

# 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

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# Table of Contents

1. Introduction .....	1
2. The Work of the Rights of Way Service.....	2
2.1. Maintaining rights of way in a safe condition .....	2
2.2. Ensuring that paths remain free of obstructions .....	2
2.3. Signposting Public Rights of Way .....	2
2.4. The Definitive Map and Statement.....	3
2.5. Public Path Orders .....	3
2.6. Other responsibilities .....	3
2.7. Requests for maintenance to public rights of way .....	4
2.8. Dealing with Obstructions .....	4
2.9. Enforcement Action.....	4
3. How the we will deal with your enquiry .....	5
3.1. Resolving your enquiry .....	5
4. Prioritising Enquiries .....	6
4.1. Priority A Enquiries .....	6
4.2. Priority B Enquiries .....	7
4.3. Priority C Enquiries .....	7
4.4. Priority D Enquiries .....	7
5. Dealing with complaints .....	8
6. Data Protection .....	8
7. Freedom of Information .....	9
7.1. Making information available .....	9
8. Contacts.....	9

## **1. Introduction**

The purpose of this Charter is to complement the County Council's Rights of Way Improvement Plan. It explains how we will prioritise enquiries we received about the network of paths across the County.

This Charter is not intended to describe the way in which the Council carries out its functions.

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.

We receive over 5,000 enquiries per annum. They are varied and some require more input than others which inevitably impacts on our ability to resolve every reported issue in a timely way.

Rights of way provide opportunities for recreation as well as providing an intricate transport network for access to schools, business 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. We work with landowners and their tenants to ensure that paths are maintained free of obstruction.

The Council has duties in respect of rights of way which include:

- Maintaining the rights of way in a safe condition for use by the public.
- Ensuring that paths remain free of obstructions.
- Ensuring that paths are signposted where they leave a metalled highway and are easy to follow.
- Keeping the Definitive Map and Statement<sup>1</sup> up to date and available for public inspection.
- Providing opportunities to divert, create or extinguish rights of way.

The 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.

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<sup>1</sup> The Definitive Map and Statement is a legal record of the network in map format with a written description of each path.

## **2. The Work of the Rights of Way Service**

The main duties of the Service are outlined above however the Council handles a multitude of diverse enquiries and responsibilities that ensure the network of rights of way remains managed and operational.

### ***2.1. Maintaining rights of way in a safe condition***

The Council has a statutory duty to maintain rights of way by virtue of the Highways Act 1980. The majority of public rights of way are maintainable at public expense<sup>2</sup> and the Council aims to maintain the network in a safe condition within budgetary limits. The Rights of Way Team monitors and implements improvements via an annual maintenance programme in addition to overseeing major schemes of repair which are funded through a capital programme.

### ***2.2. Ensuring that paths remain free of obstructions***

The Council has a duty to ensure the network of public paths is maintained free of obstruction. Obstructions may take the form of stiles and gates in disrepair, objects placed in or across a path, the ploughing of the surface of a path to the growing of crops which prevent free passage.

There is currently a robust process to deal with these matters which enables the serving of appropriate Notices followed, if necessary, by enforcement powers to remove obstructions and recharge offenders.

The Council is obliged by statute to offer 25 per cent contribution toward the repair of gates and stiles in disrepair. The supply of free gates and stiles to landowners has replaced this in the main. Although marginally more expensive than the 25 per cent grant, it does ensure that a gate or stile erected under this scheme is of a suitable design and appropriate for public use. It also removes the need for enforcement and the subsequent organisational costs associated with this process.

### ***2.3. Signposting Public Rights of Way***

The Countryside Act 1968 requires the Council to erect and maintain signposts at the point where a path leaves a metalled road. This sign should indicate the status of the route, i.e. Public Footpath, Public Bridleway. It may also state the destination and distance. The Council is also required to waymark routes to enable the public to follow a route with ease. Waymarking is the process of fixing plastic arrows at points along a path where the route is unclear.

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<sup>2</sup> Some rights of way came into existence as privately maintainable public paths. These are maintained by the owner of the land. There are very few in Derbyshire.

An annual contract is run to replace signs reported as missing as well as ad hoc replacements identified by County Council personnel. The Council will also consider requests to erect posts immediately where it is deemed important in terms of avoiding confusion and/or conflict.

#### **2.4. *The Definitive Map and Statement***

The Definitive Map and Statement (“the map”) shows paths over which the public has a right to pass. The Council has a duty to make the map available for inspection by the public. You may view the map by contacting our office and making an appointment during office hours.

Updating the map requires research and site inspection before any change can be made. The Council is currently updating the map with a view to providing both paper and digital versions for public inspection. This is expected to be completed in 2010. As of January 2009 the Council has completed High Peak, North East Derbyshire, Bolsover, Erewash and South Derbyshire leaving Amber Valley, Derbyshire Dales and the Borough of Chesterfield to be published.

#### **2.5. *Public Path Orders***

The County Council has powers to divert, create and extinguish Public Rights of Way. Furthermore, it has a duty to investigate evidence that paths may exist but remain unrecorded or that the rights along a route are incorrect.

Priorities for dealing with Public Path Orders and Definitive Map Modification Orders will be dealt with in a separate policy framework for action<sup>3</sup>.

#### **2.6. *Other responsibilities***

As outlined above, the Service carries out a variety of other functions. This list is not exhaustive but serves to illustrate the variety of work the Service has to accommodate in addition to carrying out statutory functions.

Other functions carried out by the Service include:

- Temporary Closures.
- Public Path Orders.
- Land Charge Searches.
- Technical Support for the County Secretary’s Office.
- The Field Paths Maintenance Scheme<sup>4</sup> with landowners.

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<sup>3</sup> To be published in 2009

<sup>4</sup> This is a scheme to encourage landowners to maintain paths across their land open and available to the public in partnership with Derbyshire County Council.

- Management of the Minor Maintenance Scheme with Parish and Town Councils.
- Advice to the customers, both internal and external, about rights of way issues.
- Responses to Planning Applications and highway development/improvement plans.
- Annual 5 per cent survey of the network.
- Diverting/Extinguishing paths as a consequence of Open Cast Coal Site and Quarrying applications.

### ***2.7. Requests for maintenance to public rights of way***

The Council, whilst recognising its statutory duty, may not be able to fulfil all its obligations in respect of the maintenance of public rights of way immediately due to competing demands within the whole range of services the Council provides.

Requests for maintenance will be investigated as soon as practicable. If the work can be carried out within the available budget you will be advised when this work will be carried out. If it cannot, you will be advised how the Council will prioritise the work and when it is likely to be started. There are occasions when the Council is asked to carry out work above and beyond what is required to maintain a public path in a safe condition. In such cases you will be advised if we consider that the work is unnecessary.

### ***2.8. Dealing with Obstructions***

Obstructions may vary. They range from fencing erected across a path to a ploughed and cultivated field. The Council will respond to all allegations of obstruction on a public right of way. It has powers within the Highways Act 1980 to resolve the problem.

### ***2.9. Enforcement Action***

It is inevitable that at some point enforcement action will be necessary to resolve an issue. The Council has extensive powers to remove obstructions off public rights of way and, when necessary, these powers will be invoked.

The investigation requires that an officer inspects the right of way and makes contact with the person responsible for the obstruction. The Council will serve a Notice requiring the removal of the obstruction. In the case of a gate or stile in disrepair a free gate or stile will be offered in lieu of the mandatory 25 per cent grant payable by the Council. If the Notice is ignored enforcement action will be taken to remove the obstruction and open the path. The Council will recharge costs incurred by taking this course of action.

In the event of an obstruction being discovered that cannot be resolved by the serving of a notice the Council may resort to prosecution after taking appropriate legal advice and exhausting all reasonable endeavours to resolve the issue.

### **3. How the we will deal with your enquiry**

All enquiries are logged into a Customer Management System. This ensures all enquiries are traceable. Each enquiry is allocated to an officer depending on the nature of the enquiry.

The Council receives enquiries through 4 different media:

- Telephone
- Letter (including FAX)
- Email (including online web forms)
- In person (Shand House is not a Public Building and an appointment must be made prior to your visit.)

#### **3.1. Resolving your enquiry**

Enquiries vary in complexity and in addition our response time may be influenced by the volume of work required to provide you with a full response however we expect to respond to your enquiry within 10 working days. The 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 your report relates to a route requiring a significant amount of work you will be advised that it may be in a capital scheme and the priority it has been given.
- If you have reported a missing signpost you will be advised when it will erected.
- If you have requested a Public Path Order to amend the line of a path, 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.
- The targets set below are the maximum timeframes for each priority.

Reports are investigated in line with their severity. Those of significant risk to the public will be investigated within 24 hours. Other reports will be dealt with in line with our scheme of priorities. In dealing with High Priority Reports we will pick up Low Priority Reports in an integrated

way to ensure that we clear as many issues as possible in one area of operation. The current work programme may be viewed on the Council's web site.

## **4. Prioritising Enquiries**

The Rights of Way Team receives a large number of enquiries each year. It is important therefore that we prioritise problems reported to the County Council or identified through inspections. We generally take into account the level of danger to the public and the effect 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 action<sup>5</sup>.

Here are the main issues we consider:

- Is the route promoted or supported by Derbyshire County Council e.g. Pennine Way, Limestone Way, Rowthorne Trail?
- The extent of the obstruction (is there an alternative route?).
- The number of complaints received from different sources.
- Is it within the power of the County Council to resolve?
- The level of use, or likely use, of the path and the type of path.
- How long the problem will last.
- The needs of users with disabilities.

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.

### **4.1. Priority A Enquiries**

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

- Public Safety
- Harassment and intimidating behaviour or notices
- Potentially dangerous bridge or structure on a right of way
- 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

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<sup>5</sup> To be published in 2009

**Target: within 10 working days**

#### ***4.2. Priority B Enquiries***

Definition: Issues directly affecting or limiting access

- Drainage and flooding issue
- Obstruction and encroachment
- 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: within 12 weeks**

#### ***4.3. Priority C Enquiries***

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

- Cattle Grids
- Request for Barriers
- Handrail repairs
- Unauthorised use by vehicle/horses/bicycles
- Willful removal of a signpost in order to mislead the public
- Waymarking.

**Target: 26 weeks**

#### ***4.4. Priority D Enquiries***

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

- Misleading Notices
- Path improvement requests not covered by higher priorities
- De minimus 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**

## **5. 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](http://www.derbyshire.gov.uk). All complaints will be treated confidentially as far as practicable. Contact details are available at the end of this document.

We will endeavour to fully investigate your complaint promptly. However, depending on the number and nature of complaints already being dealt with at any point in time, it may be necessary to prioritise our work to deal with urgent issues that may be of a more serious nature.

We will aim to acknowledge the receipt all complaints within two working days of their receipt (emails will be acknowledged within 24 hours). We will advise the complainant what course of action we intend to take within ten working days. If the matter has not been resolved we will advise what further action is proposed. If no further action is proposed we will advise you how we reached this decision.

## **6. Data Protection**

Much of Derbyshire County Council's work involves personal information. The use of personal information is regulated by the Data Protection Act 1998, and under Article 8 of the Human Rights Act, everyone has the right to respect for their private and family life, their home and correspondence. All information about identifiable people obtained, used and shared will be treated with proper care. Every individual's right to privacy will be respected, and information will be shared within the council or disclosed to others only where it is lawful, necessary and fair to do so.

We will:

- Ensure that all employees, volunteers and contractors recognise their responsibility to protect the privacy and right to confidentiality of everyone who interacts with the Council, as a service user, employee, or visitor to the area.
- Ensure that throughout the life cycle of personal information in the Council, from obtaining it, through using and storing it, to disposing of or destroying it, the rights of individuals to have their data treated lawfully and fairly will be respected and upheld.
- Ensure that personal information held by the Council is accurate, objective, and secure.
- Acknowledge and support the rights of individuals to have appropriate access to their information under the Data Protection Act 1998 upon written request.

- Ensure that information about individuals will only be shared in appropriate and lawful circumstances.

## **7. Freedom of Information**

The Freedom of Information Act 2000 creates significant rights of access to recorded information held by public authorities. It creates two general rights in relation to information; the right to be told whether or not the information requested is held, and the right to be given that information within 20 working days.

It is recognised that there is a need for an appropriate balance between openness and confidentiality in the management and use of information. The principles of corporate governance are supported and public accountability recognised, but equally importance is placed on the confidentiality of, and the security arrangements to safeguard, both personal information about service users and staff and commercially sensitive information.

### ***7.1. Making information available***

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

## **8. Contacts**

Contact information to be compiled below .....