

HAMPSHIRE COUNTY COUNCIL**Report**

Committee:	Environment & Transportation Select Committee
Date:	22 January 2013
Title:	Update on Parking on Verges, Footpaths & Pavements
Report From:	Director of Economy, Transport and Environment

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1. Purpose of Report

1.1. The purpose of this report is to provide an update to the Environment & Transportation Select Committee on the work carried out, in conjunction with the Select Committee's working group, to review the Authority's current policy on 'Parking on Grass Verges, Footpaths and Pavements.

2. Background & Contextual Information

2.1. The County Council, as a Highway Authority, is responsible for the maintenance and upkeep of all roads, pavements and verges which form part of the public highway and which are maintained at public expense. All users of the highway (both pedestrians and drivers) have a legal right of passage along the highway but technically have no legal right to park vehicles on the highway. However, it has been an accepted practice for decades that vehicles do park on the highway as designated or off-street parking capacity are not able to meet the increasingly high demand for vehicular parking. The County Council therefore, has for many years had a policy outlining a tolerant and systematic approach in dealing with vehicular parking on grass verges, footpaths and pavements.

2.2. The Select Committee considered a report from the Director of Economy, Transport and Environment on 8th November 2011 within which the Council's intention to review its current policy on 'parking on grass verges, footpaths and pavements' was highlighted, as it was no longer considered fit for purpose. The Committee was invited to put forward their views in order to assist the review and a working group of Select Committee members was established to consider the matter.

2.3. As part of the review process and in advance of the first meeting of the working group, a request was sent out to a number of local authorities across the UK to ascertain any current best practice in place and to identify any similar problems faced by other authorities.

- 2.4. This information received, along with feedback from some of Hampshire's Area Highway Offices was considered by the Select Committee's working group at their meeting held on 6th March 2012. The working group reviewed the existing 'Policy Statement', which had been drawn up in 2008 following works carried out by Havant's Hampshire Action Team. It was generally agreed that the current policy statement was not sufficiently concise or clear and was based along the lines of a risk analysis and/or process flow chart rather than a defined policy.
- 2.5. Careful consideration was given to the use of Traffic Regulation Orders (TROs) and engineering measures both designed to mitigate the effects of verge and pavement parking. Officers were asked to investigate these issues further and report back to the next meeting of the working group.
- 2.6. At the subsequent meeting of the working group, held on 26th March 2012, Members were provided with further information as requested and were also advised about the possible use of 'Zonal Parking Orders'
- 2.7. Members agreed that such 'Zonal Parking Order' schemes would have limitations, including the cost of enforcement and a possible adverse public perception which could make them unpopular. Members also noted that such schemes could simply result in moving the problem from one location to another.
- 2.8. Members requested that officers review the current policy statement on 'Parking on Verges, Pavement & Footways'; consider case studies where either the use of TROs or engineering measures had been implemented to deal with parking issues; and report back on how effective such measures had been.
- 2.9. At a meeting held on 6th December 2012 members of the working group were provided with information on examples where engineering works have been implemented at various sites in Hampshire, The examples provided information where engineering measures have either provided parking solutions, or had mitigated further damage to grass verges. Members noted that although in most cases engineering measures have generally have been successful in preventing further damage to verges, but their effect on the overall parking problems is less clear. Details of the engineering schemes considered is provided in section 4 of this report and listed in the table in Appendix 1.
- 2.10. Members also concluded that availability of parking outside schools still presents problems to both parents, residents and other road users particularly when children are being dropped off and picked up..
- 2.11. At this meeting the working group were also advised and updated on work currently underway to review the authority's Highway Maintenance Management Plan (HMMP), which is the document which provides information on Hampshire's approach to highway maintenance. It is intended that this revised document will replace the existing HMMP, once completed and approved by the Executive Member, and will be available to the public via the County Council website. Details of the HMMP review are provided in section 3 of this report.

3. Policy Document Review

- 3.1. As part of an overarching review of the Authority's Highway Maintenance Management Plan (HMMP), all related policies, including the policy on 'Parking on Verges, Pavements & Footways', are under review. The Executive Member for Transport & the Environment is expected to consider the findings of the review in early 2013.
- 3.2. The HMMP is considered to provide a more simplified approach to the understanding of highway maintenance related policies and members of the working group considered that the revised document concisely details information relating to seven overarching policies, each of which included a policy statement, the scope of the policy and any relevant supporting information
- 3.3. Reference to parking on verges, pavements and footways is intended to be included in the policy dealing with 'Enforcement & Prosecution', within which parking on verges and/or pavements could be considered as an obstruction or interference on the highway. The 'Enforcement and Prosecution' policy (HW1), supports and enables the regulatory duties placed upon the Authority as a Highways Authority by relevant legislation, keeping the Highway safe and available for free passage. As part of the proposed revised document a list of service standards details the actions available to the Highway Authority, depending on the seriousness and effect of any particular offence
- 3.4. A draft copy of the introduction to the revised HMMP and of Policy HW1 along with the other relevant supporting information, is contained within Appendix 2 of this report.
- 3.5. In addition to the current review, further work has been undertaken to develop an internal document entitled 'Guidance for Highway Staff' which provides a procedure that can be employed by Area Highway Teams when considering what action could be taken when parking on verges and/or footways is identified as a problem. A copy of the draft procedure is attached as Appendix 3.

4. Case Studies

- 4.1. As part of the work carried out for the working group officers reviewed case studies from two areas of the county. These were on the use of TROs and/or the implementation of engineering works to either restrict parking in an area, or to mitigate or minimise the damage associated with parking on verges or footways.
- 4.2. Advice was sought from the Area Highway Teams to identify sites where either of the above approaches were in-place or had been implemented in the recent past.
- 4.3. The implementation of TRO's is normally carried out by the District Councils (under the relevant Agency Agreement) and it is normally the district, who also enforce such orders and for this element of work information was received from Fareham and Eastleigh Borough Councils in respect of the use of TROs. Members in both Boroughs remain keen on the principle of verge

parking TROs although it should be noted that they are costly to introduce and cumbersome to enforce; whereas engineered measures are often seen as an easier solution.

- 4.4. All of the cases considered were specifically based on verge parking orders (ie not general parking restrictions), and plates specifically mentioning verges were used. However, in many cases problems with verge parking can be indicative of a general problem with parking on the carriageway and as such normal parking orders could be applied as these would cover any verge areas as well.
- 4.5. All the examples of TROs considered were applied to individual sites and no examples of zonal orders were found. Both authorities consider verge parking to be very difficult to solve on a zonal/area basis because often the problem is specific to certain roads and the problem would simply move to other roads/areas.
- 4.6. A number of sites across the county were also identified where engineering works have been carried out and these sites, along with the type of work carried out, are shown in Appendix 1.
- 4.7. In most of these locations the treatment undertaken has been to accommodate parking and to mitigate any damage rather than to prevent parking. In some cases the implementation of 'Dragons' Teeth' in verges has been successful in eliminating a localised parking issue.
- 4.8. It is worth noting that not all verge parking schemes originate from the County Council's highways offices. In many cases the need for a solution to verge parking problems (be it a TRO or engineered measures) tends to come directly from the local district council. For example in Eastleigh, where the Borough Council has Local Area Committees, both engineered schemes and TROs are promoted and implemented by the Borough Council through their traffic management and minor highway improvement agency agreements.

5. Recommendations

- 5.1. Members are asked to consider the new policy approach and comment on the draft document if considered necessary.
- 5.2. Members are asked to consider the contents of this paper and ask Officers to continue to develop the guidance document for staff to align with the revised policy approach once adopted by the Executive Member for Environment & Transport.

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

1.1. EIA is being considered as part of the review process for the policy amendments that are being proposed.

2. Impact on Crime and Disorder:

2.1. There is no impact on crime and disorder.

3. Climate Change:

3.1. How does what is being proposed impact on our carbon footprint / energy consumption?

No significant effect.

3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No significant impact.

Appendix 1 – sites where engineered measures have been undertaken

Site	Solution	Method
Hounslow Avenue, Hounslow	Accommodate parking	Grasscrete blocks installed on grass verges
Downs Park Crescent, Eling	Accommodate parking	Verges replaced by surfaced parking bays on one side of the road
Cedar Way, Basingstoke	Accommodate parking	Grass verges replaced by block-paving
Elmwood Way, Basingstoke	Accommodate parking	Grass verges replaced by block-paving
A3090 Romsey Bypass	Prevent parking	Dragons' teeth
Launcelyn Close, North Baddesley	Prevent parking	Dragons' teeth
Outside Lockerley Primary School	Accommodate parking	Grasscrete blocks installed on grass verges
Firmstone Road, Winchester	Accommodate parking	Two small laybys constructed in place of former verges
Nobes Avenue, Gosport	Prevent parking	Dragons' teeth
Wavell Road, Gosport	Accommodate parking	Parking area constructed
Turner Avenue, Gosport	Accommodate parking but not on verge	Dragons' teeth and widening

Economy Transport and Environment Department

Highway Maintenance Management Plan (HMMP)

Contents

Part 1- Introduction to the HMMP

Summary
Background and Scope
Legislation and the Legal Framework
Other Document Influencing Highway Maintenance
The Highway Maintenance Strategy
Service Standards
Policies and supporting Information
List of Policies

Part 2 – HMMP Policies

Policy Number HW1 – Enforcement and Prosecution
Policy Number HW2 – Licensing and Consents
Policy Number HW3 – Highway Status
Policy Number HW4 – Routine and Reactive Maintenance
Policy Number HW5 – Structural Maintenance
Policy Number HW6 – New Infrastructure
Policy Number HW7 – Weather Emergencies

Part 3 - Supporting information

Introduction
Enforcement and Prosecution
Licensing and Consents
Highway Status
Routine and Reactive Maintenance
Structural Maintenance
New Infrastructure
Weather Emergencies

Part 1- Introduction to the HMMP

Summary

This document provides information on Hampshire's approach to highway maintenance. It is an integral part of, and enables the delivery of Hampshire's [Highway Asset Management Policy and Strategy](#). The document aligns with the suite of National Codes of Practice (CoP's) for Highway Maintenance, in particular those for Highways, Structures and Lighting. This information can be found on the following external link <http://www.ukroadsliaisongroup.org/en/guidance/codes-of-practice.cfm>

The CoP for Highway Maintenance – Well Maintained Highways defines the purpose of highway maintenance as:

The main purpose of highway maintenance is to maintain the highway network for the safe and convenient movement of people and goods. The core objectives of highway maintenance are to deliver a safe, serviceable and sustainable network, taking into account the need to contribute to the wider objectives of asset management, integrated transport, corporate policy and continuous improvement.

This document identifies the legal obligations of Hampshire County Council as the Highway Authority and the corresponding legislative framework within which it operates, combining policy statements, service levels and access to [standard forms](#) with general guidance and advice.

Background and Scope

Hampshire's highway maintenance activity is based upon statutory powers and duties contained in legislation and precedents developed over time, as a result of claims and legal proceedings. However, even in the absence of specific duties and powers, Highway Authorities have a general duty of care to users and the community to maintain the highway in a condition fit for its purpose.

The duties of the Highway Authority set out in this document refer to all of the highway infrastructure asset, for a comprehensive summary of highway assets and their components, please use the [Highway Asset](#) link.

The document is intended to provide advice and information regarding the maintenance and management of Hampshire's highway network defining our [policies](#) and [service standards](#).

It will:-

- Provide advice on consents and licences for activities on the highway, i.e. what is allowed on the highway network.
- Identify constraints and enforcement measures, i.e. what is not allowed on the highway network.

- Provide general information to illustrate Hampshire County Council's role in managing the Highway network.
- Explain our maintenance and management strategies
- Provide general information on minimum service standards, i.e. when and where they apply.
- List our maintenance and management policies and provide access to supporting information.

Legislation and the Legal Framework

Hampshire County Council as the Highway Authority (HA) is responsible for the maintenance and management of all highways, maintainable at public expense, within the County, with the exception of; roads in Southampton and Portsmouth, both of which are Unitary Authorities and motorways and trunk roads for which the Secretary of State for Transport is the Highway Authority.

There are a number of pieces of legislation which enable Highway Authorities to manage and maintain the highway, the more important of these are listed below. In addition to the legislation there is a general duty of care placed on a Highway Authority to maintain the highway in a condition fit for purpose and in some cases precedents in case law have informed the development and adoption of policies, procedures and service standards.

The legislation affecting highway policy and decision making are covered in a number of separate Acts and although the list below is not exhaustive it is comprehensive.

- Highways Act 1980
 - This act covers all aspects regarding the responsibilities of a Highway Authority to manage and maintain Highways maintainable at public expense, including its duties, what it can allow and what it cannot allow.
- The New Roads and Street Works Act 1991
 - This act covers the powers of the HA with respect to the control of street works on the highway and the activities of statutory undertakers (e.g. gas, electricity, communication companies etc).
- The Traffic Management Act 2004
 - Imposes a duty on the HA to manage the network and to maintain the expeditious movement of traffic by eliminating or reducing disruption.
- The Road Traffic Act 1988

- Imposes a duty to promote road safety; to carry out accident studies and safety audits for new works etc., in order to minimise accidents.
- The Flood and Water Management Act 2010
 - Places a responsibility on all Authorities including the HA's to coordinate their duties, to find sustainable drainage solutions and to identify and plan mitigation measures in high risk areas.
- Noxious weeds Act 1959, including the Ragwort Control Act 2003
 - Places a responsibility on the HA to minimise and inhibit the growth and spread of injurious weeds growing on the highway.
- The Local Authorities (Transport Charges) Regulations 1998
 - This provides powers for HA's to charge for regulatory activities such as the provision of licences for scaffolding, skips etc., where these impact on the highway.
- Wildlife and Countryside Act 1981
 - This Act contains legislation which can limit the scope and timing of highway maintenance operations and to which HA's must comply.
- Environmental Protection Act 1990
 - Imposes environmental requirements on many activities including the Highway Authorities' maintenance operations by placing controls on items such as noise and pollution.
- Health and Safety Act 1974 and associated regulations
 - For the purposes of highway maintenance the Act requires that all works and new construction are designed, managed and implemented in a safe manner.
- The Transport Act 2000
 - Which enables Highway Authorities to designate quiet lanes and home zones.

Other Documents Influencing Highway Maintenance

In addition to the legislative requirements placed on the Authority there are a number of internal and external documents which direct and inform highway maintenance, management and policy, including:-

- The Department for Transport's - Design Manual for Roads and Bridges (DMRB) and the Specifications for Highway Works (SHW).
- Whole of Government Accounting and the Transport Infrastructure Assets Code of Practice.

- Other Codes of Practice including: Well Maintained Highways
Management of Highway Structures
Well Lit Highways
Highway Risk and Liability Claims
- National Guidance concerning Highway Asset Management and Industry Best Practice (various). Which can be found on an external link at <http://www.ukroadsliaisongroup.org/en/guidance/codes-of-practice.cfm>
- And other Hampshire County Council documents, including:
Highway Asset Management Policy & Strategy
Local Transport Plans
Network Management Plan
Surfacing Guidance Document
Hampshire County Council companion document to The Manual for Streets
Catalogue of Standard Construction Details

All of which clarify or supplement the implementation of national standards.

The Highway Maintenance Strategy

Hampshire's Economy, Transport and Environment Department, are responsible for the maintenance and management of the highway network in Hampshire and have set out clear objectives in the Department's delivery plan, of which two refer to management and maintenance of the highway network, these are:

- Well maintained and resilient highways in Hampshire.
- Safe and well managed highways in Hampshire.

To achieve these objectives our maintenance strategy is summarised as follows:

- To provide a clear statement of highway policies which deliver the statutory obligations of the Authority;
- To be responsive to the needs of users and the community;
- To contribute to effective highway asset management and maintain the asset value, by providing a uniform and consistent approach to maintenance need and resource allocation;
- To support effective delivery of the statutory network management duty;
- To support and add value to local transport objectives;
- To support and add value to wider corporate policy objectives.

- To regularly review policies and procedures and monitor the effectiveness of the maintenance strategy.

The delivery of the highway service is carried out by Hampshire County Council Highways which is supported with staff resources and maintenance budgets allocated in the following way:

- **Revenue funding**

Provides the staff resources to manage the service, and a budget to carry out routine and reactive repairs keeping the network safe and accessible. This type of funding supports the following activities.

Regulation: this covers staff costs associated with the day to day management of the highway. It provides particular resources for enforcement, dealing with; complaints and enquiries, notices, licences and other general administration, including legal advice and regular highway safety inspections.

Routine maintenance: these activities are usually cyclic in nature and are carried out on a regular consistent schedule, work would typically include, cleaning and landscaping maintenance activities.

Reactive maintenance: these activities are usually carried out in response to a particular issue or event, they are not planned far in advance and sometimes are a response to an emergency. Reactive maintenance could include; pothole repairs, emergency responses to inspections, reports from the public, weather events, or road traffic accidents.

- **Capital funding**

Provides funding for the design and implementation of structural repairs, refurbishment, replacements and improvements on the network. This type of maintenance work is invariably planned, usually a year or two in advance of the works being completed. Capital maintenance funding can therefore be prioritised and it can be used to meet specific corporate targets and outcomes, these are available at <http://www3.hants.gov.uk>.

Service standards

In many areas of highway maintenance the level of service delivered is dependent upon the resources and funding available.

However some revenue funded service activities, usually core services such as regulation activities, repairs to dangerous defects, grass cutting, drainage cleansing etc., have specific service standards. These standards may be in the form of; a set of actions that Hampshire are committed to, specific response times or an operational frequency and they are appended to the HMMP policies. Budgets to fund these service standards are protected and not meeting these standards will only occur in extreme circumstances or through a process where the Policy is formally changed.

With respect to capital budgets and structural maintenance, minimum service standards are not applied. Highway budgets do vary and because most legislation is based on keeping the highway safe, routine operations are protected in the first instance whilst structural improvements/refurbishment have performance type targets applied. These are usually based on network condition and public satisfaction which are measured at regular frequencies and benchmarked against those of other Authorities. These targets are reviewed regularly, they are not tied to a policy and can be amended as circumstances change i.e. changes to budgets or resources.

Policies and Supporting Information

This is Hampshire County Council's list of highway maintenance related policies. Each policy provides a statement of intent and also links to any available supporting documentation. In addition the policies will identify any minimum service standards that apply and provide links to standard forms and guidance as appropriate.

List of Policies

Regulation - [Enforcement and Prosecution](#)

This policy describes how the Council deal with illegal activities on the Highway and for which Hampshire as the Highway Authority has a duty to control and manage.

Regulation - [Licensing and Consents](#)

This policy covers activities on the Highway that are allowed but require management and control. It will provide direction and guidance and links to standard forms.

Regulation - [Highway Status](#)

This policy covers the adoption and the extinguishment of highways maintainable at public expense.

Maintenance Activities - [Routine and Reactive Maintenance](#)

This policy covers routine and reactive maintenance activities on the network and describe any adopted service standards.

Maintenance Activities - [Structural Maintenance](#)

This policy covers planned, structural maintenance activities on the network.

Application of Standards – *New Infrastructure*

This policy covers the requirements (specifications, standards and standard details) for new construction.

Maintenance Activities – *Weather Emergencies*

This policy covers the routine and reactive activities that will be implemented during periods of severe weather.

Part 2 – HMMP Policies

Policies:

[HW1: Enforcement and Prosecution](#)

[HW2: Licensing and Consents](#)

[HW3: Highway Status](#)

[HW4: Routine and Reactive Maintenance](#)

[HW5: Structural Maintenance](#)

[HW6: New Infrastructure](#)

[HW7: Weather Emergencies](#)

Policy Number HW1 - Enforcement and Prosecution

Introduction

Certain activities on the highway are not permitted and some are only permitted by consent or license from the Highway Authority. This policy supports and enables the regulatory duties placed upon a Highways Authority by relevant legislation, keeping the Highway safe and available for free passage.

Policy Statement

Hampshire County Council as the Highway Authority in Hampshire shall fulfil its responsibility to keep the highway free from any unlicensed or illegal activity on the highway using its powers, where practicable, to prevent, enforce and if necessary prosecute offenders.

Scope of the Policy

The policy is intended to cover all legal responsibilities of landowners adjacent to the public highway and illegal or unauthorised activities on the highway, including:

- Encroachments
- Obstructions
- Deposits on the highway
- Damage to the highway infrastructure
- Trading
- Unauthorised signs or structures
- Trespass
- Any other interference as defined in the legislation which affects highway safety or causes danger.

This list is not comprehensive and reference to the Highway Act 1980, The Traffic Management Act 2004 and the New Roads and Street Works Act 1991 should be made for the definitive list of activities that are illegal or require authorisation either by agreement, consent or license.

Additional Information

For further information including the actions the Highway Authority can take and any service standards that apply go to the [Supporting Information](#) section of Policy HW1. Provided that legislation allows some of the activities listed above can be approved by the Highway Authority. For information regarding Licenses and Consents refer to Policy Number HW2.

Part 3 - Supporting information

Introduction

Supporting information

The policies in the main document are a formal, approved set of statements with which Hampshire County Council as the Highway Authority will comply. It is realised that these statements are brief and provide limited information to the public. The section on supporting information is designed to answer your questions and provide a better illustration of what the policy covers.

Service standards

Apply to some of the HMMP policies and the individual activities within those policies. These standards may be in the form of; a set of actions that Hampshire are committed to, specific response times or an operational frequency and they represent the minimum standard that the Highway Authority will expect to achieve in normal circumstances. In some circumstances, such as adverse weather conditions or emergencies on the network these standards may be waived for a short period. Where this happens the County Council will make every attempt to inform those directly affected, of any temporary arrangements.

Policy HW1: Enforcement and Prosecution

Supporting Information

The Highway Authority will take measures to remove or prevent any unauthorised obstruction, encroachment, activity or interference on or using the Highway. There are a number of situations that could constitute an obstruction or an encroachment and these are listed below. The Highway authority can also issue notices under sections 154,165, 167 and 168 of the Highways Act to deal with significant hazards which could affect safe passage on the highway. For more detailed advice reference should be made to the Highways Act 1980 and the links provided below.

Obstructions and Encroachments

Items which are included in the definition of encroachments, obstructions and interference include:

- Unauthorised signs and structures.
- Erection of buildings, fences or other structures
- Storage of materials and other deposits
- Trading booths
- Deposits on the highway
- Damage to the highway or its infrastructure
- Projections from buildings
- Overhanging trees and shrubs*

* for information, in most cases hedges and trees on boundaries between the highway and adjoining land are the property and responsibility of the adjoining landowners who are responsible for preventing their hedges and trees from overgrowing and causing obstruction or danger.

Parking on footways and verges

It should be noted that the public has no legal right to park vehicles on the highway and the County Council does not have any responsibility to provide parking spaces. Therefore the primary responsibility for finding acceptable parking spaces rests with vehicle owners/keepers and care should be taken to ensure that parking does not damage or obstruct the highway. Where parking does obstruct or cause damage e.g. [parking on verges or footways](#), then the County Council may take preventative action. It may carry out physical alteration to the street layout or promote traffic regulation orders to control or prevent parking.

Trading on the Highway

Hampshire County Council does not allow trading on the highway unless the location has been specifically designated as a 'Licensed Street' under the provisions of the Local Government (Miscellaneous Provisions) Act 1982. A street may also be designated a 'Prohibited Street' in which street trading is prohibited.

Should trading on the principal road network be taking place without approval and the highway has not been designated then the County Council shall take action under the powers of the Highways Act 1980 Section 147A to remove the offender in appropriate situations relating to the principal road network.

Service Standards

If Hampshire find that the law has been broken, in most cases we try and resolve the matter without recourse to formal action by reporting the breach to the person responsible and requesting that they take remedial action.

However in more serious cases we can take a variety of actions, including:

- The serving of notices requiring remedial action
- Taking relevant action should the notice fail to be complied with
- Verbal or written warning
- Formal caution
- Prosecution
- Referral to the Police for issues requiring immediate action

In deciding which action to take, a number of factors will be taken into consideration including:

- The seriousness of any alleged offence and the impact on the highway network
- The affect of the alleged offence on the public safety and the environment
- The previous history of the offender
- Action taken to prevent any recurrence
- Any explanation offered and the circumstances and attitude of the offender
- What course of action will best serve the public interest

Prosecution is normally the last resort and only taken in cases that involve repeated or serious offences relating to safety, accessibility and preservation of the highway network.

The decision to prosecute is taken:

- In accordance with the Code for Crown Prosecutors
- Without any unnecessary delay, and
- In accordance with statutory requirements.

Guidance for Highway Staff

HW1 Enforcement and Prosecution

Highway obstructions and encroachments

- Encroachments
- Obstructions
- Overhanging trees and hedges
- Fire hazards

Enforcement and prosecution

- Enforcement generally
- Parking on grass verges, footpaths and pavements
 - Criteria for prioritising complaints
 - Treatment options
- Unauthorised signs on the highway
- Trading on the highway

Gating orders

Repossession of highway land

Guidance for Highway Staff

Policy HW1: Enforcement and Prosecution

Highway Obstructions and Encroachments

The Highway Authority has a responsibility to keep public highways open and remove obstructions and encroachments which may affect the use and safety of the highway.

Encroachments

When an encroachment is suspected on the public highway, the Authority should carry out a status check to determine the exact limits of the highway and establish whether an encroachment has occurred.

Obstructions

Obstructions on the highway take various forms, these are most commonly items placed on the highway causing an obstruction such as, unauthorised signs, erections, materials or trading booths

The Highway Authority shall serve notice under the appropriate section of the Highways Act to deal with the removal of the obstruction.

Section 132 of the Highways Act 1980 – unauthorised signs and structures.

Section 138 of the Highways Act 1980 – illegal erection of a building or fence.

Section 148 of the Highways Act 1980 – removal of dangerous deposits.

Section 154 of the Highways Act 1980 – removal of dangerous trees.

Section 143 of the Highways Act 1980 – removal of structures.

In addition Section 34 of the Environmental Protection Act 1990 deals with the removal of waste materials such as mud on the highway which is a hazard to the highway user.

Overhanging trees and hedges

The Highway Authority shall serve a notice under Section 154 of the Highways Act 1980 on the owners of overhanging hedges and trees requiring that they are cut back to provide the necessary clearance and abate any nuisance. In normal circumstances a vertical clearance of 17 feet (5.20m) shall be maintained to allow sufficient clearance for vehicles which might ordinarily be expected to use the highway.

Fire Hazards

The Highway Authority shall take measures to deal with the nuisance and hazards caused by fires under Section 161A of the Highways Act 1980.

Enforcement and Prosecution

Enforcement Generally

Hampshire County Council has adopted the enforcement concordat agreed between a range of national bodies including the Local Government Association and the Cabinet Office. The principles of good enforcement are: the setting of standards, openness, helpfulness, proportionality, consistency and the provision of a system for complaints against the service.

Parking on Grass Verges, Footpaths and Pavements.

The parking of vehicles on grass verges, footpaths and pavements is increasingly widespread and creates significant problems in many areas for residents, highway users and for the Council itself. The circumstances of each case vary widely and thus it is extremely difficult to identify a single solution that can be applied universally. The County Council therefore has adopted a flexible approach to the problem, with a view to addressing each complaint as it arises.

Members of the public views should be sought and they should be encouraged to report problems directly to its contact centre, Hantsdirect. They should be asked to provide as much information as possible to describe the nature and extent of the problem, its location and its consequences. This information can be used to analyse the cause of the problem and will inform the solutions that can be applied.

The treatment of verge parking needs to take into consideration road safety, the expeditious movement of traffic, the effect on the street scene, and the available resources. Depending on the prevailing conditions and community views, the Economy, Transport and Environment Department will work with partners to determine the course of action.

Solutions should be considered on an individual basis and will be dependent on a consensus of support from the local community and from partner agencies. The introduction of legally enforceable parking controls to deal with verge, footpath and pavement parking problems will need to have the support of the Police or civil parking enforcement authority, where applicable.

Criteria for Prioritising Complaints

The following factors should be considered when determining the type of solution and any prioritisation applicable, these include:

1. Safety (established casualty problem)
2. Safety (potential casualty risk to vulnerable highway users e.g. children, elderly, those with mobility impairment)
3. Safety (potential casualty risk to other highway users)
4. Obstruction (to vehicular or commercial traffic)
5. Obstruction - to highway users with mobility impairment
6. Obstruction - to pedestrians
7. Damage* - to buried services

8. Obstruction - to private accesses

9. Obstruction - to highway maintenance works (including street cleansing and verge maintenance)
 10. Obstruction - to visibility (not included in safety above)
 11. Damage* - to fabric of highway (footway or carriageway surface, drains, kerbs etc)
 12. Damage* - to highway trees and tree roots
 13. Damage* - to other highway planting
 14. Damage*- to highway grass verges in conservation areas
 15. Damage* - to other highway grass verges
- * Either immediate or cumulative damage

Treatment Options

The following section provides some analysis of the options/treatments that are available to address the problem of parking on verges, footpaths and pavements. It also highlights the advantages, disadvantages and potential risks for each.

Provide additional parking spaces

Advantages

- Satisfies public demand for secure, convenient parking.
- Controls the location and manner of parking.
- Reduces environmental damage.

Disadvantages

- Reduces the `green' environment.
- Reduces `non-vehicular' public space.
- Increases run-off of surface water.
Works are very expensive (costly to undertake if done properly; costly to maintain if not done properly).
- Does not promote County Council policy of reducing dependency on motor vehicles.

Risks

- May increase demand for parking space, which then is never satisfied.
- May lead to increase in vehicle maintenance activities.
- May require extensive diversion of buried utility services.
- May discourage residents from providing off-street parking.
- May overload existing drainage system.
- May be difficult to justify selection of limited number of high priority sites for treatment.

Prohibit verge parking

Advantages

- Controls the location and manner of parking.
- Reduces environmental damage.
- Encourages residents to provide off-street parking where possible.

Disadvantages

- Requires bye-law or traffic regulation order (TRO) to be made and enforced.
- Requires traffic signs and yellow lines.
- Does not satisfy demand for parking.

Risks

- May not be enforceable.
- May displace parking problem to other locations.
- May lead to obstruction of the carriageway or footways
- May restrict access to local services (e.g. letter/telephone box, cash machine or convenience store).

Exclude verge parking

Advantages

- Controls the location and manner of parking.
- Reduces environmental damage.
- Encourages residents to provide off-street parking where possible.

Disadvantages

- Requires extensive use of dragon's teeth, posts, railings or planting.
- Causes difficulties for verge maintenance operations.
- Does not satisfy demand for parking.

Risks

- May displace parking problem to other locations.
- May lead to obstruction of the carriageway or footways.
- May restrict access to local services (eg letter/telephone box, cash machine or convenience store).

Allow verge parking and strengthen verges

Advantages

- Reduces environmental damage.

Disadvantages

- Works are moderately expensive.
- Does not control the location and manner of parking.
- Does not promote County Council policy of reducing dependency on motor vehicles.

Risks

- May require diversion of buried utility services.
- May discourage residents from providing off-street parking.

Allow verge parking and undertake periodic repairs

Advantages

- Inexpensive.
- Easy to manage.

Disadvantages

- Does not reduce environmental damage.
- Does not control the location and manner of parking.
- Does not promote County Council policy of reducing dependency on motor vehicles.

Risks

- May discourage residents from providing off-street parking.
- May lead to further abuse of highway land.
- May appear to suggest a lack of care.

Unauthorised Signs on the Highway

For information, the Highway Authority has no power to authorise any signs placed on the highway other than for highway purposes and shall invoke its powers under section 132, 137 and 143 of the Highways Act 1980 to remove unauthorised signs.

Trading on the Highway

Generally roadside trading is discouraged for safety reasons and unauthorised trading on the highway has always presented the Highway Authority with difficulties. Whilst the Highways Act 1980 S147a(i) specifically makes roadside trading an offence on the principal road network, securing a successful prosecution has been difficult due to the complexities of the legislation and the need to demonstrate that the activity represents a safety risk. It is also recognised that there may be situations where trading from the highway may be carried out in a safe manner and offer a beneficial service to the highway user.

The provisions of the Local Government (Miscellaneous Provisions) Act 1982 maybe enacted by the District Council to help regulate and control the activity. Section 147A of the Highway's Act is only appropriate in specific situations relating to the principal road network.

In order to control and regulate the activity the County Council should liaise with District Councils and agree the appropriate designation of the road in question as either a 'prohibited street' or 'licence - street' for trading. Designation of the

network under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 is enacted by District Councils and the Highway Authority shall be consulted. However, licences to trade will be issued by the District Council to individual traders on the designated network as appropriate.

Gating Orders

Section 2 of the Clean Neighbourhoods and Environment Act 2005 introduced new powers for County Councils to make gating orders to restrict public rights of way in respect of a highway that is facilitating high and persistent levels of crime and anti-social behaviour. These powers were inserted into the Highways Act 1980 (Section 129A) with effect from 1 April 2006. Under the Crime and Disorder Act 1998 the County Council has a duty to embed crime and disorder prevention into service planning, delivery and decision making and so reduce crime and the fear of crime in all our communities.

Highways provide accessibility between destinations and a gating order may restrict access for highway users, often pedestrians, at all times or for such times during part of a day that may be specified in the order. It is therefore necessary to weigh the potential inconvenience due to the reduced access resulting from the closure against the potential reduction in crime and the fear of crime.

Consideration may also be given to the dispersal of crime and anti-social behaviour to adjoining areas if a gating order is made.

The County Council should consider what other measures have been implemented or discounted to try and reduce levels of crime and anti-social behaviour before a gating order can be progressed. The promoting body will need to provide the necessary data to demonstrate that gating is justified and an analysis of the likely impacts for the areas to be gated as well as the surrounding area.

The County Council requires the promoting body to provide an analysis of crime and anti-social behaviour incidents, both in the area to be gated, the adjoining area and the background levels of crime in the area. This information needs to include an analysis of types of crime and time of day at which the crimes occur.

Where possible, trend data should be included. The request should contain an assessment of why closing the street or footpath is expected to reduce the incidence of crime and what alternative measures have been considered and rejected.

The promoting body will normally be the Crime and Disorder Reduction Partnership (CDRP). Where the CDRP is not the promoting body, the Partnership should be used to consider the crime analysis for the location and a copy of its advice should be included with the submission.

Information should be provided on the use of the routes and what properties or services they link, eg shops, schools, bus stops and what alternative routes are available to the public. The County Council will assess the accessibility implications, if the crime analysis suggests that a gating order would have a significant benefit in reducing crime and the fear of crime.

If there is a demonstrable case for a gating order the County Council will then hold a meeting with the promoting body to discuss funding and management arrangements, including: public consultation and scheme promotion costs; capital costs of the gates and their installation; maintenance costs and responsibilities; operational responsibilities; and public liability.

In order for a scheme to progress, the support of the community must be demonstrated at all consultation stages. A minimum support level of 66% will normally be required. This will give the County Council reassurance that there is a reasonable level of public support for gating.

If there is a strong case for a gating order being made, the Council will contribute on a 50/50 basis to the scheme promotion costs and, if the scheme goes ahead, 50% of the capital cost of the gates. All other costs, liabilities and operational arrangements, e.g. long term maintenance, opening and closing of gates, must be met by the local promoting body. An appropriate agreement will be drawn up for signature by the responsible body.

Repossession of Highway Land

When notified of an unauthorised encampment on land owned or managed by the County Council, the Local Authority which has jurisdiction over the encampment will consult with the Highway Management to determine the land ownership.

In all cases where land is owned, managed or leased by the County Council the Gypsy Liaison Officer in the Estates practice must be informed of the unauthorised occupation so that the execution of duties as required by legislation are discharged for all encampments. Once the Gypsy Liaison Officer has completed a report then the relevant Local Authority may proceed to regain vacant possession. The Gypsy Liaison Officer is also a useful first contact for the legalities of obtaining Repossession Orders and collating complaints.

Where trespass occurs on bridleway public footpaths or rights of way, the Area Rights of Way Officer is responsible for informing the Gypsy Liaison officer and the Countryside and community Department based in Winchester. Public footpaths and rights of way within the boundaries of East Hampshire District Council are the responsibility of that Local Authority.

When trespass occurs on motorways or trunk roads the County Council Gypsy Liaison officer will notify the Highways Agency and liaise with the Department of the Environment, Transport and the Regions to secure vacant possession.

When an unauthorised encampment occurs on highway land directly controlled by the County Council the gypsy Liaison Officer will endeavour to secure vacant possession by persuasion. However, should this fail, he will arrange for the appropriate notice of the County Council's intention to place the matter before the Courts to be served on the trespassers. The Notice will indicate when the site must be vacated and this will depend on the individual circumstances of each trespass. The relevant Highway Unit will be notified of the date and time when the Notice expires and will be required to confirm vacant possession by informing the Gypsy Liaison Officer.

If the site remains occupied then the County Council's Legal Practice will apply to the Courts for an Eviction Order and once again the area office will be notified of the timescale. The area office will be requested to supply information on the site including the exact location and occupants with approximate timescales of occupation if this is not already known to the Gypsy Liaison Officer.

The Gypsy Liaison Section together with the Legal Practice will arrange representation in Court. However, on the day of the Court case the Local Highway Office will be requested to check whether the trespassers remain on site. Liaison between the Gypsy Liaison Officer and Legal Officers and the Local Highway Office will ensure that each Department remains apprised of the current situation.

If the Repossession Order is granted the execution of the Order is forwarded to the County Sheriff's Department who will arrange the removal of the Travellers in consultation with the Gypsy Liaison Officer and the Local Highway Office. When the eviction procedure has been completed then a review should be undertaken by the Local Highway Office on the defensive works required to ensure that further occupations do not occur.

The Gypsy Liaison Officer and the Local Highway Office will liaise with the District Council so that any material left by the trespassers may be removed. If specialist cleaning is required of the area then consultation should be undertaken with the Gypsy Liaison officer who will advise on the procedure to be followed.

On regaining vacant possession, the Local Highway Office will once again resume total responsibility for the land.