

**REPORT OF ACCESS & RIGHTS OF WAY MANAGER**

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**SUBJECT:**

**MAINTENANCE OF PUBLIC RIGHTS OF WAY: AUTHORITY TO ENTER LAND**

Purpose of Report

To ask Members to authorise the Chief Executive (National Park Officer) to authorise appropriate individual members of staff to enter land for the purposes of public rights of way management.

Introduction/Background

The National Park Authority has a longstanding Delegation Agreement for Public Rights of Way (dated 5<sup>th</sup> June 1997) with the Highway Authority, Pembrokeshire County Council. This Delegation Agreement formally transfers a wide range of duties powers and functions to this Authority in respect of public rights of way in the National Park. The National Park Authority has been delegated all duties relating to the maintenance, improvement and enforcement of the right to the use and enjoyment of public rights of way, the Agreement providing for the Authority to indemnify the County Council against all claims arising from the exercise of its powers.

All public rights of way cross land in private ownership and it is therefore necessary for staff of the National Park Authority to gain access over privately owned land on a regular basis in order to undertake routine maintenance work. Usually our warden teams have an understanding with their local landowners to enter land for routine maintenance. Where access is needed for additional improvements landowners are often notified in advance.

The National Park Authority has made great progress in the improvement of public rights of way. When the Delegation Agreement was made in 1997 only 58% of the public rights of way network in the National Park was open. At present 87% of the 1099km network is available for use. The cooperation of landowners and occupiers in the management of these public rights of way is greatly appreciated. Wardens and rangers have in the past managed to agree access to land, however, in the future there may be a need for more formal notice of entry and enforcement action as we seek to bring more impassable public rights of way into use.

Pembrokeshire County Council have delegated the National Park Authority powers of entry to land under Sections 289 & 291 of the Highways Act 1980. In order to exercise these powers on a more formal basis we now seek authority for the Chief Executive to authorise appropriate individual members of staff, being rangers, wardens and public rights of way officers, to exercise these rights on behalf of the National Park Authority to undertake the maintenance and improvement of public rights of way and the removal of obstructions on public rights of way. This authority is similar to that granted to individual officers of Development Management to enable them to enter land to discharge their duties in respect of the consideration of planning applications.

### Comparisons

Other local authorities responsible for the maintenance of public rights of way have similar arrangements in place.

### Options

It is considered that specific authority to enter land is now required as up to now access to land for the undertaking of public rights of way maintenance has not been questioned. If access to land is challenged in future we must ensure that named individual officers authorised under delegated powers can proceed to undertake the delegated duties in respect of public rights of way.

### Financial considerations

The administrative cost of authorising officers to enter land is minimal.

### Risk considerations

Authorisation is considered a legal necessity for formally entering land.

### Compliance

The maintenance of public rights of way complies with National Park purposes, is fundamental to the Management Plan and specifically Outcome 2 of the Corporate Strategy.

### Human Rights/Equality issues

The authority to enter land is exercised in the public interest to discharge this Authority's duties in respect of the management of public rights of way.

### Biodiversity implications/Sustainability appraisal

The proposal does not conflict with the National Park Management Plan and departmental policies for nature conservation, climate change and resource use.

### Welsh Language statement

The proposal complies with the requirements of the Authority's Welsh Language Policy.

### Conclusion

The authorisation of individual officers to enter land for public rights of way maintenance and improvements is considered necessary when owner/occupiers are formally notified of this activity.

### Recommendation

**That Members authorise the Chief Executive (National Park Officer) to authorise appropriate individual members of staff to enter land for the purposes of public rights of way maintenance, improvements and enforcement in accord with the functions, powers and duties delegated to this Authority in the Delegation Agreement with Pembrokeshire County Council for Public Rights of Way, dated 5<sup>th</sup> June 1997.**

### Background Documents

(Public Rights of Way Delegation Agreement 1997; Rights of Way Improvement Plan 2007-17)  
*(For further information, please contact Anthony Richards, Access and Rights of Way Manager on extension. 4849)*