

Open Report on behalf of Richard Wills, Executive Director for Communities

Report to:	Councillor W S Webb, Executive Councillor for Highways and Transport
Date:	16 July 2012
Subject:	Revisions to the Public Rights of Way Enforcement Policy
Decision Reference:	02064
Key decision?	Yes

Summary:

To consider revisions to the Public Rights of Way (PRoW) Enforcement Policy & associated Officer Guidance Manual.

Recommendation(s):

That the revisions to the PRoW Enforcement Policy and the associated Officer Guidance Manual are approved and that the new Policy is adopted by Lincolnshire County Council.

Alternatives Considered:

Reasons for Recommendation:

The existing PRoW Enforcement Policy is 18 years old and the proposed revised policy will ensure compliance with the County Council's Enforcement Concordat and the Statutory Code of Practice for Regulators. It will also ensure that working practices developed over the past 18 years are referenced in correct procedural policy.

1. Background

- 1.1. The existing enforcement policy for managing the rights of way network has been reviewed following the conclusion of the core offer arrangements in light of the deletion of the three rights of way enforcement officer posts located in the Highways Divisions at North, East and West.
- 1.2. The existing policy was set following the Leisure and Recreation Committee report of 10 January 1994, although this only covered ploughing and cropping offences specifically.

- 1.3. In reviewing this existing policy it was apparent that it required updating to reflect more recent legislation and the adoption of the Council's Enforcement Concordat as well as the requirement to ensure that any revised policy was compliance with the Regulators' Compliance Code as issued by Central Government (Appendix B)
- 1.4. In Lincolnshire the most common breach of the appropriate legislation is the ploughing and/or cropping of rights of way. Compliance has improved since 1994 however there is a clear need to remain vigilant in terms of ensuring that land managers remember to comply and in taking appropriate and measured action against wilful and persistent offenders.
- 1.5. By way of context the County Council has recorded enforcement action since 2002:

Year	Advisory Action	Formal Enforcement	Total
2002-03	-	403	403
2003-04	-	296	296
2004-05	-	242	242
2005-06	-	136	136
2006-07	-	217	217
2007-08	-	169	169
2008-09	287	132	419
2009-10	209	97	306
2010-11	142	72	214
2011-12	99	52	151

- 1.6. The figure demonstrates that whilst there has been a decrease in the amount of formal written action taken there is still a lack of compliance across the County although often this can be resolved in the first instance by advisory work rather than formal action. The decrease in advisory work in 2010-2012 is a result of the reduction in the number of enforcement officers employed by LCC (as of June 2012 this post description was deleted).
- 1.7. A summary of the actions to be taken by officer's as outlined by the revised policy (Appendix A) would be:
- 1.8. Initially to encourage compliance through a mixture of education, advice and an informal approach however, should this approach not ensure compliance, then the following formal written approach should be taken :
- warning letter – issued for a first issue of non-compliance in a five year period;
 - 14 day formal notice – issued following non-compliance with a warning letter or for a second offence in a five year period;
 - 24 hour formal notice – issued following non-compliance with a 14 day notice or for a third offence in a five year period;

- default action – non-compliance with a 24 hour notice would see the County Council carrying out the required works and recharging the offender.
- following default action, consideration should be given to offering the offender a formal caution;
- for future offences following the 24 hour formal notice, consideration should be given to prosecuting the offender also taking into account any previous formal cautions.

1.9. The accompanying Officer Guidance Notes (Appendix C) outline the acceptable standards for the correct reinstatement of public rights of way as well as advice and guidance for case preparation and proforma letters for the written approaches to land managers across all elements of RoW enforcement work.

2. Conclusion

2.1. That the original 1994 Policy is outdated and requires revising to ensure that changes in legislation and Government policy is correctly reflected and that any action taken by the Authority is proportionate and meaningful.

3. Legal Comments:

The Executive Councillor has the remit to amend the Enforcement Policy and Guidance Manual provided he has the delegated authority of the Leader.

4. Resource Comments:

There are no direct financial implications arising from the revision of the Public Rights of Way Enforcement policy.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Local Access Forum Consultation

The revised policies were submitted to both Local Access Forums who, in turn, formed a joint sub-committee to consider the alterations. These considerations and the Council responses to them are outlined in Appendix D to this report.

d) Scrutiny Comments

The Highways, Transport and Technology Scrutiny Committee considered the proposed revised policy and officer guidance manual at its meeting on 14 May 2012 recommended that the Executive Councillor for Highways and Transport approved it.

e) Policy Proofing Actions Required

That consistent compliance with legislation will ensure a quality rights of way network and enhance tourism resource.

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Revised Enforcement Policy
Appendix B	Statutory Code of Practice for Regulators
Appendix C	Office Guidance Manual
Appendix D	Local Access Forum Consultation Responses
Appendix E	Screening for Equality Impact Assessment

7. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Leisure & Recreation Committee - Public Rights of Way - 10th January 1994	Democratic Services - County Offices, Newland, LN1 1YS

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