

Bath & North East Somerset Council

DECISION MAKER:	Cllr Charles Gerrish, Cabinet Member for Service Delivery	
DECISION DATE:	On or after 19th March 2011	PAPER NUMBER
TITLE:	Public Path Order Charges (2011-2012)	EXECUTIVE FORWARD PLAN REFERENCE: E 2240
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix 1: Proposed Schedule of PPO Charges		

1 THE ISSUE

- 1.1 The appropriate fees to be charged to Applicants for the processing of Public Path Order ("PPO") applications.

2 RECOMMENDATION

- 2.1 The Cabinet Member is asked to agree that during the 2011/12 financial year an hourly rate of £42 should be charged to Applicants for officer time incurred while processing PPO applications, up to a maximum total cost of £5,000.

3 FINANCIAL IMPLICATIONS

- 3.1 Increasing the costs to the appropriate level will allow Bath and North East Somerset Council (“the Authority”) to fully recover the costs incurred in processing PPO applications. Fees for PPO applications are currently the Public Rights of Way Team largest source of revenue income but the current level of charging means the Authority is effectively subsidising Applicants.

4 CORPORATE PRIORITIES

- Building communities where people feel safe and secure
- Improving transport and the public realm

5 THE REPORT

- 5.1 As the local highway authority, the Authority has a discretionary power to make PPOs to create, divert and extinguish public rights of way. Under the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (S.I. 1993/407), as amended by regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (S.I. 1996/1978), the Authority is permitted to charge Applicants the costs of making such orders.
- 5.2 The Authority currently charges a flat fee of £1,200 for all applications where an order is made. This charging regime does not accurately reflect the true cost to the Authority of processing a PPO application and does not take account of the varying resources required to process different applications.
- 5.3 The total annual cost to the Authority to process PPO applications is in the region of £81,000. This includes salary costs, IT costs and accommodation costs and equates to £42 per hour. If charged at a rate of £42 per hour, the officer time incurred in processing previous applications would have varied between approximately £1,650 for the most straightforward, least contentious application through to approximately £2,750 for the most complex and contentious application.
- 5.4 Paragraph 5.35 within DEFRA’s Rights of Way Circular 1/09 states that Authorities should; “...*inform applicants in advance of the maximum charge for their application.*” To this end, it is proposed that a maximum total fee of £5,000 should be imposed on the processing of applications. This will provide Applicants with a level of certainty regarding their financial commitment when applying for a PPO, while ensuring that the Authority is able to maximise revenue generation.
- 5.5 In addition to the officer time involved in processing PPO applications, the Authority can also charge the Applicant for mileage, legal fees and consumables such as postage. The Authority incurs costs if an order is submitted to the Secretary of State for determination; however, the Regulations referred to in paragraph 5.1 above prohibit the Authority from charging Applicants for these costs.
- 5.6 The Authority has a discretionary power to charge for the processing of PPOs and, in exceptional circumstances where a PPO has clear public benefits, the case officer may agree to waive or reduce the charges. Applicants who apply prior to the implementation of the new charging regime would continue to be charged according to the charging regime in place at the time of their application.

6 RISK MANAGEMENT

- 6.1 The report author and Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's

decision making risk management guidance.

7 EQUALITIES

- 7.1 The report author and Cabinet member have fully reviewed the equalities impact assessment related to the issue and recommendations, in compliance with the Council's decision making equalities impact guidance.

8 RATIONALE

- 8.1 The proposed new charges will ensure that the Council fully recovers the cost of processing PPO applications.

9 OTHER OPTIONS CONSIDERED

- 9.1 The Authority could charge a flat fee for processing PPO applications, however paragraph 5.35 within Circular 1/09 makes it clear that; "*Authorities must not charge more than the costs they have incurred*". Consequently, if the Authority was to charge a flat fee it would have to be at a level no higher than the costs incurred in the least expensive, most straightforward case. The Authority would therefore be subsidising Applicants whose cases required protracted negotiations or in depth archival research.

10 CONSULTATION

- 10.1 Staff; Other B&NES Services; Stakeholders/Partners; Other Public Sector Bodies; Section 151 Finance Officer; Monitoring Officer
- 10.2 Consultation has been carried out by way of informal discussions and the opportunity to input into this report.

11 ISSUES TO CONSIDER IN REACHING THE DECISION

- 11.1 Customer Focus; Human Rights; Other Legal Considerations

12 ADVICE SOUGHT

- 12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report.

Contact person	Graeme Stark – 01225 477650
Background papers	DEFRA Rights of Way Circular 1/09 Public Path Order Policy Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 Officer Costs Analysis
Please contact the report author if you need to access this report in an alternative format	