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Title	Public Rights of Way - Maintenance and Obstructions
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OFFICERS RECOMMENDATION

1. To note the concerns regarding the condition of Public Footpath 261/G35/1 at the Croft and the wider Public Rights of Way network within Welshpool;
2. To establish a simple Town Council register for recording Public Rights of Way issues within Welshpool, including reports made to Powys County Council and the action taken;
3. To agree that Public Rights of Way problems should initially be reported to Powys County Council through the normal reporting procedure and subsequently escalated where they remain unresolved;
4. To agree that, where the Town Clerk, in consultation with the Mayor, considers that an unresolved issue may constitute an unlawful obstruction of a highway, a formal representation on behalf of the Town Council be issued to Powys County Council under Section 130(6) of the Highways Act 1980.

1. Purpose of Report

1. To consider the condition and management of Public Rights of Way (PROWs) within Welshpool and the action available to the Town Council where routes become overgrown, obstructed or otherwise inaccessible.
2. The report follows concerns regarding the condition of Public Footpath 261/G35/1 at the Croft and considers whether the Council should adopt a more structured approach to monitoring and reporting issues across the wider PROW network.

2. Background

1. Powys County Council's Public Rights of Way dataset records 148 distinct Public Rights of Way route sections within the Welshpool community. The network is predominantly made up of public footpaths, with a small number of bridleways.
2. Recently, concerns were raised regarding Public Footpath 261/G35/1 at the Croft, which had become significantly overgrown. The condition of the route was reported to Powys County

Council but no substantive response or action was received. Members of the public subsequently undertook clearance of the route themselves.

3. This has highlighted the wider issue of how Public Rights of Way within Welshpool are monitored and what action the Town Council can take where routes become obstructed or maintenance issues remain unresolved.

3. Responsibility for Public Rights of Way

1. Powys County Council, as highway authority, has primary responsibility for the Public Rights of Way network. Responsibilities are divided between the highway authority and adjoining landowners depending upon the nature of the problem.
2. Powys County Council is generally responsible for matters including:
 1. maintaining the surface of publicly maintainable routes;
 2. controlling undergrowth growing on the highway;
 3. signposting and waymarking;
 4. maintaining most bridges and culverts; and
 5. protecting the public's right to use the highway.
3. Landowners and occupiers have responsibilities which include:
 1. keeping Public Rights of Way free from unlawful obstruction;
 2. maintaining hedges and vegetation growing from adjoining land;
 3. maintaining gates and stiles for which they are responsible;
 4. keeping paths clear of crops; and
 5. reinstating routes following permitted agricultural disturbance.
4. The appropriate response therefore depends upon the nature and cause of the particular problem.

4. Reporting Problems

1. Powys County Council operates a system for reporting problems affecting Public Rights of Way.
2. For routine issues such as overgrown paths, damaged furniture, fallen branches, missing signs or other maintenance problems, reporting the matter to PCC should normally remain the first course of action.
3. The Town Council could improve its oversight by maintaining a simple record of problems identified on routes within Welshpool. This would allow the Council to identify recurring problems and cases where reports remain unresolved rather than dealing with each issue in isolation.

5. Unlawful Obstructions – Highways Act 1980

1. The Town Council has a specific statutory role where a highway is unlawfully obstructed.
2. Section 130 of the Highways Act 1980 places a duty upon highway authorities to assert and protect the rights of the public to the use and enjoyment of highways.
3. Importantly, Section 130(6) provides that where a community council represents to the highway authority that a highway within its area has been unlawfully stopped up or obstructed, the highway authority must, unless satisfied that the representation is incorrect, take proper

proceedings accordingly.

4. This provides the Town Council with a formal escalation mechanism which goes beyond simply reporting an issue as a member of the public.
5. It would not be appropriate to use this procedure for every routine maintenance issue. However, where there is evidence of a genuine unlawful obstruction and the matter remains unresolved, the Council could formally make a representation to PCC under Section 130(6).
6. Examples might include an unauthorised fence or barrier across a route, a route being deliberately blocked, or other encroachment which materially prevents the public exercising the right of passage.
7. There is a further procedure under Sections 130A–130C of the Highways Act 1980 whereby a person may serve notice upon a highway authority concerning certain obstructions of footpaths, bridleways and restricted byways. This can ultimately lead to an application to the Magistrates' Court.
8. This would be regarded as a more formal, last-resort procedure where other attempts to resolve a qualifying obstruction had failed.

6. Maintenance by the Town Council

1. There is also an option for the Town Council to take a more active role in maintaining local routes.
2. Section 43 of the Highways Act 1980 allows a community council to undertake the maintenance of a footpath, bridleway or restricted byway within its area where that highway is maintainable at public expense.
3. Importantly, the exercise of this power by the Town Council does not remove the underlying maintenance responsibility from the highway authority.
4. This could potentially allow the Council's Operations Team to undertake limited routine works such as vegetation clearance on selected routes within Welshpool.
5. However, it is not recommended that the Council begins undertaking works due to the lack of officer capacity, nor the budget to do so.

7. Proposed Approach

1. Rather than considering the Croft footpath as an isolated issue, the Council could establish a simple Public Rights of Way monitoring and escalation process for Welshpool.
2. Problems identified by councillors, officers or residents would initially be recorded and reported through the normal PCC process.
3. Where no action is taken within a reasonable period, the Town Council could follow the matter up directly with PCC's Rights of Way service.
4. Where an issue constitutes a continuing unlawful obstruction, the matter could then be considered for formal representation by the Town Council under Section 130(6) of the Highways Act 1980.

8. Financial Implications

1. There are no significant direct financial implications arising from establishing a monitoring and reporting process.
2. If the Council subsequently agrees to undertake maintenance of Public Rights of Way, there would be implications for Council's capacity etc. It is not recommended at this stage to enter into any maintenance of Public Rights of Way.

9. Recommendation

1. To note the concerns regarding the condition of Public Footpath 261/G35/1 at the Croft and the wider Public Rights of Way network within Welshpool;
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3. To agree that Public Rights of Way problems should initially be reported to Powys County Council through the normal reporting procedure and subsequently escalated where they remain unresolved;
4. To agree that, where the Town Clerk, in consultation with the Mayor, considers that an unresolved issue may constitute an unlawful obstruction of a highway, a formal representation on behalf of the Town Council be issued to Powys County Council under Section 130(6) of the Highways Act 1980.

10. Decision

1. To resolve the recommendations as above.