

## **Dedication of Public Rights of Way**

### **Guidance Notes**

#### **How can new Public Rights of Way be dedicated?**

Hampshire County Council, as Highway Authority, has the power to enter into a creation agreement for the dedication of a new public right of way, either under section 25 of the Highways Act 1980 or under common law.

A dedicated route can be: -

- a footpath, allowing use on foot only.
- a bridleway, allowing use on foot, horse or cycle.
- a restricted byway, allowing use on foot, horse, cycle or horse-drawn vehicle.

If a route is already a public right of way, rights for other users can be dedicated over it to change the status of the route. For example, dedicating a public right for use by horses and cycles over an existing public footpath would change the status to that of a public bridleway.

In circumstances where it is desirable to allow cycle use, but the route is not suitable for use by horses, it is possible to dedicate public cycling rights, in addition to the pedestrian rights, over a public footpath. A route of this status must still be shown on the Definitive Map as a footpath, but the additional cycling rights can be clearly signposted on the ground and be shown on the Council's interactive maps, and on the Ordnance Survey Explorer maps. Cycling on a footpath that has not had public cycling rights dedicated over it is a trespass against the landowner.

#### **What are the implications of dedicating a new Public Right of Way?**

When a new public right of way is dedicated, a permanent right for the public to pass and repass over the route in question comes into being that did not exist previously. This right will be recorded on the Definitive Map and Statement of Public Rights of Way and it can only be amended in the future by way of a legal order.

The ownership of the subsoil does not change, but the Council will have an interest in the surface of the route for the purposes of maintenance and ensuring the route always remains open and available for public use. It is usual for the future maintenance of the route to fall to the Council, unless otherwise agreed.

#### **What is the process for dedicating new Public Rights of Way?**

Firstly, *all* owners of the land crossed by the intended route must give explicit written consent for the dedication of a new public right of way on their land. This consent must include details of the status, width and any limitations (eg gates or barriers) to be installed on the proposed route.

Secondly, a full consultation is carried out including the relevant user groups, parish and district councils and the local County Councillor. Any concerns raised during this consultation must be addressed as far as possible. Following this consultation, a report will be prepared, including the results of the consultation, before a formal decision is made as to whether the Council should accept the dedication.

Once authority has been granted, a plan will be drafted, and Legal Services will be requested to draft the deed of dedication and send this to the relevant landowners for signature. Once the deed has been signed and all agreed works have been carried out to make the route suitable for use by the public, the dedication will be advertised in the local press. The Definitive Map will then be updated, and the Ordnance Survey will be informed of the new route. There is no provision for formal public objection to the dedication of a new public right of way, although views are considered during the consultation stage.

This process can take six to twelve months to complete. The flow chart below details the overall process.

### **What information is needed to process a dedication?**

We need full details of *all* owners of the affected land, including proof of ownership and their explicit written consent to the proposed dedication. A consent form is provided below for this purpose. If the ownership of any part of the affected land is unknown, it is not possible to dedicate a new public right of way over it by agreement. It may however be possible to create a new route by Creation Order under Section 26 of the Highways Act 1980.

Depending on the reasons for the dedication, the County Council may require the legal costs incurred during the process to be covered (for example, if the dedication is linked to development), Details will also be required on how the required works will be funded, who will be responsible for the future maintenance of the new route and how the needs of people with disabilities have been accommodated. The form below gives a more detailed list of the information that will be required.

### **Who should be consulted about dedications?**

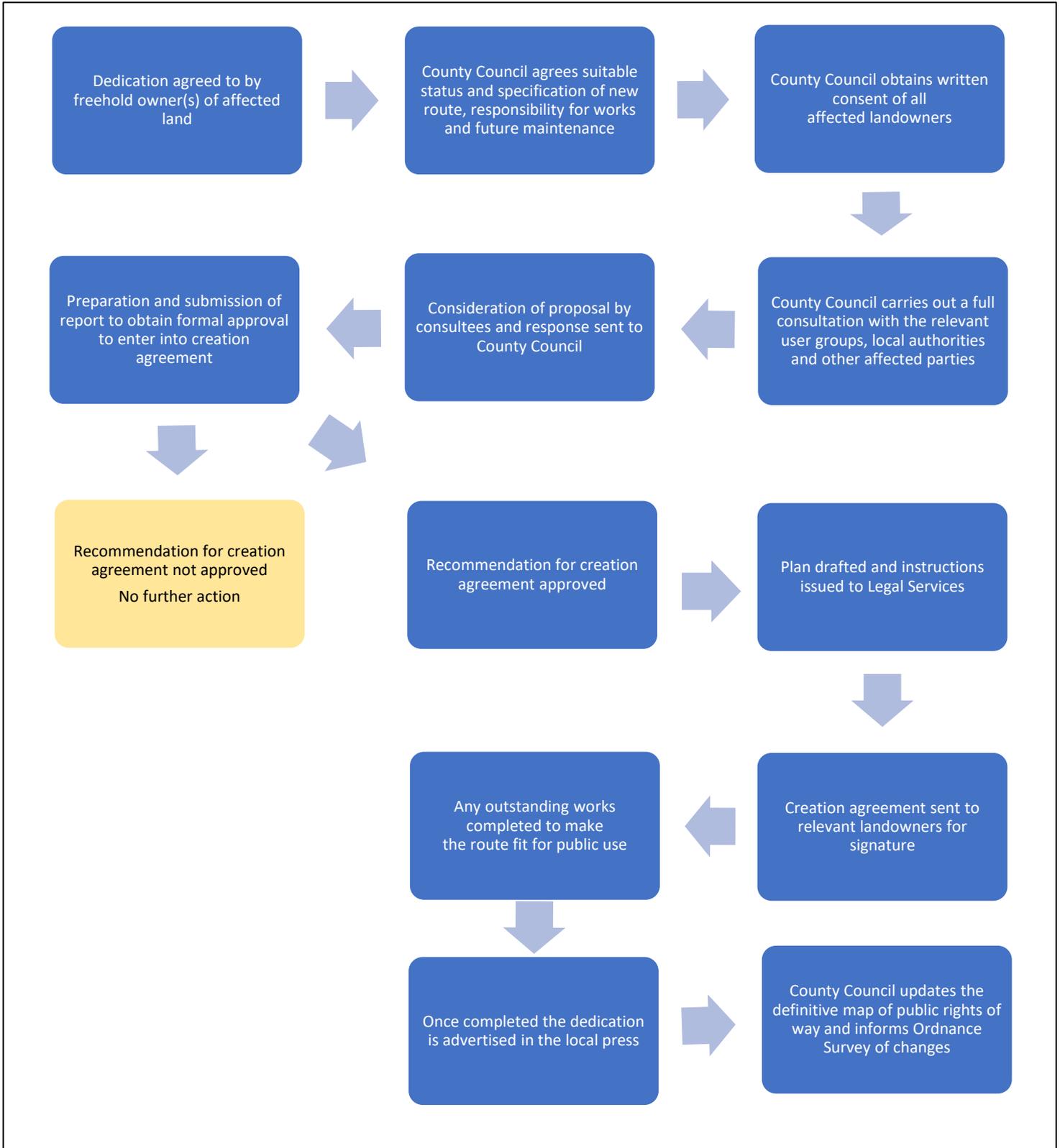
Once all landowners have given their consent a consultation will be carried out that includes:

- The relevant parish/town and district/borough councils
- The local County Council Member
- Any relevant National Park authority
- Natural England (if appropriate)
- The Ramblers
- The Open Spaces Society
- The Cyclists Touring Club – for proposals affecting cyclists
- The British Horse Society – for proposals affecting equestrians
- The British Driving Society – for proposals affecting horse-drawn vehicles
- Any other relevant user groups or organisations that are affected by the proposal, e.g. local schools if the proposal is a safe route to school

### **Who should I talk to about dedicating a new public right of way?**

To discuss a potential dedication, or to submit a request for a dedication to be processed please contact the Countryside Access Team on 0300 555 1391 or [countryside@hants.gov.uk](mailto:countryside@hants.gov.uk)

## DEDICATION OF A PUBLIC RIGHT OF WAY – PROCESS FLOW CHART



**DEDICATION OF A PUBLIC RIGHT OF WAY**

Name.....

Address.....

.....

.....

**As shown on the attached plan**

- 1) I am the freehold owner of **all** of the land over which the new route is proposed\*
- 2) I am the freehold owner of **part** of the land over which the new route is proposed\*
- 3) I am not the freehold owner, but am:  
  
a lessee or tenant / a mortgagee / a person having the benefit of easement over / a person having some other interest in the land over which the new route is proposed\*
- 4) I am the owner or occupier of land adjacent to the existing route and use this route to gain access to my land\*

*\* please delete as appropriate*

- 5) **I hereby give my consent to the dedication of a permanent public right of way with the status of.....(see note *iii* below)**

**Signature.....Date.....**

Notes

- i) The information you enter on this form will become part of the records maintained on Rights of Way in Hampshire and may be made available for inspection by members of the public.
- ii) A separate form of consent must be completed by each person whose consent is required
- iii) The status of a dedicated route can be;  
a footpath, allowing use on foot.  
a footpath with public cycling rights.  
a bridleway, allowing use on foot, horse or cycle.
  - a restricted byway, allowing use on foot, horse, cycle or horse-drawn vehicle.