



RHONDDA CYNON TAF

RECORD OF DELEGATED OFFICER DECISION

**SUBJECT:**

**POLICY GUIDELINES FOR DETERMINING CLAIMS UNDER S.53 WILDLIFE AND COUNTRYSIDE ACT 1981**

**PURPOSE OF ATTACHED REPORT:**

To highlight the issues affecting the processing of applications to modify the Definitive Map and Statement under section 53 of the Wildlife and Countryside Act 1981 and to recommend a policy for identifying the Council's priorities. In accordance with the Council's Scheme of Delegation, this report has been prepared to accompany the intended Officer decision of the Environmental Services Group Director.

**DELEGATED DECISION (Date):**

It is proposed that the Council adopt the policy guidance for identifying the order in which claims are dealt with, against the background of limited resources and increasing demands on those resources.

 <b>Chief Officer Signature</b>	<i>Gkollak Jones</i> <b>Print Name</b>	26/10/11 <b>Date</b>
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The decision is taken in accordance with Section 15 of the Local Government Act, 2000 (Executive Functions) and in the terms set out in Section 5 of Part 3 of the Council's Constitution

A. Charles

26/10/11

CONSULTEE CABINET MEMBER SIGNATURE

DATE

Stacey Delbridge

27/10/11

OFFICER CONSULTEE SIGNATURE

DATE

Directorate:	ENVIRONMENTAL SERVICES
Contact Name:	Stacey Delbridge
Designation:	Rights of Way Officer, Countryside
Tel.No.	01443 490250

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2011 - 12  
REPORT TO ACCOMPANY DECISION OF  
GROUP DIRECTOR, ENVIRONMENTAL SERVICES**

<b>Part 1 (Non-Confidential)</b>	<b>Item No.</b>
<b>POLICY GUIDELINES FOR DETERMINING CLAIMS UNDER S.53 WILDLIFE AND COUNTRYSIDE ACT 1981</b>	

**1. PURPOSE OF THE REPORT**

- 1.1 To highlight the issues affecting the processing of applications to modify the Definitive Map and Statement under section 53 of the Wildlife and Countryside Act 1981 and to recommend a policy for identifying the Council's priorities. In accordance with the Council's Scheme of Delegation, this report has been prepared to accompany the intended Officer decision of the Environmental Services Group Director.

**2. RECOMMENDATIONS**

It is recommended that members:

- 2.1 Agree to adopt the policy set out in paragraph 5 below.

**3. BACKGROUND**

- 3.1 The Wildlife and Countryside Act 1981 establishes the duty for Rhondda Cynon Taf County Borough Council to keep the Definitive Map and Statement under continuous review.
- 3.2 When evidence becomes available that there is an error, inaccuracy or omission on the Definitive Map and Statement this should be modified, as soon as is reasonably practicable, by means of a legal order.
- 3.3 Members of the public may submit a claim to the Council for a Public Right of Way to be added to the Definitive Map and Statement. When a valid application is made, the Council must add this to the Register of Claims, within 28 days (Section 53B of Wildlife and Countryside Act 1981).
- 3.4 If a claim is not determined within 12 months, then the applicant may apply to the Welsh Ministers for a direction requiring the local authority to determine the claim. The Welsh Ministers will have regard to the Council's policy for dealing with claims in considering requests for a direction. (Schedule 14 W&C Act 1981). An internal audit report identified the absence of such a policy.

#### **4. CURRENT SITUATION**

- 4.1 There is a significant backlog of registered claims under s.53 of the Wildlife and Countryside Act 1981 with additional claims registered each year. At any one time, several claims may be being progressed, but the process is complex and the 12-month period is often exceeded.
- 4.2 The number of new claims each year is likely to increase because the Countryside and Rights of Way Act 2000 introduces a cut off date (1<sup>st</sup> January 2026) to apply for Rights of Way to be included on the Definitive Map and Statement based purely on historical documentary evidence.
- 4.3 As the Council has a duty to keep the Definitive Map and Statement under continuous review, it cannot recoup the costs incurred in determining the applications from the applicant. Costs include legal advertisements and, in contentious claims where a public inquiry is held, it may be necessary to appoint a barrister to represent the Council.
- 4.4 For each claim, there is a prescribed process for considering user evidence, researching historical evidence, preparing the report for consideration, the Council's decision (a quasi-judicial process), advertising the decision, objections through the Planning Inspectorate and occasional High Court challenges. Each claim requires a substantial commitment of time and resources.
- 4.5 In the absence of a formal policy, the current priority for dealing with claims is based on an informal assessment by the Rights of Way officer, usually in consultation with Legal Services, and is influenced by the level of resources available.

#### **5. PROPOSED POLICY**

- 5.1 It is proposed that the Council adopt the following policy guidance for identifying the order in which claims are dealt with, against the background of limited resources and increasing demands on those resources.
- 5.2 As a general rule, all valid claims included in the Register of Claims will be dealt with in chronological order. i.e. the oldest claims will be considered first.
- 5.3 With the exception of where a claim is potentially affected by proposed development (such as a planning application), or where it can be demonstrated that it is in the public interest to investigate the claim, that is, where the registration of a path would have a positive impact on the network as a whole.
- 5.4 Where an applicant successfully applies to the Planning Inspectorate and the Authority is directed to consider the claim (as described in para 3.4 above), the claim would have to be considered as a priority and determined within the timescale provided by the Welsh Ministers.

5.5 The Council may review and amend this policy if priorities change.

5.6 A new guidance pack is being developed which will be sent out to applicants on registration of interest, it will also be suitable to provide to those people who may wish to oppose an application. It will include a copy of the Council's statement of priorities on how we deal with claimed rights of way, as well as a diagram illustrating the various stages of the claim process.

## **6. CONCLUSIONS**

6.1 The policy guidance above will provide a clear rationale for prioritising work on claimed Rights of Way.

### **Appendix**

Appendix 1 - Claims register

Appendix 2 – Claims procedure document

<b>RHONDDA</b>						
<u>Date received</u>	<u>Ref number</u>	<u>Location of claim route</u>	<u>Area</u>	<u>Start Grid reference</u>	<u>Finish Grid reference</u>	<u>Intended Effect</u>
22/10/1992	A763/2/28A	Troedyrhiw Farm to Cemetery Road	Porth	ST018920	ST017920	By way open to all traffic
20/06/1993	A763/2/29	Rhondda Fechan Farm	Ferndale	SS997972	SS997971	Adding a footpath
20/08/1993	A763/2/31	Vicarage Road to rear of 21 Grovefield Terrace	Rhondda	ST000917	ST000916	By way open to traffic
22/09/1996	A763/2/42	Ramah Street	Treorchy	SS955973	SS953972	Adding a footpath
13/02/1997	A763/2/41	Eileen Place	Treherbert	SS930989	SS937982	Adding a footpath
22/02/1997	A763/2/40	Turberville Road Porth	Porth	ST022922	ST021919	Adding a footpath
26/07/1998	A763/2/45	Bryn Terrace to Sunnybank	Clydach Vale	SS985930	SS986930	Adding a footpath
18/08/1999	A763/2/43	Morris Terrace	Ferndale	SS993974	SS992974	Adding footpath
20/05/2002	A763/2/46	Dumfries Street	Treorchy	SS954962	SS954963	Adding a footpath
04/04/2005	A763/2/47	Castle Street to Chepstow Road	Cwmparc	SS954962	SS954963	By way open to all traffic
10/06/2005	A763/2/48a	123 and 124 Rhys Street	Trealaw	SS996927	SS996926	Adding a footpath
28/02/2008	A763/2/48b	St Lukes Road Llwyncelyn	Llwyncelyn	SS996926	SS996927	Adding a footpath
18/07/2008	A763/2/49	Cornwall Rd to Brook Street	Williamstown	ST001908	ST001909	Adding a footpath
18.03.2011	A763/2/50	Footpaths on land at Rhiw Garn Farm	Porth	ST016897	ST017897	Adding a footpath

CYNON						
<u>Date received</u>	<u>Ref number</u>	<u>Location of claim route</u>	<u>Area</u>	<u>Start Grid reference</u>	<u>Finish Grid reference</u>	<u>Intended Effect</u>
29/08/1989	A763/3/18	Linking Hillcrest Avenue with Greenhill Drive	Aberaman	ST01012	ST011012	Adding a footpath
13/06/1996	A763/3/42	Abertaf Fields	Abercynon	ST085958		Adding a footpath/bridleway
07/07/1998	A763/3/44	Station Terrace to Railway Station	Penrhiwleiber	ST059977	SO060976	Adding a footpath
09/08/2001	A763/3/47	Bethel Place	Hirwaun	SO958054	SS959055	Adding a footpath
23/06/2002	A763/3/48	Legion Club	Hirwaun	SO954056	SS954057	Adding a footpath
22/08/2002	A763/3/49	Keepers Lane	Hirwaun	SO976060	SS971065	Adding a footpath/bridleway
07/03/2005	A763/3/50	Tramroad Heol Y Graig	Rhigos	SN924062	SN919061	Adding a footpath
11/06/2007	A763/3/52	Goitre Coed Road	Trecynon	ST0906957	ST090960	Adding a footpath/bridleway
05/01/2009	A763/3/51b	Rear of Asda Retail Store	Cwmbach	ST015017	ST017014	Adding a footpath

**TAFF**

<u>Date received</u>	<u>Ref number</u>	<u>Location of claim route</u>	<u>Area</u>	<u>Start Grid reference</u>	<u>Finish Grid reference</u>	<u>Intended Effect</u>
16/07/1986	A763/6/24	Lan Farm Area	Graigwen	ST069911	ST067909	Adding a footpath
29/07/1991	A763/6/42	Ilan Avenue to Powys Place	Rhydyfelin	ST088887	ST087886	Adding a footpath
17/07/1994	A763/6/55	The Black Road	Tonteg	ST073867	ST072859	Adding a footpath
28/12/1995	A763/6/56	Creation of Garth Mountain	Pentyrch	ST105848	ST101830	Upgrade to a bridleway
02/04/1996	A763/6/51	Coedpenmaen School	Pontypridd	ST078906	ST077906	Adding a footpath
11/08/1997	A763/6/63	Forest Grove	Treforest	ST081888	ST081884	Adding a footpath
09/08/1998	A763/6/68	Graig Mountain	Pontypridd	ST075890	ST072893	Adding a footpath
30/08/2001	A763/6/69	Talygarn House	Pontyclun	ST028804	ST032801	Adding a footpath
11/02/2002	A763/6/70	Danylan Road	Maesycoed	ST062901	ST064901	Adding a footpath
23/08/2003	A763/6/72	Graig Avenue	Graig	ST069893	ST069893	Adding a footpath
08/07/2006	A763/6/73	The Acre	Llantrisant	ST055832	ST055835	Adding a footpath
10/07/2007	A763/6/75	Concrete pathway at Tavern-y-Coed	Tonteg	ST089874	ST084874	Adding a footpath
30/06/2009	A763/6/76a	Lan Farm	Graigwen	ST069912	ST071914	Adding a footpath
26/03/2010	A763/6/77	Miskin Manor	Miskin	ST048806	ST060804	Adding a footpath



