

Derbyshire County Council

Cabinet Meeting

12 July 2011

Report of the Strategic Director – Environmental Services

Rights of Way Charter (Highways and Transport)

(1) **Purpose of Report** To seek approval for a Rights of Way Charter which sets out the level of service that users can expect from the Rights of Way Service.

(2) **Information and Analysis** At its meeting on 14 September 2010, Cabinet agreed to approve the Rights of Way Charter as a draft for consultation (Minute No. 282/10 refers). The consultation targeted 39 organisations, however, with the assistance of the Derbyshire Association of Local Councils, information about the consultation was circulated to all Parish and Town Councils in Derbyshire. A total of 21 responses were received.

Overall, the responses were supportive of the document. However, several organisations sought clarity which has resulted in minor changes to the version submitted to the meeting of 14 September 2010. The comments submitted and proposed additions are set out at Appendix 1. A revised version of the Charter is appended to this report at Appendix 2.

The Derby and Derbyshire Local Access Forum and the Peak District Local Access Forum have both assisted the County Council with advice on the Charter as part of the consultation process.

Targets and Monitoring

Officers have been trialling the processes as outlined in the Charter since April 2010. Already, the backlog of enquiries referred to in the previous report has dropped by 26 percent to less than 700, as of June 2011, despite an average of a little over 220 enquiries per month being received per Inspector. This effort is already paying dividends with compliments being received from users. Targets against the Charter will be set and published on the Council's website as soon as practicable with monitoring to come into effect from April 2012.

(3) **Financial Considerations** Implementation costs and associated publicity will be covered by the Rights of Way budget. This is expected to be in the region of £1,500.

(4) **Legal Considerations** The Rights of Way function is carried out in compliance with current rights of way and highway law. The County Council is obliged by virtue of Section 130 of the Highways Act 1980 to assert and protect the rights of the public to the use and enjoyment of any highway for which it is the Highway Authority.

Where the County Council works with local volunteers to undertake works on the Rights of Way network, and these are supervised by Council staff, these individuals would be covered by the Council's public liability insurance.

Where a Parish Council or community or voluntary organisation undertakes work at the County Council's request or of their own volition, these groups would be expected to be covered by their own public liability insurance policy.

In carrying out this work, it is necessary to take into account the Human Rights Act 1998.

(5) **Environmental and Health Considerations** The aim of the Rights of Way service is to improve access to the countryside as well as improving local links in urban areas. There is significant gain to users in terms of health and well being. An accessible and improved network of paths thereby underpins the County Council's goals and Central Government objectives.

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, equality of opportunity; human resources, property and transport considerations.

(6) **Background Papers** Report to Cabinet 14 September 2010 (Minute No. 282/10). Officer contact details – Peter White, extension 39673.

(7) **Key Decision** Yes.

(8) **Officer Recommendation** That Cabinet approves the implementation and publication of the revised Rights of Way Charter as set out at Appendix 2 to this report.

Ian Stephenson
Strategic Director – Environmental Services

Appendix 1

Comment and revisions following consultation

Consultation Response	Comment	Revision
No comment within the Charter that the user will be advised when their enquiry is resolved.	None.	Included.
Concern that the Council is exercising powers at the expense of duties in respect of Public Path Orders. The Council should concentrate its resources on duties.	It is considered that the Council would not be able to resolve many issues and offer a service to the public if it gave this area of work a lower priority.	Charter now includes a statement within the introduction to explain how it will use its powers.
Clarity required over timescales for dealing with enquiries.	To avoid any confusion, the timescales have been amended to reflect the period required to acknowledge, programme and resolve an enquiry.	Priority A+ - 2 Working Days. Priority A – 10 Working Days. Priority B – 14 Weeks to resolve. Priority C – 28 Weeks to resolve. Priority D – As soon as practicable but not as a priority.
Newly reported obstructions should be Priority A owing to the fact that it is unreasonable to allow an obstruction to persist for 12 weeks.	Programming of work to use staff resources efficiently combined with the current volume of enquiries will require a 12 week timescale. Members are advised that if an obstruction is considered to be of such importance	Will be dealt with immediately.

Consultation Response	Comment	Revision
Request that calls should be directed to the Rights of Way Team rather than via the Contact Centre.	Efficiency gains have been identified now calls are channelled via the Contact Centre.	No change recommended.
Concerns expressed over timescales for resolving problems.	The timescales have allowed for the programming of work to enable efficient use of transport as well as allowing for statutory time periods for Notices served on landowners.	No change recommended.
Customer reference number should be supplied when contacting the Council.	Already in place.	No change recommended.

Rights of Way Charter

Derbyshire County Council

A guide to the level of service you can expect from
the Council's Rights of Way Service

Ian Stephenson
Strategic Director – Environmental Services

June 2011

Table of Contents

1. Introduction.....	1
2. How we will deal with your enquiry	1
2.1. Resolving your enquiry	2
3. Prioritising Enquiries	3
3.1. Priority A Enquiries	3
3.2. Priority B Enquiries	3
3.3. Priority C Enquiries	4
3.4. Priority D Enquiries	4
4. Dealing with complaints.....	4
5. Freedom of Information	4

1. Introduction

This Charter complements the County Council's Rights of Way Improvement Plan. It explains how we will prioritise enquiries we receive from our customers. This Charter is not intended to describe the way in which the Council carries out its duties.

The Rights of Way Team implements the Council's statutory duties and policies in respect of the protection and management of the public rights of way network. The Council manages 3,200 miles (5176 km) of public paths, approximately 9,311 paths.

The Council has a duty to assert and protect the rights of the public to the use and enjoyment of any highway for which it is the highway authority (Section 130 Highways Act 1980). This includes public rights of way. In addition to this the Council has powers which are available to it to manage the rights of way network. The Council recognises that it is important to balance the resources it needs to exercise its powers, for example making public path orders, against its duties prescribed in the legislation. The Council will therefore continue to use its powers in order to provide a service to the landowning community and the visitors to the county.

Public rights of way provide opportunities for recreation as well as providing an intricate transport network for access to schools, businesses as well as the day to day movement of people. In addition, the Council seeks opportunities to create and enhance public access to the countryside where ever possible. To this end we will work with landowners and their tenants to ensure that paths are maintained free of obstruction.

We will also continue to work closely with local voluntary and community groups, parish councils and other stakeholders utilising existing and, where appropriate, external funding to deliver an enhanced Service.

This Charter will be made available as a download on the Council's web site. It will also be published as a leaflet in an abbreviated form and made available at libraries and a selection of public places including Tourist Information Centres.

2. How we will deal with your enquiry

The Council receives enquiries in 4 different ways:

- Telephone.

- Letter (including FAX).
- Email (including online web forms).
- In person.

All enquiries are logged into a Customer Management System. This ensures all enquiries are traceable. You may request a reference number to assist you with any follow up enquiries.

2.1. Resolving your enquiry

Enquiries vary in complexity and response times may be influenced by the volume of work. Furthermore we will forward enquires that cannot be resolved by the Rights of Way Team to the correct body but we cannot guarantee in those circumstances that your enquiry will be resolved in line with the time-scales in this Charter. We will explain this to you when we respond.

- We will acknowledge the receipt of your letter within 10 working days and your email within 24 hours or the nearest working day.
- We will programme your enquiry and then advise you when we intend to investigate your enquiry within 10 days of receipt.
- Public safety reports will be inspected within 2 working days.
- Non-rights of way matters will be passed to the appropriate body within 10 workings days of receipt.
- We shall notify you when we have resolved your enquiry.

Our response will include one or more of the following elements:

- A full response to your enquiry.
- An indication when your enquiry will be resolved if it requires further research.
- If you have reported a maintenance issue you will be advised when or if the work will be carried out. If you have reported a missing signpost you will be advised when it will erected.
- If you have requested a Public Path Order you will be advised of charges that apply, when the process will commence and the anticipated timescale to completion.
- Some issues are the responsibility of other bodies in which case we will inform you who will be dealing with your query.

Reported problems on paths are investigated in line with their severity and all reports will be dealt with in line with our scheme of priorities. Lower priority reports may be investigated at the same time as reports of a higher priority provided they are in the same locality. The current work programme will be made available on the Council's web site.

3. Prioritising Enquiries

The Rights of Way Team receives a large number of enquiries each year. This inevitably impacts on our ability to resolve every reported issue in a timely way. It is important therefore that we prioritise enquiries. By prioritising enquiries we are better able to program our work. We take into account the level of danger to the public and the effect a reported problem may have on access. This is then used as the basis for placing your enquiry into one of 4 priorities.

For information on how we deal with Public Path Orders and Definitive Map Modification Orders please refer to our policy framework for action¹.

The four priority categories are listed below with examples of the types of reports that fall into each category. Please note, this list is not exhaustive and is intended to provide an indication of the types of work which will fall into each category.

3.1. Priority A Enquiries

Definition: Emergencies, public safety, non-rights of way issues. Examples include:

- Public Safety
- Harassment and intimidating behaviour or notices
- Potentially dangerous bridge or structure on a right of way
- Unauthorised use by motorised vehicles/horses/bicycles
- Not within the power of the Public Rights of Way Team to resolve. These will be passed to responsible agency for action. Some examples given below:
 - Abandoned vehicles on paths
 - Fly-tipping
 - Litter
 - Dog fouling

Target: Resolve within 10 working days of receipt except Public Safety which will be investigated and/or resolved within 2 working days which will include appropriate and immediate action to minimise further risk.

3.2. Priority B Enquiries

Definition: Issues directly affecting or limiting access. Examples include:

- Drainage and flooding issue
- Obstruction and encroachment

¹ To be published in 2011

- Surface damage, vegetation preventing use by public
- Ploughed path or obstruction by crops
- Stile or gate fault
- Electric fencing
- Erection of a signpost
- Commence processing Public Path Order applications

Target: Resolve within 14 weeks from receipt

3.3. Priority C Enquiries

Definition: Issues that do not affect access to a significant degree.

Examples include:

- Request for Barriers
- Handrail repairs
- Willful removal of a signpost in order to mislead the public
- Waymarking.

Target: Resolve within 28 weeks from receipt

3.4. Priority D Enquiries

Definition: A group of issues which will be dealt with as soon as practicable.

Examples include:

- Misleading Notices
- Path improvement requests not covered by higher priorities
- Minor obstruction/encroachment with alternative route
- Major works funded by capital bids
- Enquiries relating to non-definitive paths.

Target: Dealt with as soon as practicable but not as a priority

4. Dealing with complaints

If you wish to complain about our services you may do so in writing, by fax, email or via the Council's web site – www.derbyshire.gov.uk.

5. Freedom of Information

The Freedom of Information Act 2000 and the Environmental Information Regulations creates significant rights of access to recorded information held by public authorities.

The Council will strive to make as much information about rights of way available to the public as reasonably practicable. Full use will be made of the Council's web site as well as more traditional means of distributing information such as libraries and tourist information centres.