

Countryside Access Charging Policy – Public Path Furniture

<u>Contents</u>	1
1. Summary	2
2. Legal Context	2
3. Principles of this Policy	3
4. Terms of Payment	3
5. Chargeable Furniture supply/installation	4
6. Furniture supplied/installed Free of Charge	5
7. Equality Impact Assessment	5
 Appendix 1 – Price List	
Appendix 2 - Furniture offered Free of Charge	
Appendix 3 – Equalities Impact Assessment Form	

1. Summary

Responsibility for protecting Public Rights of Way (PROW) and maintaining their surface lies with the Local Authority as the relevant highway authority. However, 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.

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.

As a result of supplying and installing furniture at no cost to the landowner, resistance to PROW maintenance and improvements from landowners has been minimal, this has led to fewer cases of formal enforcement.

Available funding, particularly the Rights of Way Improvement Plan (ROWIP) grant, allowed the service to meet the costs associated with this way of working. Unfortunately, the ROWIP grant has now ceased and the financial outlook continues to be challenging, the service is therefore unable to continue with the current approach to the supply and installation of furniture.

This policy sets out how the service intends to revise its way of working in relation to furniture supply and installation, providing a clear and consistent set of rules, whilst taking account of our statutory responsibilities.

2. Legal Context

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. This is the case in respect of every piece of furniture on the PROW network unless there is specific legal agreement to the contrary.

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. The existence of this power does not detract from the duty of the highway authority to take enforcement action if the condition of a stile or gate constitutes an obstruction.

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. In practice, if the Authority carries out the work on behalf of the landowner, they should charge 75% of the total cost, if the landowner carries out the work themselves, they may claim back 25% of the total cost.

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.

3. Principles of this Policy

Reduced funding means that the Countryside Access team is not able to continue to work in the same way as previously, funding the supply and installation of furniture across the PROW network on behalf of the landowner in almost all cases.

There is a need for a coherent policy for supplying furniture and/or materials to a landowner, and for when a landowner should be charged for work undertaken by the Authority on their behalf. 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.

The decision to move to a policy of charging for furniture is in line with the Highways Act 1980. Delivery of the policy will assist in achieving 'Least Restrictive Access' across Carmarthenshire's PROW network, a policy contained in our Rights of Way Improvement Plan (ROWIP) 2019-2029. Numerous ROWIP Actions will also be supported by the policy including network maintenance, improvement, and accessibility.

This policy has the potential to increase capacity within the service by generating additional income which could fund more furniture across the County, opening more routes to the public.

The parameters of this policy will require the service to keep standard furniture stock and equipment rather than the range currently held. This has the potential to increase capacity within the service by reducing expenditure on holding varied stock as currently.

These are the parameters in which we will now generally work subject to periodical review to take account of any financial changes, variations in National or Local Authority policy and/or changes to the legal and statutory framework covering PROW.

4. Terms of Payment

Where the legal obligation is for the landowner to provide or maintain the necessary PROW furniture and the landowner chooses for the Authority to undertake works, this will be charged under the terms of this Policy.

Payment for work shall be made up front.

5. Chargeable Furniture supply/installation

Circumstances where the Authority will seek to recover costs are as detailed below.

5.1 Non-Standard Gates

Landowners/managers demonstrating compliance when approached by a member of the Countryside Access team but who would like the Authority to install a gate type that is not standard stock will be required to pay half of the total cost of supply and installation of that gate.

This will be subject to the following criteria:

- i. There must be no reported incidents of aggressive or intimidating behaviour towards PROW users or staff linked to the landowner/manager.
- ii. Aside from the poor condition of or absence of furniture, there must be no evidence of wilful obstruction in respect of any PROWs across the holding
- iii. The landowner/manager must accept responsibility for the furniture once installed, as per their duty under the Highways Act 1980.

5.2 Stiles

If the landowner/manager wishes to install a stile on the PROW network within their holding they must cover the full cost of the stile(s) and installation as is their statutory duty. Any stile must meet the current British Standard BS5709:2018 and must be permissible on the network.

Stiles are discouraged in Carmarthenshire. A stile does not provide a widely accessible means of accessing a pedestrian PROW and as such it does not satisfy our Policy of Least Restrictive Access. A stile carries higher risk of injury to the public and a higher level of liability for the landowner. Being predominantly constructed from timber, stiles can fall into disrepair in a relatively short period.

If supply and installation is undertaken by the landowner, they may claim back the statutory 25% for costs incurred for a stile(s) from the Authority. Proof of costs incurred must be provided.

If a stile(s) is supplied and installed by the Authority, on behalf of the landowner, 75% of total costs will be recovered from the landowner, the statutory 25% entitlement will be automatically deducted.

5.3 Enforcement

Landowners/managers that are not compliant when approached by a member of the Countryside Access team, subsequently leading to default enforcement proceedings, will be charged the full cost of any furniture installation carried out as part of a default action.

If following a successful enforcement action through the court, a landowner/manager elects to contract the services of the Countryside Access team to carry out any necessary furniture installation(s) they will be expected to cover the full costs of the works.

5.4 Diversion Orders

If a PROW that has been subject to a Diversion Order because of a formal application, then the applicant is liable for all costs associated with the creation of the new route. This includes the full cost of all necessary furniture. 25% cost recovery from the Authority under the Countryside Act (1968) does not apply in these circumstances.

For a price list of all PROW furniture applicable to this section, see appendix 1

6. Furniture supplied/installed Free of Charge

Presently the Authority will continue to undertake landowner responsibilities in respect of PROW furniture in the circumstances detailed below.

6.1 Promoted Network

Due to the importance placed on promoted PROWs in the County and the additional burden that is placed on them, the Countryside Access team will continue to fund the upkeep of furniture and provision of replacement furniture on behalf of the landowner.

These promoted routes, for example the Wales Coast Path, the Heart of Wales Trail, and the Cothi Trail, should be maintained in the best possible condition to showcase the best of the what the County has to offer to local people and tourists visiting the County.

6.2 Wider Network

Landowners/managers that demonstrate clear compliance when approached by a member of the Countryside Access team will still be offered furniture installation free of charge in order to open a path(s) on their holding, subject to strict criteria:

- i. A specific furniture type must be accepted according to the status of the PROW – see appendix 2.
- ii. There must be no reported incidents of aggressive or intimidating behaviour towards PROW users or staff linked to the landowner/manager.

- iii. Aside from the poor condition of or absence of furniture, there must be no evidence of wilful obstruction in respect of any PROWs across the holding
- iv. The landowner/manager must accept responsibility for the furniture once installed, as per their duty under the Highways Act 1980.

This approach will maximise the efficiency of the Countryside Service. It will deliver valuable and sought-after network improvements on the ground and reward landowner compliance whilst still being mindful of deliberate PROW offences that will annul eligibility for this offer. It will also enhance the network, opening routes in cooperation with landowners whilst consistently delivering least restrictive access across the network.

7. Equality Impact Assessment

This Policy has been subject to an initial Equality Impact Assessment, see appendix 3. A detailed EIA assessment was not considered necessary.

Appendix 1 - Price List (excl VAT)

Furniture Type	Price
Galvanised Self Closing Pedestrian Gate (complete unit)	£134.00
Treated Timber Pedestrian Gate (with posts and ironmongery)	£130.30
Galvanised Stock Proof Self Closing Kissing Gate (complete unit)	£265.00
Treated Timber Kissing Gate	£210.30
Treated Timber Stile (2 Step)	£25.00
Treated Timber Stile (2 step) with dog latch	£50.00
Galvanised Bristol Gate complete unit (field gate with built in pedestrian gate)	£351.00
10'/3048mm Galvanised Field Gate (with posts and ironmongery)	£154.00
12'/3660mm Galvanised Field Gate (with posts and ironmongery)	£162.75
10'/3048mm Treated Timber Field Gate (with posts and ironmongery)	£205.30
12'/3660mm Treated Timber Field Gate (with posts and ironmongery)	£230.20
Galvanised Bridle Gate (complete unit)	£135.00
Galvanised Bridle Gate (complete unit with bridle latch)	£208.00
Treated Timber Bridle Gate (with posts and ironmongery)	£142.80
Treated Timber Bridle Gate (with posts and ironmongery and bridle latch)	£216.00
*Please Note	
Prices subject to annual review	
Price on application for items not included above	
Prices may vary if urgent supply is required and stock is unavailable	

Appendix 2 - Countryside Access Furniture offered Free of Charge

Public Footpaths

Galvanised Self Closing Pedestrian Gate – 1000mm Clear Span

Treated Timber Pedestrian Gate – minimum 1000mm Clear Span

Bridleways

Galvanised Bridle Gate with bridle latch – 1525mm Clear Span

Treated Timber Bridle Gate – minimum 1525mm Clear Span

Restricted Byways

Galvanised 3048mm Field Gate (minimum legal width)

Appendix 3 – Initial Equalities Impact Assessment

Department: Countryside Access	Completed by (lead): Caroline Ferguson	Date of initial assessment: 24/08/2020 Revision Dates:
Area to be assessed: (i.e. name of policy, function, procedure, practice or a financial decision)	Countryside Access Charging Policy – Public Path Furniture	
Is this existing or new function/policy, procedure, practice or decision?	New Policy	
What evidence has been used to inform the assessment and policy? (please list only)		
Statutory Duties Relevant Legislation Rights of Way Improvement Plan (2019-2029) Past/Existing working practices		

1. Describe the aims, objectives or purpose of the proposed function/policy, practice, procedure or decision and who is intended to benefit.	The aim of this policy is to provide consistency in the provision and/or installation of countryside access furniture for landowners. It will introduce an approved means of cost recovery for furniture provided/installed by the Authority where the landowner is liable. Introducing the policy and recovering costs has the potential to generate additional income for the service to fund more works across the public path network rather than covering 100% of landowner liabilities across a lesser length of the network.		
The Public Sector Equality Duty requires the Council to have “due regard” to the need to:-	2. What is the level of impact on each group/ protected characteristics in terms of the three aims of the duty?	3. Identify the risk or positive effect that could result for each of the group/protected characteristics?	4. If there is a disproportionately negative impact what mitigating factors have you considered?

(1) eliminate unlawful discrimination, harassment and victimisation; (2) advance equality of opportunity between different groups; and (3) foster good relations between different groups (see guidance notes)		Please indicate high (H) medium (M), low (L), no effect (N) for each.	Risks	Positive effects	
Protected characteristics	Age	M	None	Introduces consistency across all groups	N/A
	Disability	M	None	Introduces consistency across all groups. The installation of standardised furniture will assist access for all groups. Officers will advise with the Disability Coalition of the positive impact of the policy.	N/A
	Gender reassignment	M	None	Introduces consistency across all groups	N/A
	Race	M	None	Introduces consistency across all groups	N/A
	Religion/Belief	M	None	Introduces consistency across all groups	N/A

	Pregnancy and maternity	M	None	Introduces consistency across all groups	N/A
	Sexual Orientation	M	None	Introduces consistency across all groups	N/A
	Sex	M	None	Introduces consistency across all groups	N/A
	Welsh language	M	None	Introduces consistency across all groups	N/A
	Any other area	M	None	Introduces consistency across all groups	N/A

5. Has there been any consultation/engagement with the appropriate protected characteristics?

YES ☐

NO ☒

6. What action(s) will you take to reduce any disproportionately negative impact, if any? N/A

7. Procurement

Following collation of evidence for this assessment, are there any procurement implications to the activity, proposal, service? No

Please take the findings of this assessment into your procurement plan. Contact the corporate procurement unit for further advice.

8. Human resources

Following collation of evidence for this assessment, are there any Human resource implications to the activity, proposal or service? No

9. Based on the information in sections 2 and 6, should this function/policy/procedure/practice or a decision proceed to Detailed Impact Assessment? (recommended if one or more H under section 2)		YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Approved by: Head of Service			Date: 24/08/2020