



Report for Leader (Transport Portfolio)

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| Decision Date: | 18 March 2021 |
| Title: | Rights of Way Enforcement Policy |
| Relevant councillor(s): | Councillor Nick Naylor – Cabinet Member for Transport |
| Author and/or contact officer: | Joanne Taylor – Rights of Way Operations – Team Leader |
| Ward(s) affected: | None Specific |
| Recommendations: | The Leader is invited to accept and endorse the Rights of Way Enforcement Policy for Buckinghamshire Council. |
| Reason for decision: | So the authority can adopt and publish a new Rights of Way Enforcement Policy. |

1. Executive summary

- 1.1 The previous Rights of Way Enforcement Policy was over 15 years old, and there have been changes in procedure, including the addition of a Rights of Way Scheme of Delegations, over the intervening years.
- 1.2 It is necessary to review and update the existing Rights of Way Enforcement Policy – providing a document to be viewed by officers, customers and stakeholders. The document outlines the legislative powers available to the authority regarding enforcement, gives details of what action our customers may expect the authority to take on illegalities found on the rights of way network.
- 1.3 The enforcement policy is required to:
 - clarify the circumstances in which Buckinghamshire Council’s enforcement powers, primarily under the Highways Act 1980 will be implemented;
 - ensure that enforcement decisions are transparent; and

- ensure that enforcement procedure is consistent.

2. Content of report

- 2.1 The Highways Act 1980 (the Act) places a duty on Buckinghamshire Council as the Highway Authority to assert and protect the rights of the public to use and enjoy the highway within Buckinghamshire. Sections within the Act enable the Council to take action by serving Enforcement Notices to remove obstructions and correct illegalities, and/or the Council can take action through prosecution.
- 2.2 It is necessary to review and update the existing Rights of Way Enforcement Policy – providing a document to be viewed by residents, Members, Officers and stakeholders. The document outlines the legislative powers available to the authority regarding enforcement, and gives details of what action our customers may expect the authority to take on illegalities found on the rights of way network.
- 2.3 The Rights of Way Scheme of Delegations was drawn up by Buckinghamshire County Council in 2017 and was renewed by the new unitary authority with respect of decision making relating to Rights of Way. The Scheme sets out who is authorised to sign off legal notices, with certain functions/decisions delegated down to officers. Prior to the Scheme of Delegations officers instructed legal services to draw up enforcement notices. This was a significant change in procedure and has to be taken into account in the new Policy document. A table of delegated functions is appended to the Policy.
- 2.4 The document will provide transparency on our enforcement procedure to our internal and external partners, and importantly, also give officers support on proposed and actually legal action taken.

Additionally the Rights of Way Improvement Plan for Buckinghamshire references the Rights of Way Enforcement Policy.

3. Other options considered – Pros and Cons

- 3.1 The alternative option is for the Rights of Way Operations Team to continue with the existing enforcement procedure, without adopting it as a published Policy document.
- 3.2 Whilst the absence of an Enforcement Policy has only minor impact on the day to day management of the Rights of Way Network, adopting an Enforcement Policy will provide transparency on a procedure in an area of work that can be controversial, and provide reassurance that the Council has a robust process in place to deal with illegalities.

4. Legal and financial implications

- 4.1 There are no expectations that the Policy will have an impact on the current resources.
- 4.2 Enforcement action under the Scheme of Delegations has allowed officers to take the initiative on dealing with enforcement issues; prior to the Scheme of Delegations notices had to be drawn up and authorised by Legal Services which both delayed action and had a time and cost implication.
- 4.3 Legal action will usually be under the Highways Act 1980 the relevant sections are included in the Policy, and any enforcement notices will be actioned in line with the Scheme of Delegations and the enforcement procedure
- 4.4 Legal Services has reviewed and provided direction on the new policy.

5. Corporate implications

- 5.1 The need for a well-managed rights of way network helps meet Buckinghamshire Council's corporate plan priorities to increase prosperity and improve our environment.
- 5.2 The Buckinghamshire Rights of Way Improvement Plan outlines the Council's management of the rights of way network, and the range of activities that residents and visitors take part in, when they access the countryside and natural spaces for leisure, health and exercise. Rights of way are free and they stretch across the county, meaning everyone can use them. They are also a critical part of Buckinghamshire's visitor economy and help to encourage more people to walk or cycle for short journeys, which of course reduce carbon emissions.
- 5.3 It is likely that a published policy will reassure some complainants that the Council has a robust approach to dealing with illegalities on the Rights of Way Network, and this could delay escalation of complaints (through the complaints process), dealing with official complaints on a regular basis impacts on staff time and resources.

6. Local councillors & community boards consultation & views

- 6.1 The draft Rights of Way Enforcement Policy has been reviewed by Councillor Nick Naylor - Cabinet Member for Transport, and has been sent forward by the Community Management Team.

7. Communication, engagement & further consultation

- 7.1 The proposal to update the old Rights of Way Enforcement Policy was tabled at a meeting of the Rights of Way Liaison Group (consisting of Rights of Way user groups and other representatives).

- 7.2 The agreed Enforcement Policy will be presented at the Buckinghamshire Local Access Forum.
- 7.3 The agreed Enforcement Policy should be available through the Council's web pages and is referenced in the Buckinghamshire Rights of Way Improvement Plan.

8. Next steps and review

- 8.1 The Policy will be made available on Buckinghamshire Council's web pages and will be presented to the Local Access Forum for Buckinghamshire when adopted.
- 8.2 The Policy will be reviewed whenever there is a significant change in legislation.

9. Background papers

- 9.1 Rights of Way Improvement Plan for Buckinghamshire - <https://www.buckscc.gov.uk/services/environment/public-rights-of-way/future-of-rights-of-way/rights-of-way-improvement-plan/>

10. Your questions and views (for key decisions)

- 10.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email democracy@buckinghamshire.gov.uk

