath, this can be regarded as 2 metres; in the case of a Public Bridleway 3 metres; and in the case of a Restricted Byway or Byway Open to All Traffic, 3 metres (Due to the nature of the physical and natural environment in some cases this width may not be readily available).

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 minimum widths apply to all Public Rights of Way but only in relation to ploughing and reinstatement following ploughing. These are as follows (see also Ploughing and crops).

Minimum Widths of Public Rights of Way (Ploughing)		
	Field edge	Cross field
Public Footpath	1.5m	1m
Public Bridleway	3m	2m
Restricted Byway	3m	3m
Byway Open to All Traffic	3m	3m

Highways Act 1980 *Schedule 12A*

(Produced with the assistance and permission of Cheshire East Council and Kent County Council)

Recipient	Representing	Comment	Response	
Alan Taylor	HCAF Chairman	<p>It is good to see that the difficulties causing delay have been resolved and that it is now hoped to have the policy adopted around the end of the year.</p> <p>I have a number of comments, but none are major:</p> <ol style="list-style-type: none"> 1. Page 10 1st para: The six circumstances bullet-pointed in the second sentence are all cases where prosecution could be in the public interest. They are not “additional”. 2. Page 10 reference to RPA: would it be prudent to phrase this more generally given that Defra support schemes are likely to change; GAEC might not survive in its present form in the new ELM or whatever. 3. Page 11, de minimis obstructions: would it be appropriate to take action when higher priority action is being taken on the same RoW? 	<ol style="list-style-type: none"> 1. Agreed 2. Agreed 3. Add “Priority will increase if de-minimis obstructions are part of wider issues on the same land” 	
Henry Mellor	NFAF - Accessibility	<p>I think the Equality and Diversity Statement is excellent and I like the term ‘...people who share a protected characteristic...’</p> <p>Moving to the next page headed ‘Public Rights of Way - Definition’, the first three definitions seem to run contrary to the Equality and Diversity Statement. I suggest the following alternative wording to illustrate my point:-</p> <p>Item one: Public Footpaths - Where the public has a right of way on foot or on a wheelchair, electrically powered mobility scooter or wheelchair (where safe to do so).</p> <p>NB The onus here would be on HCC place signs on footpaths that are safe for wheelchairs and mobility scooters and</p> <p>Item two: Public Bridleways - where the public has a right of way on foot, on horseback, leading a horse, on a bicycle or an electrically powered bicycle, on a wheelchair or on an electrically powered mobility scooter or wheelchair.</p> <p>Item three: Restricted Byways - where the public has a right of way on foot, on horseback, leading a horse, on a bicycle or an electrically powered bicycle, on a wheelchair or on an electrically powered mobility scooter or wheelchair and riders of non-mechanically propelled vehicles (such as horse drawn vehicles).</p> <p>The current wording places a lot of emphasis on the use of horses which, ironically, remains appropriate in the New Forest but generally also harks back to a past age. In the interest of equality and diversity I therefore advocate a review of the wording along the lines suggested.</p>	<ol style="list-style-type: none"> 1. Comments noted. To add following; ‘on foot’ includes the use of a pram, pushchair or wheelchair, or mobility vehicle where possible 	
Gail Johnson/Gill Plumbley	HCAF/Equestrians BHS British Carriage Riders	<p>Generally, we believe this to be a good document, but suggest the following points/amendments are considered:</p> <p>Is HCC satisfied that the terminology and explanation of terms within the document is helpful to the layman to understand?</p>	<ol style="list-style-type: none"> 1. Stronger Language 2. Timescales 3. Pg5 - Agreed 	<p>Language – we believe that the Language used has the correct level and balance, some minor adjustments have been made.</p>

		<p>The document is quite 'soft' in tone and the language needs to be strengthened to give it authority. An example is on page 15 - see comment below.</p> <p>Timescales: throughout the document (particularly page 9) the timescales for when action will be taken are too vague. They need to be more precise to provide better clarity of when action will be taken.</p> <p>Specific points:</p> <p>Page 5: We believe that the bullet points need to be re-ordered in that recreational is listed first above utilitarian. The reason for this is that the PROW are primarily used for recreational purposes.</p> <p>Page 9: Timescales too vague</p> <p>Page 13: We believe that warning signs should be in place where there are young bulls/heifers under the age of 10 months with their mothers in a field. Mothers are likely to be extremely protective of their young.</p> <p>Page 14: line 3 from bottom: grammatical error. Take out 'effected' and replace with 'affected'.</p> <p>Page 15: Electric fences across a public right of way: what is the specified time that the text refers to?</p> <p>Electric fences alongside a PROW: penultimate line change 'may' to 'will' to reinforce enforcement authority</p> <p>Page 18: Obstructions which are more recent: what does the last sentence mean?</p> <p>Page 19: Change the wording 'should be' to 'will be' in both paragraphs.</p>	<ol style="list-style-type: none"> 4. Pg 9 -"within a given time period" In guidance docs for officers 5. Pg13- NFU provide guidance 6. Pg14-Agreed 7. Pg15- In guidance docs for officers 8. Pg18-Agreed removed 9. Pg19-Agreed 	<p>Timescales - will vary between each case. Staff Guidance documents are being finalised which will provide guidelines to timescales</p>
Alan Marlow	HCAF/Ramblers	<p>I have received the document both as a member of the Hampshire Ramblers Footpath Secretariat (FPAWE), and as a member of HCAF. Overall, I believe that the document represents a positive step in the right direction towards improving enforcement on Hampshire's PROWs. I support the comments submitted by David Clark on behalf of the Ramblers Secretariat.</p> <p>The one other comment I would make, prompted by the current usual bout of flooding issues that seem to happen every year, is that this form of obstruction is not mentioned in the document.</p> <p>Is there a case for inclusion in the listing on page 7 the situation where serious flooding is obstructing a PROW because of the lack of adequate drainage provision by a landowner?</p>	<ol style="list-style-type: none"> 1. See D Clarke 2. Flooding--? Not specifically mentioned but dealt with in surfacing and obstruction 	<p>consider for inclusion in future review of policy</p>
Melanie Fortescue	4x4	<p>Although I am no longer a member of HCAF and with Alan's grace am available to engage with the Forum until a replacement can be found, I would like to request two amendments to the policy document.</p> <p>The section about disturbance of the surface on page 22 says that the surfaces are susceptible to damage by motor vehicles. Unbound surfaces are susceptible to damage from all use and also from the weather.</p>	<ol style="list-style-type: none"> 1. Pg 22- Suggest removing 'by motor vehicles' in 2nd paragraph. The 'for example' is regarding 	

		I request that (a) the part of the statement after "and" is deleted as it is unnecessary and misleading and (b) that qualifier "for example in motorised vehicles" is also removed as it is unnecessary to the meaning of the paragraph.	private vehicle use by landowners.	
Anna Hammond	Accessibility	Page 4 - It needs to be in writing that people with mobility problems that may necessitate a wheelchair or mobility scooter are still 'on foot' there needs to be some definition between a mobility device and an ATV which should be restricted to a BOAT even if it's being used by a disabled person, a Class 3 'invalid carriage' seems sensible. Page 22 - In the bit about stiles and gates there could be further encouragement to promote disabled access. The section about surface could include poor surface condition caused by farm machinery for example near me a tractor that has driven a path which was also a PROW footpath when clay mud was very soft leaving trenches now in places a foot deep which were done nothing about so in the summer they dried hard, the same happened the next year and so on.	1. see above 2. Surface damage by private use is covered. See above	
Sue Coles	Cycling	Thanks for sight of this document. It is generally a good document but like Gail and Gill I should like to see the language strengthened. This would give it greater credence.		See comments above regarding language.
Paul Knipe	Conservation Interests	This appears to be an uncluttered document and covers the essential areas of concern. I did wonder, in the current situation if it would be worth commenting on landowners with rights of way crossing, or adjacent to their property, taking greater note of the condition of their trees; this particularly with regard ash trees with the incidence of the Chalara Ash Die-back disease' Additionally where a time limit is given to carry out work there should be a rider explaining that the work should be carried out with regard to the Countryside and Wildlife Act . An extension to this time limit may be granted to prevent, for instance, nesting birds.	1. Covered by Liability section 2. Noted for Officer guidance	see timescale comments above regarding Staff Guidance
David Clark	Hampshire Ramblers	Submitted draft paper with suggested added comments/amendments; 1. Comments regarding processes and officer actions 2. Need for contact email/date 3. Addition of Cycleways/Cycletracks 4. Use of "that is of value" pg 5 5. Section on ropes-addition of fencing etc 6. Comments regarding timescales 7. Priority for notices served against council 8. Addition of ripped clothing-barbed wire 9. Include use of volunteers 10. Explanation of CAMS and process to follow	1. Noted for officer guidance 2. Agreed 3. Only Routes on Definitive Map 4. Agreed 5. HA s162-add 'etc' 6. Timescales comments above	

APPENDIX 2- HCC Access Enforcement Policy- Consultation Responses

			<ul style="list-style-type: none">7. Noted but not included8. Noted but not included9. Operational issue, not for policy10. For Officer guidance	
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