

# **Report of the Strategic Director of Place to the meeting of Environment and Waste Management Overview and Scrutiny Committee to be held on 19<sup>th</sup> December 2017.**

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## **Subject:**

**Public Rights of Way**

## **Summary statement:**

The report gives a brief overview of the Council's duties in relation to public rights of way it also clarifies how obstructions are dealt with and how paths are moved in response to a query from a member of the public.

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## **Portfolio:**

**Regeneration, Planning and Transport**

## **Overview & Scrutiny Area:**

**Environment and Waste Management**

## 1. SUMMARY

The report gives a brief overview of the Council's duties in relation to public rights of way it also clarifies how obstructions are dealt with and how paths are moved in response to a query from a member of the public.

## 2. BACKGROUND

2.1 Bradford Council, as highway authority and surveying authority, has a range of duties and powers in relation to the public rights of way network.

2.2 Public rights of way are highways and the Council's main duty is to record and manage this network. Bradford's network totals around 1,106km (687 miles) of public footpath, bridleway and restricted byway broken down as follows:

| Status  | Miles | Kms  | % of total network |
|---|-------|------|--------------------|
| Public footpath (walkers only)  | 634   | 1020 | 92                 |
| Public bridleway (walkers, horse riders, cyclists)                                      | 46    | 75   | 7                  |
| Restricted byway (walkers, horse riders, cyclists, non-mechanically propelled vehicles) | 7     | 11   | 1                  |

2.3 The Public Rights of Way (PROW) network is a valuable asset, a significant part of our heritage and a major recreational and transport resource. It enables people to get away from roads used mainly by motor vehicles and enjoy large parts of the District's countryside to which they would not otherwise have access, or to get to work, the shops or school. Rights of way provide for various forms of sustainable transport and can play a significant part in reducing traffic congestion and harmful emissions. The network spans both the urban and rural parts of the District and includes some (though not all) routes often called by names other than "footpath", such as ginnel, snicket, track, alleyway etc.

2.4 For the purposes of this report, it is useful to briefly summarise the main areas of activity in managing this resource as;

- Recording the network – updating and reviewing the Definitive Map and processing related Modification Orders
- Changing the network – processing Public Path Orders to create, divert, extinguish rights of way, using a range powers set out in legislation
- Managing and maintaining the network – ensuring that the network is usable and maintained, that obstructions, problems and blockages are dealt with
- Promoting and raising awareness of the network and wider access – national, regional and local routes are promoted across the District (such as the Pennine Way, the Dalesway, the Bronte Way, the Millennium Way) and add to the tourist offer and support the visitor economy as well as promoting the District and offering significant health benefits. The Council also acts as "access authority" in managing access to open country/right to roam in the District – which includes access on foot to all our moorland areas.

2.5 The Countryside and Rights of Way (CROW) team, based in the Planning, Transportation and Highways Service has the main responsibility for recording and changing the network, and the responsibility for managing and maintaining the network is shared between CROW – who maintain the rural and promoted recreational parts of the network - and Highways Maintenance who maintain the urban parts of the network.

2.6 In response to the query which triggered this report, the next sections will focus on dealing with obstructions and clarify the process for “moving” rights of way.

**2.7 Obstructions on the network:** The public rights of way network is located primarily on, or adjacent to privately owned land, and the ways in which that land is used can affect the availability of the network, sometimes causing blockages. The Council has a duty to keep the network open and available – whether by ensuring it is properly maintained, or by securing the removal of blockages and obstructions.

2.8 In the case of obstructions, when the CROW Service becomes aware of one, they will investigate and follow up with an informal approach to the land owner, or person responsible and ask for the obstruction to be removed. In the majority of cases, this results in the removal of the obstruction. In some cases, such obstructions are in the form of faulty path furniture (gates, stiles etc.) or deliberately blocked gates/stiles due to stock control problems. In these cases, although the furniture is the responsibility of the landowner, the Service can and does occasionally assist with repair or replacement, so that the obstruction is rectified as quickly as possible.

2.9 In other cases, where the informal approach does not bear fruit, there are legal powers which are used to secure removal (serving of legal notice) via the Legal Services team. If these are not complied with, the Council has powers to take direct enforcement action to remove the obstruction itself and recharge the costs to person responsible.

2.10 In most cases, the issue does not progress this far, as new blockages are dealt with as soon as practicable after discovery. There are, however, a number of long-term blockages across the network which are more difficult to resolve and can affect the public’s ability to use parts of the network. As these are particularly difficult and time-consuming to resolve and, in some cases, there is significant resistance to their re-opening (not just from landowners but from resident living alongside – who often quote fear of crime as a reason to keep the path blocked); unless there is a strategic value to the route, or high levels of complaint and demand for its use; work on resolving these blockage is not given as high a priority as other newer blockages. It is recognised that the Council’s duty is to ensure that all the network is available and that all blockages should be removed, no matter how old or how much resistance there is to their re-opening. Given current resources and workload, however, it is necessary to focus on those obstructions which affect routes with high demand, high strategic value or whose obstruction presents a public safety issue.

2.11 It is worth noting also that a high proportion of reported obstructions or blockages are temporary in nature and caused by weather, seasonality or temporary circumstances. Overgrown vegetation is by far the most reported type of obstruction and the CROW team spends all summer and beyond every year routinely clearing rights of way of vegetation growing in the surface of the path on the rural network. If the vegetation affecting the path is overhanging from neighbouring properties, it is the responsibility of the owners of these to clear the overhang, but the Council’s Network Resilience team usually follow these complaints up. Other temporary blockages are often resolved before the officer has been

to investigate, or shortly after and no action is necessary. There is an issue with vegetation clearance and other maintenance on the urban parts of the network because budget reductions in the Highways Maintenance teams means that they can no longer prioritise this work on urban snickets and paths.

2.12 Records of all obstructions are kept on individual path files, plus details of follow-up action taken, but in order to get an accurate real-time idea of how much of the network is affected by obstructions would require a full-network survey, which is a major undertaking. The last full-network survey was undertaken in the late 1990's and recorded locations where problems were impeding the ease of use – some of these were temporary and many have since been resolved. A more recent survey undertaken in 2015-16 by the Ramblers Association, which included parts of the Bradford District reported that 19% of the surveyed paths (in Bradford) had been classed as “unusable”. This figure can, however, be challenged because large parts of the District were not included in the survey - including most of Wharfedale which has a good, relatively unobstructed network, and most of urban Bradford. In addition, many issues recorded in the survey as rendering the paths “unusable” were temporary in nature and included overgrown vegetation, stile in need of repair etc. and even “lack of waymarking” which might make a path harder to use but not necessarily unusable. Given these shortcomings in the survey it is reasonable to estimate that a more accurate figure for the proportion of rights of way which are truly permanently unusable would be nearer 10%. This mirrors both the regional (Yorkshire and the Humber) and national picture.

2.13 **Changing the network:** The public rights of way network is not a static resource but a dynamic asset subject to regular change and alteration. The Council has powers, enshrined in a range of legislation to make temporary or permanent changes to the network in response to requests, development or other strategic priorities. These include powers to create, extinguish and divert public rights of way in order to create links, implement planning permissions, facilitate agricultural operations, rationalise parts of the network, reduce crime or other problems. Most of these powers are contained within either the Highways Act 1980 or the Town and Country Planning Act 1990.

2.14 There is a requirement to ensure that such requests to change the network meet legal tests and are widely consulted upon. If, after such considerations, the Council decides that these tests are not met, or that a high level of objection is expected, there is no compulsion to implement the change to the network by making and confirming a legal order. If however, the Council agrees that a change to the network is reasonable and beneficial it can make an order and re-charge some of the costs of doing so to the applicant.

2.15 On average, the team receives around 10 -15 public path order applications (mostly diversions) per year and there are currently 12 on the waiting list to be picked up. When applications for public path orders are received they are dealt with in order of receipt unless there are specific strategic or safety reasons to prioritise them. To that end, officers prioritise work on orders which are required to implement a planning approval so that this (which is entirely separate from the planning process), does not hold up development for houses or employment sites and so assists with the Council's regeneration priorities. Other orders which are given priority are those sought under specific school safety or serious crime reduction provisions within the legislation – although these are much less common and require other options to have been considered, reverting to path orders as a last resort.

2.16 The informal and formal consultation stages of path orders take time and there are minimum time requirements for advertisements and notices on site to be available for the public to make comments or raise objections – so to some extent the timescale for processing such orders is set. Orders typically take a minimum of 6 months from work starting to decision, and can, depending on complexity and level of objection, take much longer. For any order (eg. one intending to extinguish a right of way on the basis that it is no longer required for public use) a single objection is enough to require the order to be abandoned or referred to the Planning Inspectorate and possible Public Inquiry. Once this happens, the timescales are dictated by the Planning Inspectorate and entirely out of the Council's hands. For these reasons, it is very difficult to give an accurate timescale if someone asks how long a public path order might take.

### **3. OTHER CONSIDERATIONS**

3.1 Resources: The Countryside and Right of Way team currently comprises 5 officers (4 FTE) who work full-time on the management of the public rights of way network. There are also 3 other officers in the team, part of whose work is the practical maintenance of the network. At the time of writing this report, one further officer is being recruited as a dedicated Definitive Map officer who will deal with the review of the Definitive Map and with the backlog of Definitive Map Modification Orders.

3.2 Other teams involved in managing the network are the Highways Maintenance teams and the Network Resilience team. Legal support for drafting legal orders and assisting with enforcement is provided by the Legal Services team.

### **4. FINANCIAL & RESOURCE APPRAISAL**

4.1 None arising from the report

### **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

5.1 None arising from the report

### **6. LEGAL APPRAISAL**

6.1 None arising from the report

### **7. OTHER IMPLICATIONS**

#### **7.1 EQUALITY & DIVERSITY**

The Council strives to provide an inclusive public rights of way network, for example by promoting easy to use paths and furniture which would not be a barrier for people with limited mobility. Wherever possible the Council installs, and encourages landowners to install gaps rather than gates, and gates rather than stiles.

#### **7.2 SUSTAINABILITY IMPLICATIONS**

The public rights of way network constitutes a valuable network for non-motorised travel,

whether it be for travelling to work, school and around local neighbourhoods, or for recreational use. A well maintained network can play its part in encouraging “modal shift” from car-borne travel and therefore contribute also to greenhouse gas/climate change reduction.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

See above

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

None arising from the report

### **7.5 HUMAN RIGHTS ACT**

None arising from the report

### **7.6 TRADE UNION**

None arising from the report

### **7.7 WARD IMPLICATIONS**

None arising from the report

### **7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)**

N/A

## **8. NOT FOR PUBLICATION DOCUMENTS**

None

## **9. OPTIONS**

9.1 The Committee notes the report.

9.2 The Committee notes the report and makes further comment for consideration by the Service.

## **10. RECOMMENDATIONS**

That the Committee notes the report

## **11. APPENDICES**

none

## **12. BACKGROUND DOCUMENTS**

none