

BRIEFING NOTE FOR HIGHWAYS COMMITTEE

CREATION OF FOOTPATHS AND BRIDLEWAYS – SECTION 26 OF THE HIGHWAYS ACT 1980

Section 26 of the Highways Act 1980 provides a power for the Council to create footpaths or bridleways.

The Council may make an Order where it is considered a need for the path but having regard to the extent to which the path would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area and the extent the creation would have on the rights of those with a legal interest in the land (eg ownership).

Consideration must also be given to the interests of forestry and agriculture, and the effect, if any, the creation of the path will have on these activities. However, authorities may decide that any effects may be compensated for. The Highways Act provides for the payment by the order making authority of compensation. In some cases authorities have been able to agree with the landowner a sum for compensation before an order is confirmed. However, this is not always possible. If a dispute arises as to compensation, it is determined by the Lands Tribunal after the order has been confirmed.

Procedure for public path orders

