



Title of Report:	Public Right of Way Investigations - Update
Committee Report Submitted To:	The Leisure & Development Committee
Date of Meeting:	19 October 2021
For Decision or For Information	For Information

Linkage to Council Strategy (2019-23)	
Strategic Theme	Protecting and Enhancing our Environments and Assets Promote our tourism offer locally and internationally Prosperity, Health and Wellbeing and Cohesive Community.
Outcome	Improved access to our natural environment. Development of visitor economy and health and wellbeing opportunities.
Lead Officer	Head of Service – Tourism & Recreation Coast & Countryside Manager

Budgetary Considerations	
Cost of Proposal	-
Included in Current Year Estimates	-
Capital/Revenue	-
Code	-
Staffing Costs	Officer time

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	Yes/No	Date:
	EQIA Required and Completed:	No	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No	Date:
	RNA Required and Completed:	No	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No	Date:
	DPIA Required and Completed:	No	Date:

1.0 Purpose of Report

The purpose of this report is to present an update to Members with respect to ongoing investigations and potential investigations regarding Public Right of Way cases.

2.0 Background

The Access to the Countryside (NI) Order 1983, places a duty on councils to “assert, protect, and keep open and free from obstruction or encroachment, any public right of way”.

Where an access route has been blocked by a private landowner, and local people claim that a public right of way exists, Councils have a duty to investigate such a claim. Part of such an investigation involves collecting user evidence from local people who have claimed to have used the route ‘as of right’ over a number of years, and also seeking the views of the landowner concerned to help determine if a public right of way exists at common law. Documentary evidence, including historic mapping and photography, is also gathered as part of the investigation process.

Once sufficient evidence is gathered, Council has to assess the weight of all such evidence and take legal advice regarding same. If the evidence shows that a public right of way does exist, then Council has a statutory duty to make the assertion. If the evidence is inconclusive, Council has no duty to assert.

3.0 Current investigations

At present there are seven cases which are being considered by Council staff. These are summarised in the **Table 1** below.

TABLE 1

	Investigation	Location	Status	Comment
1	Giant's Causeway	Bushmills	Investigation ongoing	A revised opinion has been received from senior counsel within the last month. This is being considered by the Coast and Countryside team and the Council's legal team, prior to further engagement.
2	Downhill Demesne	Downhill	Initial request received. Process put on hold.	The Downhill Demesne investigation was put on hold to await the outcome of the Giant's Causeway case should precedence be set with respect to the legislation. Council staff continue to engage with The National Trust on this matter.
3	Causeway Street to East Strand	Portrush	Awaiting guidance	Council awaits a requested review of legal opinion on the evidence collected from counsel.
4	Shore Road	Greysteel	Initial discussion with Translink	The Shore Road, Greysteel case requires further discussion with Translink as the route crosses the railway line.
5	Ballygelagh Village to Rockview Lane	Portstewart	Initial correspondence with parties complete	Officers are continuing to assess initial information provided by landowners and complainants. No formal investigation has been fully initiated for these cases.
6	Portstewart Strand to River Bann, via Portstewart Golf Course	Portstewart	Initial correspondence with parties complete	Correspondence from Portstewart Golf Club clarifying its position. Complainant advised.
7	Barmouth Rd	Castlerock	Public complaint received	Discussion and site meeting with The National Trust. Further clarification on issue required with local residents.

4.0 Next Steps

The Coast and Countryside team will continue to work on any outstanding investigations and where necessary compile evidence and legal opinion with a view to taking to Council for determination on recommendations. In the New Year, Officers also hope to bring a report outlining a policy for Public Right of Way Investigations.