

WEST DUNBARTONSHIRE COUNCIL

Report by Director of Housing, Regeneration and Environmental Services

Planning Committee: 6 September 2006

Subject: Enforcement Procedures in respect of the Land Reform (Scotland) Act 2003

1. Purpose

- 1.1** To advise the Committee of the duty of the Council to uphold access rights in relation to Sections 13 & 14 of the Land Reform (Scotland) Act 2003 and to seek authority for procedures relating to the enforcement of these sections.

2. Background

- 2.1** Landowners and occupiers are now required by the Land Reform (Scotland) Act 2003 to manage their land in a way that respects access rights. This includes land that borders access land. Under the Act it is the duty of the Council to assert, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights may reasonably be exercised. The Council may for the purposes set out above, institute and defend legal proceedings and generally take such steps as they think expedient.

3. Main Issues

- 3.1** People can encounter a variety of problems when visiting the countryside around West Dunbartonshire. These may range from the lack of a signpost to a locked gate or even a development constructed illegally on a path. Many of these problems are caused by landowners or occupiers who, unintentionally or otherwise, cause an obstruction and this leads to great frustration with the public. Therefore to ensure that public rights of responsible access, rights of way and core paths are kept free of obstructions at all times the Council may require to take action against landowners or occupiers. A procedure for taking enforcement action has been laid out in Appendix 1 attached to this report.
- 3.2** Currently when a complaint concerning the obstruction of an access route arises attempts are made to resolve the matter via negotiation with the relevant parties. In the vast majority of cases, this results in a satisfactory solution being arrived at.
- 3.3** Should any rights of way and core paths be obstructed, and this matter cannot be resolved through negotiation, it is proposed that the Council use court proceedings to remedy the situation. Furthermore should the land owner or occupier of the land still fail to remove the obstruction, then the ultimate sanction would be for the Council to remove the obstruction and then seek to recover costs for doing so.

3.4 Obviously this latter course of action is something that will be very rarely used, however it is considered important to have the authority to have this sanction available. In such cases a report on whether to pursue such enforcement proceedings will be prepared for the Committee's consideration.

4. Personnel Issues

4.1 There are no personnel issues.

5. Financial Implications

5.1 There are no financial implications.

6. Conclusion

6.1 The Land Reform (Scotland) Act provides Councils with the legal basis to ensure that rights of way and core paths are kept free of obstructions. In the majority of cases such matters will be resolved through negotiation however on occasion the Council may require to take action against landowners or occupiers, and Appendix 1 sets out a diagrammatical explanation of the available enforcement proceedings.

7. Recommendation

7.1 **The Committee is invited to agree to the procedures for enforcement of Sections 13 & 14 of the Land Reform (Scotland) Act 2003 as set out in Appendix 1 to this report.**

David McMillan

Director of Housing, Regeneration and Environmental Services

Date: 25 August 2006

Wards Affected: All

Appendix 1: Procedure for Enforcement Action

Background Papers: Land Reform (Scotland) Act 2003

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Appendix 1 : West Dunbartonshire Council – Procedure for Enforcement



