

EXECUTIVE BOARD

16th November 2020

Subject

Countryside Access Charging Policy – Public Path Furniture

Purpose

To seek approval for the adoption of a Charging Policy for the supply and installation of public path furniture across the public rights of way network.

Recommendations / key decisions required:

To approve adoption and appropriate promotion of the charging policy.

Reasons:

The provision and maintenance of furniture along public rights of way, such as stiles, kissing gates and bridle gates is not a highway authority duty, it is the responsibility of the landowner.

To date the Countryside Access team have funded the supply and installation of furniture across the network on behalf of the landowner in almost all cases. Payment for furniture by the landowner has historically been the exception not the rule and there has been a largely informal and inconsistent method of determining who should cover the cost of the supply/installation.

With a challenging financial outlook, the costs associated with this way of working are not considered sustainable.

A charging policy has the potential to provide additional income for the service and therefore additional capacity. It will also create fairness and consistency in determining when furniture costs should be recovered from landowners.

Relevant Scrutiny Committee to be consulted NO

Exec Board Decision Required: Yes

Council Decision Required No

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER: - Cllr. Hazel Evans, Executive Board Member for Environment.

Directorate:
Environment / Communities

Name of Head of Service:
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EXECUTIVE SUMMARY
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SUBJECT

Countryside Access Charging Policy – Public Path Furniture

1. BRIEF SUMMARY OF PURPOSE OF REPORT.

A charging policy has been developed by the Countryside Access service to introduce a means of recovering a portion of current expenditure on supplying and installing public path furniture on behalf of landowners.

Since the appointment of the Countryside Rangers in 2003, and to a lesser extent before then, Carmarthenshire's Countryside Access team have funded the supply and installation of furniture across the network on behalf of the landowner in almost all cases.

Section 146 of the Highways Act 1980 requires any stile or gate across a footpath, bridleway, or restricted byway to be maintained by the landowner.

With a challenging financial outlook, the service is not reasonably able to continue with the current level of support for landowners.

The proposed policy has been carefully considered to introduce an appropriate and fair degree of cost recovery for furniture supply and installation by the Authority whilst formalising concessions in certain circumstances. The concessions contained in the policy are included to support and assist in delivering policies and actions contained in the Carmarthenshire Rights of Way Improvement Plan (ROWIP) 2019-2029, particularly around least restrictive access and prioritisation of promoted routes.

The policy also serves to provide a clear set of rules for furniture provision that will inform landowners of their statutory responsibilities and will assist Countryside Access staff in offering landowner support that is consistent, fair and reasonable.

The proposed charging policy provides that where Landowners: 1. Adopt standardised furniture to support access. 2. Are compliant and cause no obstruction on the promoted and wider network, no charges will apply.

Charging will apply in the following circumstances:

- Where non standardised furniture is installed. Charges will be applied at fifty percent and subject to conditions on compliance as set out in the detailed report attached.
- Where the landowner wishes to have a stile installed, it must meet the British Safety Standard but as stiles restrict access, charges will be applied at seventy five percent and subject to conditions set out in the detailed report.
- Where furniture is required because of a landowner request to divert a Right of Way, the landowner is liable to meet the full cost.
- Where enforcement action is required the landowner is liable for the full cost of

installation.

The proposed policy, if approved, will apply across all of Carmarthenshire excluding the eastern portion of the County that sits in the Brecon Beacons National Park as this area is managed by the National Park Authority under the current Delegation Agreement.

A policy of this type is currently uncommon across Wales, but a number of Welsh Authorities are considering a similar move towards furniture recharge.

This report is seeking approval to adopt the charging policy.

2. OTHER OPTIONS AVAILABLE AND THEIR PROS AND CONS

No Change

The Authority could continue to work in the current way and not introduce any form of charging policy or clear set of rules for furniture provision. This would remove the risk of resistance from landowners as the Authority would continue to undertake work on their behalf without recovering any costs. Working in this way would eliminate any possibility of achieving any income from undertaking landowner duties and it would not regulate furniture provision to allow officers to work to a clear and consistent set of rules. Not introducing a policy for furniture provision would maintain the commonly held but incorrect view that the Local Authority are responsible for public path furniture.

More Concessions

The proposed policy could be amended to contain further concessions. Increased concessions would keep potential landowner resistance to a minimum as the Authority would continue to undertake work on behalf of landowners with minimal cost recovery. A policy of this type would still serve to create clear and consistent rules for furniture provision however the policy would likely have minimal budgetary benefits and would support the commonly held but incorrect view that the Local Authority are responsible for furniture.

Fewer Concessions

The proposed policy could be amended to contain fewer concessions. Introducing more comprehensive charging would generate significant income for the service and would align the Authority more with section 146 of the Highways Act (1980), clearly placing responsibility for path furniture on the landowner. A policy of this type might however, given the very sudden and significant change in furniture provision support, lead to animosity with landowners and greatly increase enforcement cases.

To introduce a more comprehensive charging would impact more significantly on the landowner. Any additions to the proposed policy will delay the adoption of a formal working system that has been carefully considered to better reflect responsibilities for public path furniture, safeguard the countryside access budget, introduce consistency in furniture provision and fairness in cost recovery.

DETAILED REPORT ATTACHED?	YES
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IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: Stephen Pilliner

Head of Highways & Transportation

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
Yes	YES	YES	NO	NO	YES	NO

1. Policy, Crime & Disorder and Equalities

The introduction of a charging policy improves consistency and equality in determining when costs for public path furniture are recovered.

2. Legal

The policy will better align the Authority with the provisions of section 146 of the Highways Act (1980) placing responsibility for path furniture onto the landowner. It will necessitate the Countryside Access service in processing landowner claims for a 25% financial contribution towards furniture, from the Authority, introduced by the Countryside Act (1968).

There may be more cases of enforcement as a result of the Authority carrying out less work on behalf of the landowner free of charge.

The concessions contained in the policy have been approved by Legal Services.

3. Finance

Adoption of this policy will introduce a means of cost recovery for service expenditure on furniture. This will support the Countryside Access maintenance budget.

If cases of enforcement increase the Countryside Access legal budget may be put under more pressure although costs should be recoverable in most cases.

6. Staffing Implications

The charging policy may lead to fewer furniture installations being carried out by the service on the behalf of the landowner where landowners choose to complete work themselves.

This would a positive outcome within a small team as it would increase capacity within the Ranger team to undertake statutory duties, improvements and grant funded projects across the network.

Where landowner installation has taken place there would be a need for that installation to be inspected for compliance. If landowner installations were to become the standard, then there may be a need to specifically assign furniture inspections to a member/members of the Countryside Access team to ensure each installation is checked and signed off.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Stephen Pilliner

Head of Highways & Transportation

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

No

2. Local Member(s)

No

3. Community / Town Council

No

4. Relevant Partners

Carmarthenshire Local Access Forum

5. Staff Side Representatives and other Organisations

No

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Highways Act 1980	N/A	https://www.legislation.gov.uk/ukpga/1980/66
Countryside Act 1968	N/A	https://www.legislation.gov.uk/ukpga/1968/41
Carmarthenshire Rights of Way Improvement Plan (ROWIP) 2019-2029	N/A	Countryside Access Unit, Mynydd Mawr Woodland Park, Tumble. SA14 6HU https://www.carmarthenshire.gov.wales/home/council-services/public-rights-of-way/rights-of-way-improvement-plan/#.X0UZgOSWzIU

REPORT TO THE DIRECTOR OF ENVIRONMENT IN RESPECT OF
CARMARTHENSHIRE'S PROPOSED COUNTRYSIDE ACCESS
CHARGING POLICY – PUBLIC PATH FURNITURE

Introduction

The provision and maintenance of furniture along public rights of way, such as stiles, kissing gates and bridle gates is the responsibility of the landowner.

Carmarthenshire has historically been a County that has exceeded its statutory duties in respect of supplying and maintaining furniture of the public rights of way (prow) network.

Maintenance budgets and funding opportunities have enabled this approach and as a result many kilometres of prow have been re-opened, providing valuable access opportunities for residents and visitors to the County.

With the Authority covering the costs associated with this work, including costs that should have been borne by the affected landowners, few cases of enforcement occurred as a result.

Unfortunately, the financial outlook continues to be challenging and as such the service can no longer provide the same level support for landowners, a policy has therefore been developed in relation to furniture provision.

The terms of the proposed policy will still support landowners but will ensure they bear their legal responsibilities more appropriately. It will also ensure that where public funds are used for furniture, support will be consistent and the results will be clearly aligned with the policies and actions contained in the Carmarthenshire ROWIP.

Relevant Legislation

Section 146 of the Highways Act 1980 requires any stile or gate across a footpath, bridleway or restricted byway to be maintained by the landowner in a safe condition and to the standard of repair required to prevent unreasonable interference with the rights of users.

If a landowner complies with their duty to maintain PROW furniture, they are entitled to recover at least 25% of their costs from the authority. This was introduced by the Countryside Act 1968 to provide a fair division of responsibility between owners and the highway authority. Where authorities have failed to compel landowners to carry out their duties, as in Carmarthenshire, landowners have not claimed the grants that would otherwise be due to them.

If a landowner fails in his duty, the Local Authority, as the relevant highway authority, may, after giving at least 14 days' notice to both owner and occupier, do any work necessary to repair, replace or remove a piece of furniture and charge costs to the owner.

Conclusions

With no consistent policy in place for supplying furniture and/or materials to a landowner, or for charging landowners for work undertaken by the Authority on their behalf the County are using public funds for expenses they are not legally liable for without a rationale and are doing so in an inconsistent way that might leave us open to challenge.

Introducing an approved policy of cost recovery for installing furniture on the PROW network will allow us to provide clear and consistent guidelines to landowners.

It would align our working practices with the relevant legislation whilst providing a rationale for instances where we continue to support landowner duties.

It also has the potential to generate a moderate income that would support the maintenance budget and could increase the capacity of the service.

The delivery of the proposed policy will support actions and policies contained within the Carmarthenshire Rights of Way Improvement Plan 2019-2029 and has positively supports the Public Sector Equality Duty.