

Changes to the Rights of Way Committee terms of reference and Delegation Code of Practice

(additions shown in bold, italic text, deletions struck through)

Rights of Way Committee

Constitution

Nine members of the County Council. Quorum is three.

Terms of Reference

1. To exercise the ***statutory non-executive*** powers and duties of the County Council in relation to ***public rights of way (which includes, but is not limited to,*** public footpaths, bridleways, and byways open to all traffic and restricted byways) ~~under the associated legislation.~~
2. To exercise the ***statutory non-executive*** powers and duties of the County Council in relation to commons and town or village greens ~~under the relevant provisions of the Commons Registration (New Land) Regulations 1969 (SI 1969/1843) and the Commons Registration (General) Regulations 1966 (SI 1966/1471) and the Commons Registration (England) Regulations 2014.~~
3. ~~To exercise the non-Executive powers and duties of the County Council pursuant to the Highways Act 1980, the Wildlife and Countryside Act 1981, the Town and Country Planning Act 1990, the Countryside and Rights of Way Act 2000, the Natural Environment and Rural Communities Act 2006.~~
4. To review and adjust delegations to officers within the functions delegated to the Committee.
5. To delegate powers, when appropriate and on the recommendation of the Director of Law and Assurance, to another local authority including a borough or district ~~borough~~ council and to be able, subsequently, to review, amend or withdraw that delegation.
6. To consider a petition in accordance with the Petitions Scheme in accordance with Standing Order 3.43 (b).

Rights of Way - Delegation Code of Practice (Public Path Orders, Definitive Map Modification Orders, Town and Village Green Applications and corrections to Common Land and Town and Village Green Registers)

Public Path Orders

The proposed framework in which the powers delegated to the Director of Highways, Transport and Planning in consultation with the Director of Law and Assurance relating to public path extinguishment orders, public path diversion orders, public path creation agreements, public path creation orders (***collectively known as public path orders***), providing comments to district/borough councils on applications they are determining, permissive path agreements and dedication agreements is to operate as set out below which provides the safeguards for the process of delegation. It should be remembered that officers will have discretion to determine a matter but will aim to err on the side of caution in deciding whether to exercise that discretion.

Local Member Notification

New application/consultation/proposal(s) will be reported within two weeks' of receipt in The Bulletin and again when the public consultation process is begun. The list will indicate the local member and, in the case of applications having a wider significance, adjoining division members. The application/consultation/proposal will not be decided for a period of 21 days from the latter date of notification in The Bulletin.

Any local member (or adjacent division member where appropriate) wishing to express a view must do so to the Director of Highways, Transport and Planning's nominated officer as stated on the notification within the 21-day period and the member's view will then be taken into account in reaching a decision. If a member disagrees with the view of the Director, in relation to the delegation, and this is within the 21-day period, the matter will be referred to the Rights of Way Committee for determination. If the causes of disagreement can be resolved through discussion, the delegated action can proceed. This will apply to all applications/responses to district/borough consultations/ proposals.

Objections from County Local Committees, district and parish councils, Sussex Police and interested user groups

In respect of applications for public path orders where, as a result of the consultation process, a borough, district, town or parish council, the County Local Committee or a prescribed user group objects in writing to the application, the delegation is barred.

Objections from the public

In respect of applications for public path orders where, as a result of the consultation process, there remain outstanding substantive comments from members of the public, the delegation is barred.

Definitive Map Modification Orders (DMMO)/Town and Village Green (TVG) Applications and Corrections to Common Land/TVG Registers

The proposed framework in which the powers delegated to the Director of Law and Assurance relating to definitive map modification order applications, village green applications and applications to amend the commons and village green registers is to operate as set out below, providing safeguards for the process of delegation. It should be remembered that officers will have discretion to determine a matter but will aim to err on the side of caution in deciding whether to exercise that discretion.

Local Member Notification

New applications for DMMO, TVG and to amend the Commons/TVG registers will be notified to the local member for information by email within two weeks of acceptance of a valid application.

Significant evidence in conflict

There are strict legal tests associated with such applications and relevant evidence will be needed. Objections are often received which must be discounted, for example where the objection is that a route is not suitable for use. Such objections would be discounted even if large in number or from other local authorities or prescribed user groups. In other cases there may be significant ~~credible~~ evidence in conflict. ***Where such significant evidence exists*** ~~A significant conflict in credible evidence provided in support or against an application bar~~ the delegation ***is barred*** and the determination then rests with the Rights of Way Committee. Where there is uncertainty the officers will undertake the necessary report, setting out whether the legal tests have been met and explaining the evidence in conflict and a discussion will take place with the Chairman of the Rights of Way Committee and the local member about whether the delegation should be barred.

No significant evidence in conflict received

Where no significant evidence in conflict has been received the matter shall be determined by officers. The officer's report will be signed off as a delegated decision.

Report of Delegated decisions

All decisions on applications determined under delegated powers will be reported to the next meeting of the Rights of Way Committee for the Committee to note and monitor.