



**REGENERATION AND SUSTAINABLE DEVELOPMENT CABINET  
BOARD**

**IMMEDIATELY FOLLOWING CABINET SCRUTINY COMMITTEE  
FRIDAY 6 SEPTEMBER, 2019**

**COMMITTEE ROOMS A/B - NEATH CIVIC CENTRE**

**PART 1**

1. Appointment of Chairperson
2. Declarations of Interest
3. Minutes of Previous Meeting (*Pages 3 - 6*)
4. Forward Work Programme 2019/2020 (*Pages 7 - 8*)
5. Key Performance Indicators 2019/2020 - Quarter 1 (1st April 2019 - 30th June 2019) (*Pages 9 - 20*)  
*Joint Report of the Head of Planning and Public Protection,  
The Head of Property and Regeneration and The Head of Adult  
Services*
6. Countryside and Rights of Way (CROW) Act 2000 – Consideration of: the Consultation Draft Rights of Way Improvement Plan (ROWIP); and the publication / consultation procedures to be implemented (*Pages 21 - 88*)  
*Report of the Head of Planning and Public Protection*
7. Environmental Health and Trading Standards: Food and Feed Service Delivery Plan 2019-2020 and the Food and Feed Law Enforcement Review 2018-2019 (*Pages 89 - 170*)  
*Report of the Head of Planning and Public Protection*

8. Alleged Public Footpath from Parkfield to the adopted footpath linking Dulais Fach to Park Street, Community of Tonna (*Pages 171 - 198*)  
*Report of the Head of Legal Services*
9. Alleged Public Bridleway from Dan- Y - Bont ( Pontrhydyfen) to Main Road ( Efail Fach ) Communities of Pelenna and Cwmavon (*Pages 199 - 228*)  
*Report of the Head of Legal Services*
10. Urgent Items  
Any urgent items (whether public or exempt) at the discretion of the Chairman pursuant to Statutory Instrument 2001 No 2290 (as amended).
11. Access to Meetings  
To resolve to exclude the public for the following items pursuant to Regulation 4(3) and (5) of Statutory Instrument 2001 No. 2290 and the relevant exempt paragraphs of Part 4 of Schedule 12A to the Local Government Act 1972.

## **PART 2**

12. Proposed Disposal of Land (*Pages 229 - 242*)  
*Private Report of the Head of Property & Regeneration*

**S.Phillips**  
**Chief Executive**

**Civic Centre**  
**Port Talbot**

**29 August, 2019**

**Regeneration and Sustainable Development Cabinet Board**  
**Members:**

Councillors. L.Jones and A.Wingrave

**EXECUTIVE DECISION RECORD**

**12 JULY, 2019**

**REGENERATION AND SUSTAINABLE DEVELOPMENT CABINET  
BOARD**

**Cabinet Members:**

Councillors: L.Jones (Chair) and A.Wingrave

**Officers in Attendance:**

N.Pearce, S.Brennan, C.Morris and N.Headon

---

1. **APPOINTMENT OF CHAIRPERSON**

Agreed that Councillor L.Jones be appointed Chairperson for the meeting.

2. **MINUTES OF PREVIOUS MEETING**

**Decision:**

That the Minutes of the 7 June, 2019, be approved.

3. **QUARTER 4 PERFORMANCE INDICATORS**

**Decision:**

That the above monitoring report be noted.

4. **FORWARD WORK PROGRAMME 2019/20**

**Decision:**

That the Forward Work Programme for 2019/20 be noted.

5. **ACCESS TO MEETINGS**

**RESOLVED:** That pursuant to Regulation 4(3) and (5) of Statutory Instrument 2001 No. 2290, the public be excluded for the following items of business which involved the likely disclosure of exempt information as defined in Paragraph 14 of Part 4 of Schedule 12A to the Local Government Act 1972.

6. **URGENT ITEMS**

Because of the need to deal now with the matters contained in Minute Nos. 7 and 8 below, the Chairperson agreed that these could be raised at today's meeting as urgent items pursuant to Statutory Instrument No. 2290 (as amended).

Reason for Urgency:

Due to the time element.

7. **CYMMER SPORTS HALL, CYMMER, PORT TALBOT**

**Decision:**

That the grant of the lease and Service Level Agreement in relation to Cymmer Sports Hall, Cymmer, as detailed in the terms set out in the private circulated report, be approved.

**Reason for Decision:**

The lease and Service Level Agreement will allow the premises to be used as a Sports Hall for the benefit of the local community.

**Implementation of Decision:**

The decision will be implemented after the three day call in period.

8. **LEASE OF HARBOUR COURT, PORT TALBOT**

**Decision:**

That the grant of lease in relation to Harbour Court, Port Talbot, as detailed in the terms set out in the private circulated report, be approved.

**Reason for Decision:**

The proposal will enable this refurbished and extended building to be leased to the Company providing an annual income to the Authority.

**Implementation of Decision:**

The decision will be implemented after the three day call in period.

**CHAIRPERSON**

This page is intentionally left blank

# REGENERATION AND SUSTAINABLE DEVELOPMENT CABINET BOARD

## 2019/2020 FORWARD WORK PLAN (DRAFT)

| DATE                       | Agenda Items                                      | Type<br>(Decision,<br>Monitoring or<br>Information) | Rotation<br>(Topical,<br>Annual,<br>Biannual,<br>Quarterly<br>Monthly) | Community<br>Safety Sub<br>Committee<br>Before?<br><br>Yes/No | Contact<br>Officer/Head<br>of Service |
|----------------------------|---|---|--|---|---------------------------------------|
| <b>18 October<br/>2019</b> | Local Development Plan 2 Process - Agree AMR 2019 | Decision  | Annual   |   | Ceri Morris /<br>Lana Beynon          |
|                            | Energy Performance Report                         | Decision  | Topical  |   | Gareth Nutt/<br>Chris Jones           |
|                            | Minimum Unit Pricing of Alcohol                   | Information   | Topical  |   | Nicola Pearce/<br>Lucas<br>Williams   |

| DATE                        | Agenda Items           | Type<br>(Decision,<br>Monitoring or<br>Information) | Rotation<br>(Topical,<br>Annual,<br>Biannual,<br>Quarterly<br>Monthly) | Community<br>Safety Sub<br>Committee<br>Before?<br><br>Yes/No | Contact<br>Officer/Head<br>of Service |
|-----------------------------|------------------------|---|--|---|---------------------------------------|
| <b>29 November<br/>2019</b> | Biodiversity Duty Plan | Decision  | Topical  |   | Nicola Pearce<br>/ Ceri Morris        |
|                             |                        |   |  |   |                                       |

## REGENERATION AND SUSTAINABLE DEVELOPMENT CABINET BOARD

| DATE                       | Agenda Items  | Type<br>(Decision,<br>Monitoring or<br>Information) | Rotation<br>(Topical,<br>Annual,<br>Biannual,<br>Quarterly<br>Monthly) | Going to Sub<br>Committee<br>Before?<br>Yes/No | Contact<br>Officer/Head<br>of Service |
|----------------------------|---|---|--|--|---------------------------------------|
| <b>10 January<br/>2020</b> | Local Development Plan 2 - Review Report Consultation Draft | Decision  | Annual   |  | Ceri Morris /<br>Lana Beynon          |
|                            | Consultative Draft – VAWDASV Strategy 2020/2023             | Decision  | Topical  |  | Karen Jones                           |
|                            | CCTV – final Business Case                                  | Decision  | Topical  |  | Karen Jones                           |

Page 8

To be programmed in:

- LDP 2 - Agree Final Delivery Agreement (Ceri Morris/Lana Beynon) – July 2020
- Property Performance Report 2018 (*Date TBC to go back later in the year – Re: Dave Phillips*)
- Rhondda Tunnel (NP & SB)
- Budget Only Meetings
- Business Plans (if needed)
- 2018/19 Quarterly Performance Monitoring
- Various Supplementary Planning Guidance (SPGs) (pre and post consultation)
- Commissioning Strategy for Substance Misuse
- Public Space Protection Order





Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

### **Regeneration and Sustainable Development Cabinet Board**

**6 September 2019**

**Joint Report of  
The Head of Planning and Public Protection – N Pearce  
The Head of Property and Regeneration – S Brennan  
The Head of Adult Services – A Thomas**

#### **Matter for Monitoring**

**Wards Affected: All Wards**

**Report Title: Key Performance Indicators 2019/2020 – Quarter 1  
(1<sup>st</sup> April 2019 – 30<sup>th</sup> June 2019)**

#### **Purpose of the Report:**

To report quarter 1 performance management data for the period 1 April 2019 to 30 June 2019 for Regeneration and Sustainable Development Cabinet Board. This will enable the Regeneration and Sustainable Development Cabinet Board and Scrutiny Members to discharge their functions in relation to performance management.

#### **Executive Summary:**

A list of quarter 1 Corporate Plan KPI's with progress comments on each indicator are attached as appendix 1, these do not include those KPI's collected on an annual basis, these will be reported in quarter

4. The full suite of Corporate Plan KPI's can be found in the [Corporate Plan 2018-2022](#).

KPI's that have improved on or achieved target are GREEN status, KPI's that have not achieved target but performance is within 5% are AMBER status and KPI's that are 5% or more below target are RED status.

Where available, performance indicators report quarter 1 target and 3 years of quarter 1 data for comparison.

Appendix 2 provides quarter 1 information for Compliments and Complaints data, collected in line with the [Council's Comments, Compliments & Complaints Policy](#) for Cabinet and relevant Cabinet Board purviews.

Appendices 1 and 2 are new reports from the Corporate Performance Management System (CPMS), which went live in August 2018.

**Background:**

Not applicable.

**Financial Impact:**

The performance described in the report is being delivered against a challenging financial backdrop.

**Integrated Impact Assessment:**

There is no requirement to undertake an Integrated Impact Assessment as this report is for monitoring / information purposes.

**Valleys Communities Impacts:**

No implications.

## **Workforce Impacts**

During 2018/19 the Environment Directorate saw a further downsizing of its workforce (by 4 employees) as it sought to deliver savings of £713k in the year.

## **Legal Impacts:**

This report is prepared under:

- 1) The Local Government (Wales) Measure 2009 and discharges the Council's duties to "make arrangements to secure continuous improvement in the exercise of its functions"
- 2) Well-being of Future Generations (Wales) Act 2015
- 3) The Neath Port Talbot County Borough Council Constitution requires each cabinet committee to monitor quarterly budgets and performance in securing continuous improvement of all the functions within its purview.

## **Risk Management Impacts:**

Failure to produce a compliant report within the timescales can lead to non-compliance with our Constitution. Also, failure to have robust performance monitoring arrangements could result in poor performance going undetected.

## **Consultation**

There is no requirement under the Constitution for external consultation on this item.

**Appendices:**

Appendix 1 – Key Performance Indicators 2019/2020 – Quarter 1 Performance (1 April 2019 – 30 June 2019)

Appendix 2 – Compliments and Complaints information – Quarter 1 2019/2020.

**Officer Contact:**

Joy Smith, Road Safety and Business Performance Manager.  
Telephone: 01639 686581. E-Mail: [j.smith@npt.gov.uk](mailto:j.smith@npt.gov.uk)



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

Page  
13

# Performance Indicators







Neath Port Talbot Council








Appendix 1 - Regeneration and Sustainable Development Cabinet Board - Key Performance Indicators -  
Quarter 1 -2019/20










*Print Date: 22-Aug-2019*








## How will we know we are making a difference (01/04/2019 to 30/06/2019)?




| PI Title  | Actual<br>17/18 | Actual<br>18/19 | Actual<br>19/20 | Target<br>19/20 | Perf. RAG  |
|---|-----------------|-----------------|-----------------|-----------------|--|
| <b>Organisation</b>   |                 |                 |                 |                 |  |
| CP/021 - Number of new business start-up enquiries assisted   | 49.00           | 70.00           | 88.00           | 87.00           | <br>Green   |
| There continues to be a steady flow of requests for business start-up information, advice and support. The team are therefore on track to achieve the targets set for this financial year.  |                 |                 |                 |                 |  |
| CP/032 - PAM/015 - Average calendar days taken to deliver a Disabled Facilities Grant   | 213.97          | 259.88          | 165.71          | 230.00          | <br>Green   |
| (9,611 Days/58 DFG's) 1st Quarter results are within the target. This can be attributed in part to a reduction in the waiting times for clients being assessed and the waiting times to make an application for the Grant being reduced. It can also be partly attributed to the nature of the works completed this quarter. It is expected that the figure will increase over the remaining periods as a result of the variation in demand. All Wales data for 2018/19 (full year) is 207 days. Neath Port Talbot Council ranked 15th across Wales |                 |                 |                 |                 |  |
| CP/042 - PAM/023 - Percentage of food establishments that meet food hygiene standards   | 94.98           | 95.09           | 93.41           | 95.00           | <br>Amber   |
| 78 out of 1,047 food establishments were broadly compliant with food hygiene standards. Performance is close to target.<br>All Wales data for 2018/19 (full year) is 95.7%. Neath Port Talbot Council ranked 18th across Wales.   |                 |                 |                 |                 |  |
| CP/063 - The number of jobs created/safeguarded as a result of financial support by the local authority   | 6.00            | 57.00           | 32.00           | 71.00           | <br>Red     |
| Funding applications are progressing well. However, as outputs are not recorded until projects are completed, figures can appear to be low. Based on the number of application received to date, it is anticipated that this activity will meet the targets set for the year.   |                 |                 |                 |                 |  |
| CP/077 - Number of biodiversity rich areas protected and/or enhanced  | 46.00           | 43.00           | 43.00           | 49.00           | <br>Red   |
| The figure is based on the current list of nature conservation sites, which includes Local Nature Reserves, 'Working with Nature' sites and areas that have previously been managed as part of the conservation verge/area scheme.<br>Following a review of the list of sites, a number of sites have been removed, hence there has been a reduction from the 2017/18 figure and the 2018/19 target missed.<br>Reported quarterly with effect from 2018/2019.   |                 |                 |                 |                 |  |
| CP/078 - Number of PM10 breaches in the Air Quality Management Area (Port Talbot / Taibach)   |                 | 0.00            | 3.00            | 9.00            | <br>Green |
| There have been 3 exceedence days between April-June 2019.<br>This is for measurements made at Port Talbot Fire Station, which is the official site for measuring compliance with air quality objectives.<br>Data reported quarterly from 2018/19.  |                 |                 |                 |                 |  |

| PI Title   | Actual<br>17/18 | Actual<br>18/19 | Actual<br>19/20 | Target<br>19/20 | Perf. RAG  |
|--|-----------------|-----------------|-----------------|-----------------|--|
| CP/110 - Workways + - Number of people helped back to work , training or volunteering  |                 | 30.00           | 26.00           | 16.00           | <br>Green   |
| Target surpassed for this quarter for supporting individuals into work, training or volunteering. A number of participants will have achieved more than one outcome in their progression to overcome barriers and return to work but will have only been counted once.<br>Data reported quarterly from 2018/19.  |                 |                 |                 |                 |  |
| CP/113- PAM/018 - Percentage of all planning applications determined in time   | 96.92           | 96.92           | 96.35           | 95.00           | <br>Green   |
| Officers are working with applicants and agents to ensure that applications are determined as far as possible within statutory guidelines. Performance is currently ahead of target.<br>All Wales data for 2018/19 (full year) is 88%. Neath Port Talbot Council ranked 4th across Wales.  |                 |                 |                 |                 |  |
| PI/280 - PAM/019 - Percentage of planning appeals dismissed  | 85.71           |                 | 0.00            | 63.00           | <br>Red     |
| To date only one appeal decision has been received, which was allowed. Accordingly there are currently too few results to make a meaningful analysis of performance.<br>All Wales data for 2018/19 (full year) is 67.6%. Neath Port Talbot Council ranked 15th across Wales  |                 |                 |                 |                 |  |
| PI/366 - PLA/M002 - Average time taken from receipt of application to date decision is issued - days   | 104.10          |                 | 50.21           | 90.00           | <br>Green   |
| Excellent progress has been made on average time from receipt to determination, both due to a focus on speed of determination and a stronger stance on invalid applications. This result also benefits from a reduced number of 'older' applications being determined (albeit a number of such applications remain outstanding which will skew future performance)   |                 |                 |                 |                 |  |
| PI/367 - PPN/001ii - Percentage of high risk businesses that were liable to a programmed inspection that were inspected for Food Hygiene   | 19.39           |                 | 31.18           | 25.00           | <br>Green   |
| 17/7/2019- 111 out of 356 identified high risk premises have been inspected. The service is currently slightly ahead of target.  |                 |                 |                 |                 |  |
| PI/368 - PPN/001iii - Percentage of high risk businesses that were liable to a programmed inspection that were inspected for Animal Health   | 28.57           | 0.00            | 20.00           | 40.00           | <br>Red   |
| 22/7//2019 - Based on the risk assessment programme, only one businesses was due an inspection in the first quarter ,which has been carried out. The intention was to bring forward these inspections earlier in the year to free up resources for other commitments, notably feed inspections. This has not been achieved for the first quarter, but arrangements have already been made to ensure that the others are brought forward and that all high risk businesses are inspected by the end of the 3rd quarter. |                 |                 |                 |                 |  |
| PI/370 - BCT/007 – The percentage of ‘full plan’ applications approved first time.   | 97.37           |                 | 97.22           | 95.00           | <br>Green |
| 35 out of 36 applications were approved first time which is ahead of target.   |                 |                 |                 |                 |  |

| PI Title   | Actual<br>17/18 | Actual<br>18/19 | Actual<br>19/20 | Target<br>19/20 | Perf. RAG  |
|--|-----------------|-----------------|-----------------|-----------------|--|
| PI/371 - BCT/004 – Percentage of Building Control ‘full plan’ applications checked within 15 working days during the year.   | 94.74           |                 | 100.00          | 96.00           | <br>Green   |
| 36 out of 36 full plan applications were checked within the statutory guidelines, demonstrating the priority given by staff to providing both a quality and an efficient service.  |                 |                 |                 |                 |  |
| PI/372 - PLA/004d - The percentage of all other planning applications determined during the year within 8 weeks  | 75.00           |                 | 91.04           | 81.00           | <br>Green   |
| Excellent performance on 'other' applications continues.   |                 |                 |                 |                 |  |
| PI/373 - PLA/M004 - The percentage of major planning applications determined during the year within 8 weeks  | 20.00           |                 | 0.00            | 40.00           | <br>Red     |
| '8 week' performance on major applications remains a concern, but this is primarily because for the majority of major applications in NPT the sites and issues are complex and difficult to positively resolve inside 8 weeks, which is why we always seek to achieve agreed 'extensions of time' which allow us to resolve issues rather than refuse applications within this target date.  |                 |                 |                 |                 |  |
| PI/374 - PLA/004c - The percentage of householder planning applications determined during the year within 8 weeks  | 98.89           |                 | 96.34           | 97.00           | <br>Amber   |
| With only three applications out of 82 taking longer than 8 weeks, the performance remains very high.  |                 |                 |                 |                 |  |
| PI/375 - PLA/004b - The percentage of minor planning applications determined during the year within 8 weeks  | 81.94           |                 | 79.07           | 80.00           | <br>Amber   |
| At 79%, performance remains high, if slightly below the high targets we set ourselves.   |                 |                 |                 |                 |  |
| PI/376 - PLA/002 - The percentage of applications for development determined during the year that were approved  | 94.71           |                 | 98.96           | 95.00           | <br>Green |
| The Authority continues to positively determine the significant majority of planning applications, with officers making continued efforts wherever possible to make development acceptable through negotiation rather than refuse applications.  |                 |                 |                 |                 |  |
| PI/378 - PPN/001i - Percentage of high risk businesses that were liable to a programmed inspection that were inspected for Trading Standards   | 35.00           | 5.00            | 20.00           | 30.00           | <br>Red   |
| 22/7/2019 - Based on the risk assessment programme, all 3 businesses due an inspection in the first quarter were inspected. The intention was to bring forward other inspections to earlier in the year to free up resources for other commitments. This has not been achieved for the first quarter, but arrangements have already been made to ensure that the other inspections are brought forward to ensure all high risk businesses are inspected by the end of the 3rd quarter. |                 |                 |                 |                 |  |



| PI Title   | Actual<br>17/18 | Actual<br>18/19 | Actual<br>19/20 | Target<br>19/20 | Perf. RAG  |
|--|-----------------|-----------------|-----------------|-----------------|--|
| PI/380 - PLA/M001 – Average time taken from receipt of application to validation of application – days.  | 22.68           |                 | 8.18            | 15.00           | <br>Green   |
| Significant progress continues to be made on reducing the average days to validate from receipt, both due to excellent relationships with agents but also due to a stronger stance on invalid applications through use of invalid notices.   |                 |                 |                 |                 |  |
| PI/425 - The percentage of detected breaches in animal health, feed and food standards that have been rectified  |                 | 28.57           | 57.89           | 80.00           | <br>Red     |
| 23/7/2019 - 19 breaches of animal health, feed and food standards were detected and 11 were rectified. The service has been undertaking a number of food sampling exercises, and have detected breaches that require further investigation and it is anticipated that as these investigations are concluded that this PI will improve within the next quarter. |                 |                 |                 |                 |  |
| PI/426 - Percentage of breaches in consumer fraud investigations successfully concluded  |                 |                 | 16.67           | 25.00           | <br>Red     |
| 17/7/2019 - The Fraud team within TS have been involved in a large conspiracy investigation which has taken up considerable resources. It is anticipated that this investigation will see resolution in 20/21, but in the meantime some staff can be released to complete smaller scale investigations.  |                 |                 |                 |                 |  |
| PI/427 - Total value of consumer fraud investigations concluded (£)  |                 |                 | 17628.83        |                 |  |
| 17/7/2019 - The service has seen the resolution of two long running fraud / counterfeiting investigations that has resulted in this figure.  |                 |                 |                 |                 |  |
| PI/430 - Percentage of private water supplies where a risk assessment has been carried out in accordance with drinking water standards   |                 | 0.00            | 50.00           | 25.00           | <br>Green   |
| 23/7/2019 - 2 out of 4 supplies have had risk assessments carried out) in accordance with the Regulations.   |                 |                 |                 |                 |  |
| PI/456 - Number of enterprise events held  |                 | 3.00            |                 | 3.00            | <br>NA    |
| PI/457- Number of completed training weeks for apprenticeship, traineeships and work experience  |                 | 494.00          | 12.00           | 0.00            | <br>Green |
| At present, the team is working on one project (Magistrates Court). We are expected further projects to commence in Quarter 3, i.e. the Plaza and Cefn Saeson School. We anticipate outputs to increase as the year progresses.  |                 |                 |                 |                 |  |
| PI/458 - Number of visitors to Neath Town Centre   |                 | 1163044.00      |                 | 0.00            | <br>NA    |

| PI Title   | Actual<br>17/18 | Actual<br>18/19 | Actual<br>19/20 | Target<br>19/20 | Perf. RAG  |
|--|-----------------|-----------------|-----------------|-----------------|--|
| PI/459- Bring forward high quality office and light industrial space for inward investment expansion   |                 | 0.00            |                 |                 |  |
| Numerous projects at various stages of delivery, but none expected to be delivered in this quarter.  |                 |                 |                 |                 |  |
| PI/462 - Number of business enquires assisted resulting in advice, information or financial support being given to existing companies through Business Services  | 150.00          | 123.00          | 131.00          | 160.00          | <br>Red   |
| The team have dealt with a variety of requests for support from local businesses, such as availability of property, funding, training support, etc., throughout the first quarter. It is anticipated that the level of demand for services will increase within the next two quarters that the targets set for the year will be achieved.  |                 |                 |                 |                 |  |
| PI/464 - Number of tourism operators Supported by the Council  |                 | 8.00            | 18.00           | 0.00            | <br>Green |
| A range of enquiries have been received by the Tourism Team ranging from funding enquiries to advice on marketing and developing tourism businesses. A key contributor to this output is the Margam Park Heritage Experience Sense of Place Event, which was organised by the tourism team and aimed at Tourism operators, 9 tourism operators attended the event (along with other voluntary organisations not counted as part of this output).<br>11 of the 18 enquiries were received from new/ proposed business start-ups. 11 of the tourism operators assisted originate in the Valleys areas.   |                 |                 |                 |                 |  |
| PI/465 - Number of Destination Management Plan actions delivered.  |                 | 7.00            | 7.00            | 0.00            | <br>Green |
| Destination Management Plan actions delivered this quarter range from the delivery of two brown signage schemes (Glynneath and Pontardawe), the submission of the Valleys Regional Park Gateway Site application for Cefn Coed Colliery and organising a series of Sense of Place events aimed at widening the product knowledge of tourism operators in the area. The Tourism Team has also worked in partnership with the Countryside Team to arrange a walking festival from 1st to 4th August 2019 celebrating the county's canal network. A destination website has been commissioned and is currently in the development phase, the website is designed to showcase the new Neath Port Talbot place brand to visitors. |                 |                 |                 |                 |  |



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

Page 19

# Performance Indicators

Neath Port Talbot Council

Appendix 2 - Regeneration and Sustainable Development - Compliments and Complaints - Quarter 1 - 2019/20



*Print Date: 22-Aug-2019*

## How will we know we are making a difference (01/04/2019 to 30/06/2019)?

| PI Title   | Actual<br>17/18 | Actual<br>18/19 | Actual<br>19/20 | Target<br>19/20 | Perf. RAG |
|--|-----------------|-----------------|-----------------|-----------------|-----------|
| <b>Organisation</b>  |                 |                 |                 |                 |           |
| PI/268 - Regeneration and Sustainable Development - % of complaints at Stage 1 that were upheld/partially upheld   | 0.00            |                 | 0.00            |                 |           |
| 3 Stage 1 complaints were received this quarter, none of which were upheld. 0 complaints were received for the same quarter last year none of which were upheld.   |                 |                 |                 |                 |           |
| PI/269 - Regeneration and Sustainable Development - % of complaints at Stage 2 that were upheld/partially upheld   |                 | 0.00            | 50.00           |                 |           |
| One Stage 2 complaint was upheld this quarter compared with two stage 2' complaints received for the same quarter last year none of which were upheld. No complains were received for Q1 18/19.  |                 |                 |                 |                 |           |
| The upheld complaint received was regarding the late response to an Environmental Health matter. The complainant had requested information on an abandoned property which had not been actioned. An apology was sent to the complainant and an internal procedure was improved |                 |                 |                 |                 |           |
| PI/270 - Regeneration and Sustainable Development - % of complaints dealt with by the Public Services Ombudsman that were upheld/partially upheld  | 0.00            |                 | 0.00            |                 |           |
| The one Ombudsman investigation received this quarter was not upheld. No Ombudsman's complaints received for Q1 2018/19.   |                 |                 |                 |                 |           |
| PI/271 - Regeneration and sustainable development - number of compliments received from the public   | 4.00            | 1.00            | 3.00            |                 |           |
| Three compliments were received for this quarter in comparison to one received for the same quarter last year.   |                 |                 |                 |                 |           |



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

**Regeneration & Sustainable Development Cabinet Board**  
6<sup>th</sup> September 2019

**Report of the Head of Planning and Public Protection**  
Nicola Pearce

### **Matter for Decision**

**Wards Affected:** All

**Countryside and Rights of Way (CROW) Act 2000 – Consideration of: the Consultation Draft Rights of Way Improvement Plan (ROWIP); and the publication / consultation procedures to be implemented.**

### **Purpose of the Report**

- 1 To consider and agree the *Consultation Draft* Rights of Way Improvement Plan (ROWIP) and the publication / consultation procedures to be implemented.

### **Executive Summary**

- 2 Under Section 60 of the (CROW) Act 2000 (*the Act*), the Council has a statutory duty to prepare a 'Rights of Way Improvement Plan' (ROWIP). The ROWIP sets out how the Council intends to improve access to the countryside over a 10 year period.
- 3 The ROWIP for Neath Port Talbot was initially produced and published for the period 2008-2018. In 2017, under section 60(3) and (4) of the Act, the Council undertook a new assessment, including consultation to determine whether a review of the ROWIP was required.
- 4 In September 2018, based on the outcome of the assessment, Cabinet Board resolved to undertake a review of the ROWIP.

- 5 This report therefore seeks endorsement of the *consultation draft* ROWIP (2019-2029) and the approval of the consultation arrangements.

## **Background**

- 6 The Neath Port Talbot ROWIP was initially prepared and published for the period 2008-2018.
- 7 In 2017, and in accordance with legislation, the Council undertook an assessment of current provision and carried out a public consultation exercise to gather views on the quality and condition of Public Rights of Way and the wider countryside, their use of these routes and the measures that could be taken to encourage greater use of the countryside.
- 8 Based on the assessment and the fact that since publication of the first ROWIP, there have been a number of changes in Wales that would have a bearing on future management of the network and access to the countryside, the decision was taken to prepare a new ROWIP for Neath Port Talbot.

## **Rights of Way Improvement Plan (2019-2029)**

- 9 The new *Consultation Draft* ROWIP is presented in full in Appendix 1. Covering the period 2019-2029, the plan sets out the means by which the Council intends to improve and promote access to the countryside across Neath Port Talbot over the next decade.
- 10 The ROWIP is structured into the following three parts:
- *PART 1: Introduction and Background* – provides a summary of the key drivers in the national, regional and local context, along with a description of the County Borough and the opportunities for public access to the countryside.
  - *PART 2: Assessment of Access Provision and Use* – outlines the outcome of the assessment in regard to access provision and use of this resource across Neath Port Talbot and identifies the key issues to be addressed moving forward.
  - *PART 3: Statement of Action* – outlines the vision, objectives and policies of the plan, along with the means by which the plan will be delivered and monitored.

## **Publication and Consultation Procedures**

- 11 The ROWIP consultation period will run for 12 weeks commencing in September. Representations received as a result of consultation will again be considered by this Cabinet Board, together with any amendments needed to the document prior to final publication.
- 12 In order to raise awareness and facilitate a public / stakeholder consultation, the following will be undertaken:
  - The Council's website will provide all relevant information and documentation;
  - Correspondence will be sent to relevant stakeholders / organisations listed on the ROWIP database; and
  - Press releases will be issued (including use of social media).
- 13 In accordance with the Council's Welsh Language Standards Policy all publicity / communication will be bilingual and the Consultation Draft ROWIP will also be made available in Welsh.
- 14 The Consultation Draft ROWIP will be available for purchase at a reasonable charge. In common with previous practice, it is suggested that the price be based on the cost of printing together with post and package at the prevailing cost. Electronic copies will be made available at no cost.

## **Financial Impacts**

- 15 The decisions will incur expenditure in relation to the publication and consultation procedures. These costs will be accommodated within existing budgets.
- 16 Given that there is no additional Welsh Government funding being made available for the delivery of the plan, the plan reflects the current budget of the Countryside & Wildlife Team and will make best use of external funding to deliver additional improvement works.

## **Integrated Impact Assessment**

- 17 A first stage impact assessment has been undertaken to assist the Council in discharging its legislative duties under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

18 The first stage assessment, attached at Appendix 2, has indicated that a more in-depth assessment is not required. A summary is included below:

- **Equalities** – the Plan is intended to be inclusive, aiming to encourage greater use of Public Rights of Way and the wider countryside by all community members.
- **Welsh Language** – the Plan will be inclusive, aiming to encourage all community members to be involved. The Plan and all public communications will be bilingual.
- **Biodiversity** – a Service Assessment has been carried as part of the Biodiversity Duty Plan requirements, and appropriate working practices are in place to avoid impact on biodiversity. Policy for the protection of biodiversity is embedded into the ROWIP.
- **Well-being of Future Generation (5 ways of Working)** – The 5 ways of working has been followed in the review of the Plan, and will continue to be followed in delivery of the Plan.

### **Valleys Communities Impacts**

19 No implications.

### **Workforce Impacts**

20 No implications.

### **Legal Impacts**

21 No implications.

### **Risk Management Impacts**

22 No implications.

### **Consultation**

23 This item will be the subject of external consultation.

### **Recommendations**

24 That having considered the report, it is resolved to make the following recommendations for approval:



1. That the *Consultation Draft* Rights of Way Improvement Plan as set out in Appendix 1 be agreed as forming the basis for consultation.
2. That the publication and consultation arrangements as set out in the report are implemented.

### **Reasons for Proposed Decision**

- 25 The recommendations are made to ensure compliance with the CROW Act 2000 and to put a framework in place for the management and improvement of our Public Rights of Way for the next 10 years.

### **Implementation of Decision**

- 26 The decision is proposed for implementation after the three day call in period.

### **Appendices**

- 27 Appendix 1 – ROWIP (2019-2029) Consultation Draft (September 2019)
- 28 Appendix 2 – ROWIP (2019-2029) First Stage Integrated Impact Assessment.

### **List of Background Papers**

- 29 The Countryside and Rights of Way (CROW) Act 2000.

### **Officer Contact**

- 30 Ceri Morris – Planning Policy Manager  
Tel: 01639 686320 or e-mail: [c.morris1@npt.gov.uk](mailto:c.morris1@npt.gov.uk)
- 31 Catrin Evans – Countryside & Wildlife Team Leader  
Tel: 01639 686056 or e-mail: [c.a.evans@npt.gov.uk](mailto:c.a.evans@npt.gov.uk)

## **APPENDIX 1**

ROWIP (2019-2029) Consultation Draft (September 2019)



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

# Rights of Way Improvement Plan (2019-2029)

## Consultation Draft - September 2019





|                             |          |
|-----------------------------|----------|
| <b>Note to Reader</b> ..... | <b>1</b> |
| <b>Foreword</b> .....       | <b>3</b> |

## **PART 1 - Introduction and Background**

|  |           |
|--|-----------|
| <b>1 Introduction</b> .....                  | <b>5</b>  |
| 1.1 Structure and Content .....              | 5         |
| <b>2 Policy Context</b> .....                | <b>7</b>  |
| <b>3 Access to the Countryside</b> .....     | <b>11</b> |
| 3.1 Description of Neath Port Talbot .....   | 11        |
| 3.2 Means of Access to the Countryside ..... | 12        |

## **PART 2 - Assessment of Access Provision and Use**

|  |           |
|--|-----------|
| <b>4 Assessment of Access Provision in Neath Port Talbot</b> ..... | <b>15</b> |
| 4.1 Public Rights of Way (PROW) .....                              | 15        |
| 4.2 Cycle Routes and Adopted Highway .....                         | 17        |
| 4.3 Canal Network .....  | 18        |
| 4.4 Long Distance Trails .....                                     | 18        |
| 4.5 Waterfall Walks .....  | 20        |
| 4.6 Public Access under CROW Act 2000 and Common Land .....        | 21        |
| 4.7 Coastal Access .....   | 22        |
| 4.8 Permissive Access .....  | 22        |
| 4.9 Open Space .....   | 23        |
| 4.10 Neath Port Talbot Public Consultation (2017) .....            | 23        |
| 4.11 Overview .....  | 24        |
| <b>5 Assessment of Use in Neath Port Talbot</b> .....              | <b>25</b> |
| 5.1 National Survey for Wales (2016-2017) .....                    | 25        |
| 5.2 Neath Port Talbot Public Consultation (2017) .....             | 26        |
| <b>6 Evaluation</b> .....  | <b>27</b> |
| 6.1 Benefits of Public Rights of Way .....                         | 28        |

# Contents

|     |                                       |    |
|-----|---------------------------------------|----|
| 6.2 | Key Issues in Neath Port Talbot ..... | 29 |
|-----|---------------------------------------|----|

## **PART 3 - Statement of Action**

|          |  |           |
|----------|--|-----------|
| <b>7</b> | <b>Vision and Objectives .....</b>         | <b>31</b> |
| <b>8</b> | <b>Policies .....</b>                      | <b>33</b> |
| <b>9</b> | <b>Implementation and Monitoring .....</b> | <b>37</b> |
| 9.1      | Annual Delivery Plans .....                | 37        |
| 9.2      | Delivery Mechanism and Funding .....       | 37        |
| 9.3      | Monitoring and Evaluation .....            | 37        |

## **Appendices**

|          |  |           |
|----------|--|-----------|
| <b>A</b> | <b>Legal Processes .....</b>                                     | <b>39</b> |
| <b>B</b> | <b>ROWIP (2008-2018) - Evaluation of Delivery .....</b>          | <b>41</b> |
| <b>C</b> | <b>Priority Criteria for Claimed PROW and Other Orders .....</b> | <b>51</b> |

### Note to Reader

This note explains the purpose of the Rights of Way Improvement Plan and how to comment on the document. This note will not form part of the final published report.

### Purpose of the Document

The Neath Port Talbot 'Rights of Way Improvement Plan' (ROWIP) was initially prepared and published for the period 2008-2018.

In 2017, and in accordance with legislation, the Council undertook an assessment of current provision, including the opportunities that Public Rights of Way (PROW) and other access provision provides.

In addition, a consultation exercise was undertaken to gather views from the public and stakeholders on the quality and condition of PROW and the wider countryside, their use of these routes and the measures that could be taken to encourage greater use of the countryside.

Following this assessment and public consultation, the decision was taken by the Council to prepare a new ROWIP for Neath Port Talbot. This new Plan, covering the period 2019-2029, sets out the means by which the Council intends to improve and promote access to the countryside across Neath Port Talbot over the next decade.

### Consultation

The Council is seeking views on the matters set out in this Improvement Plan. The consultation period will run for 12 weeks, **starting midday on Tuesday 24<sup>th</sup> September and ending at midday on Tuesday 17<sup>th</sup> December 2019.**

How to Make Comments

Comments can be submitted:

Directly Online at: [www.npt.gov.uk](http://www.npt.gov.uk)

Alternatively:

By E-mail to: [countryside@npt.gov.uk](mailto:countryside@npt.gov.uk)

By Post to:

**Nicola Pearce**

## Note to Reader

**Head of Planning and Public Protection**

**Neath Port Talbot Council**

**The Quays**

**Brunel Way**

**Baglan Energy Park**

**Neath**

**SA11 2GG**

**The deadline for comments is midday on Tuesday 17<sup>th</sup> December 2019. Comments received after the deadline will not be accepted.**

This report is also available in Welsh, either to download or by request. Should you need this document in another format, then please contact the Countryside & Wildlife team at [countryside@npt.gov.uk](mailto:countryside@npt.gov.uk) or [01639] 686199.



## Foreword

I am pleased to introduce the Council's revised Rights of Way Improvement Plan, which has been produced following an extensive consultation and assessment process.

Neath Port Talbot is an attractive and diverse county, with distinct valley communities benefiting from a dramatic upland landscape, with a network of moorland and forest paths, linking through to our coastal communities, with a range of parks, lowland woodlands and coastal walks. The landscape provides ample opportunity for recreation and tourism, resulting in benefits to health and well-being, the local economy and a strong sense of community pride.

We recognise the importance of Public Rights of Way (PROW) and wider countryside access for our residents and visitors. The Rights of Way Improvement Plan provides a strategic framework for the management of our PROW, leading to notable achievements and improvements.

The revised Rights of Way Improvement Plan for Neath Port Talbot outlines the Council's vision and commitments to protecting, maintaining and improving this resource into the future. Whilst the quality and accessibility of the physical resource remains at the core of the revised Plan, we also believe passionately that our countryside should serve the needs of all people for recreation, health and well-being, therefore will also be focusing our efforts on maximising the number and range of people who are able to enjoy the benefits of our natural environment.

I would urge you to consider this document and take the opportunity to respond to the consultation.



**Councillor Annette Wingrave**

**Cabinet Member for Regeneration and Sustainable Development**



## 1 Introduction

**1.0.1** Under Section 60 of the Countryside and Rights of Way (CROW) Act 2000, the Council has a statutory duty to prepare a 'Rights of Way Improvement Plan' (ROWIP). The ROWIP for Neath Port Talbot was initially prepared and published for the period 2008-2018.

**1.0.2** Under Section 60(3) and (4), the Council is required to undertake a new assessment, a review of this Plan and assess whether amendments are required to the first Plan. Specifically, the assessment is required to include the following:

- An assessment of current provision, i.e. current access provision and opportunities that Public Rights of Way (PROW) and other access provision provides;
- An assessment of use, i.e. how needs are being met, barriers to use and incentives for use; and
- An evaluation of existing, and priorities for a new, ROWIP.

**1.0.3** In 2017, and in accordance with legislation, the Council undertook an assessment of current provision including the opportunities that PROW and other access provision provides. In addition, a consultation exercise was undertaken to gather views from the public and stakeholders on the quality and condition of the PROW network and the wider countryside, their use of these routes and the measures that could be taken to encourage greater use of the countryside.

**1.0.4** Following this assessment and public consultation, the decision was taken by the Council to prepare a new ROWIP for Neath Port Talbot. This new Plan, covering the period 2019-2029, sets out the means by which the Council intends to improve and promote access to the countryside across the County Borough over the next decade.

### 1.1 Structure and Content

**1.1.1** The Rights of Way Improvement Plan is structured into the following three parts:

- **PART 1: Introduction and Background** - provides a summary of the key drivers in the national, regional and local context, along with a description of the County Borough and the opportunities for public access to the countryside.
- **PART 2: Assessment of Access Provision and Use** - outlines the outcome of the assessment in regard to access provision and use of this resource across Neath Port Talbot and identifies the key issues to be addressed moving forward.
- **PART 3: Statement of Action** - outlines the vision, objectives and policies of the Improvement Plan, along with the means by which the Plan will be delivered and monitored.

# 1 . Introduction

### 2 Policy Context

**2.0.1** There are a number of national, regional and local plans / strategies which recognise the importance of access to the countryside, and the benefits it can provide for public health and well-being.

**2.0.2** The ROWIP has to have regard to these national and local policies and initiatives, and implementation of the plan will contribute to the achievement of Welsh Government (WG) policy objectives. The most relevant plans and strategies are set out below.

#### ***Neath Port Talbot Public Services Board (PSB) Local Well-Being Plan (2018-2023)***

**2.0.3** The Well-being of Future Generations (Wales) Act, 2015 is striving to improve the social, economic, environmental and cultural well-being of Wales. The Act puts in place seven well-being goals, which public bodies must work towards achieving, and five sustainable development principles to adopt.

**2.0.4** The Well-being Plan sets out the Public Service Board's (PSB) long term vision for Neath Port Talbot, as required by the Well-being of Future Generations Act 2015. The Plan lays out 4 key objectives to improving the well-being of people in Neath Port Talbot, and identifies the priorities for action:

- Support children in their early years, especially children at risk of adverse childhood experiences;
- Create safe, confident and resilient communities, focusing on vulnerable people;
- Put more life into our later years – ageing well;
- Promote well-being through work and in the workplace.

**2.0.5** Furthermore, the following have been identified as objectives which cut across the first four objectives:

- Value our green infrastructure and the contribution it makes to our well-being;
- Tackle digital exclusion.

#### ***Neath Port Talbot Corporate Plan (2019-2022)***

**2.0.6** The Corporate Plan sets out the Council's vision:

*We want our county borough to be a place where everyone has an equal chance to get on in life – a place where people want to live, learn and work and bring up their family.*

*We want our beautiful natural environment, and our rich cultural and industrial heritage to be appreciated and protected for many future generations to enjoy. We also want to pursue new and existing opportunities for economic growth so we can sustain our diverse communities for years to come.*

## 2 . Policy Context

**2.0.7** Through the following well-being objectives, the Council will maximise its contribution to the well-being goals:

- To improve the well-being of children and young people;
- To improve the well-being of all adults who live in the County Borough; and
- To develop the local economy and environment so that the well-being of people can be improved.

**2.0.8** Both the Well-being Plan and Corporate Plan have a strong focus on improving well-being, alongside valuing and protecting our local environment. Provision, and promotion, of an accessible network of routes for a range of users will be integral element of meeting the Council's, and PSB's, well-being priorities and goals.

### ***South West Area Statement***

**2.0.9** Welsh Government's Natural Resources Policy sets out the key challenges and opportunities in Wales in relation to our natural environment. Natural Resources Wales (NRW) is required to produce area statements that will specify priorities, risks and opportunities to implement the priorities of the Natural Resources Policy. Wales has been split into seven areas and Neath Port Talbot falls within the South West Wales area with Pembrokeshire, Carmarthenshire and Swansea.

**2.0.10** NRW are currently developing the Area Statement for the South West, however have currently identified emerging themes which are likely to form the basis of the Area Statement:

- Supporting health outcomes;
- Unsustainable rural land management;
- Reversing the decline in biodiversity; and
- Resilience to a changing climate.

**2.0.11** Implementation of the ROWIP will need to be mindful of the emerging Area Statement, recognising the opportunity to deliver improvements to health and changing climate (through reduced travel), whilst also ensuring that work practices do not negatively impact on biodiversity or sustainable land management requirements.

### ***Joint Transport Plan for South West Wales (2015-2020)***

**2.0.12** The Joint Transport Plan for South West Wales is the result of joint working between the four Councils (Carmarthenshire, Neath Port Talbot, Swansea and Pembrokeshire) in South West Wales. It replaces the individual local transport plans previously adopted by the four councils. As well as acting as a bidding document for major transport schemes it will shape transport policy in the region for the period 2015 -2020 and beyond.

**2.0.13** The long term strategy and policies of the plan includes a focus on improving walking and cycling links within, and between, key settlements.

### **Active Travel**

**2.0.14** The Active Travel (Wales) Act 2013 requires the Council to map and plan for suitable active travel routes within settlements specified by the Welsh Government. The Council is required to prepare, publish and keep under review the following two maps:

- *Existing Route Map (ERM)* - primarily intended to inform the public of the existing routes in the County Borough that the Council considers suitable for active travel and which meet standards set out in the Welsh Government's Active Travel Design Guidance.
- *Integrated Network Map (INM)* - setting out the Council's aspirations for the next 15 years, identifying either improvements that could be made to existing routes or where new routes could be developed and added to the active travel network.

**2.0.15** Whilst meeting the requirements of the Active Travel Act is outside the remit of this Plan, there will clearly be opportunities to deliver against the INM alongside the Rights of Way Improvement Plan. A collaborative approach will be taken to carrying out improvements that maximise the benefits for leisure, health and well-being and active travel.

**Picture 2.1 Pontardawe Canal**



## 2 . Policy Context

### ***Destination Management Plan (2015-2020)***

**2.0.16** A Destination Management Plan (DMP) is a shared statement of intent to manage a destination, outlining the roles of different stakeholders and identifying the actions that they will take. The DMP recognises the important role that PROW play in enabling visits to the local area, both via physical access but also in allowing us to showcase Neath Port Talbot in a more picturesque and rural light, in contrast to the industrialised urban areas of the County Borough.

### ***Neath Port Talbot Local Development Plan (2011-2026)***

**2.0.17** The Neath Port Talbot Local Development Plan (LDP) guides the future development of the area, providing a clear vision for the County Borough, setting out where, when and how much new development can take place over the duration of the plan (2011-2026). The aim is to provide developers and the public with certainty about the planning framework for Neath Port Talbot.

**2.0.18** There are a number of objectives and policies that support and promote access to the countryside, for health, recreation and for commuting, which would be supported by delivery of the ROWIP. The most relevant of these are outlined below.

#### *Objectives*

- OB 4: Maximise accessibility to a range of leisure, recreational, health, social and community facilities in line with the role and function of settlements.
- OB 21: Increase accessibility, promote active travel and encourage a shift to more sustainable modes of transport for people and freight.

#### *Policies*

- Policy SP2 Health: Healthier, more active and safer lifestyles will be encouraged through the retention of a range of accessible leisure, recreational, health, retail, social, cultural and community facilities throughout the County Borough.
- Policy SP4 Infrastructure: Improving access to facilities and services including the provision of walking and cycling routes.
- Policy SP20 Transport Network: Supporting enhancements to the walking and cycling network.



### 3 Access to the Countryside

#### 3.1 Description of Neath Port Talbot

**3.1.1** Neath Port Talbot comprises a diverse natural environment which supports the well-being of local people as well as attracting many visitors to the area. Rising from sea level in the west to 600 metres at Craig Y Llyn, above Glynneath, Neath Port Talbot is predominantly an upland area dissected by the valleys of the Afan, Neath, Dulais and Tawe rivers which all flow to the sea at Swansea Bay.

**3.1.2** These valleys are separated from each other by ridges of high forest or moorland and a narrow coastal strip extends around Swansea Bay where the main centres of population are found. The surrounding valleys are rural in aspect with scattered communities, many of which still contain significant numbers of Welsh speakers.

**3.1.3** There is a range of access provision in Neath Port Talbot, offering plenty of opportunities for those wishing to visit the countryside. The Gnoll and Margam Country Parks, along with Aberafan Seafront, offer a variety of leisure facilities that appeal to families and walkers of all age ranges. Local Nature Reserves offer the opportunity to get closer to nature and the Public Rights of Way network offers the opportunity to gain access into areas such as the 'Waterfall Country' located at the foot of the Brecon Beacons National Park.

**Picture 3.1 'Overlooking Glyncorrwg' - Pencraig Isaf**



## 3 . Access to the Countryside

### 3.2 Means of Access to the Countryside

**3.2.1** Throughout the County Borough there are extensive opportunities to gain public access to the countryside, either through legally defined, or less formal means<sup>(1)</sup>.

#### **Public Rights of Way (PROW)**

**3.2.2** PROW are public highways which provide one of the most important means of access to the countryside. They provide communities with opportunities to access the countryside for purposes of leisure and also a sustainable transport option.

**3.2.3** The duty to record PROW was first introduced by the National Parks and Access to the Countryside Act 1949. This Act resulted in the creation of 'Definitive Maps' by each highway authority, based on an assessment of their historic use and status. It was a long and protracted process, accompanied with public scrutiny of the maps and associated statements, following which Neath Port Talbot's Definitive Map was published<sup>(2)</sup>.

**3.2.4** PROW benefit from a robust legislative framework which provides the user with a clearly defined right of use and places a duty on the Council to ensure the right of passage is maintained, open and available at all times. There is a legal process in place for the extinguishment, diversion or creation of Public Rights of Way, or for rectifying anomalies on the Definitive Map<sup>(3)</sup>.

**3.2.5** PROW carry a range of access rights, which are recorded on the Definitive Map. They comprise:

- **Footpaths** - a public highway over which the public has a right of way on foot only.
- **Bridleways** - a highway over which the public may ride or lead a horse, walk or ride on a pedal cycle.
- **Restricted Byways** - the public has a right on foot, on horseback or leading a horse, and a right in or on a vehicle other than mechanically propelled vehicles, thereby giving a right for pedal cyclists and drivers of horse drawn vehicles.
- **Byway Open to All Traffic (BOAT)** - these are highways over which the public can exercise all the rights referred to above, but there is also a right to drive mechanically propelled vehicles. The Council however, does not have a duty to provide a surface which is capable of being used by all forms of motor vehicular traffic.

#### **Cycleways**

**3.2.6** Cycleways are routes over which the public have the right to ride a pedal cycle, with or without a right to walk or ride a horse.

1 The availability of the various forms of public access to the countryside in Neath Port Talbot is considered in Chapter 4.

2 The Definitive Map comprises an OS based map showing the location of the paths and their status, together with a written statement which provides evidence of width, etc.

3 Details on these processes are outlined in **Page 42**

**3.2.7** The Active Travel (Wales) Act 2013, has provided the legal framework for the provision of active travel routes. With the emphasis on commuting and making purposeful journeys, existing and proposed aspirational routes are identified on the Council's 'Existing Route Map' (ERM) and 'Integrated Network Map' (INM) respectively.

**3.2.8** This ROWIP mainly considers the rural cycleway network which provides a means of access to the countryside. Some of the rural cycleways are aligned with PROW, but many are part of the permissive network of paths described below.

### ***Permissive Paths***

**3.2.9** These are paths over which the landowner has granted public rights of access. The rights may be on foot, horseback or on pedal cycle, but rarely do they include a right to drive motor vehicles. The landowner may withdraw this right at any point in the future.

### ***Common Land***

**3.2.10** The Council has a duty to keep a register of common land under the Commons Act 2006. All registered common land is open to public pedestrian access for air and exercise. In addition, there is a public right to ride on horseback on urban common land and on rural common land where a deed of access has been granted under Section 193 of the Law of Property Act 1925.

### ***Open Access Land***

**3.2.11** The Countryside and Rights of Way (CROW) Act 2000 provided a public right of access on foot to areas of mountain, moor, heath and down, which includes all common land. The Act also provides landowners with the opportunity to dedicate their land for public access, which has been done by Natural Resources Wales (NRW) for all of its freehold estate. The land is indicated on maps prepared by NRW.

### ***Permissive Areas of Access***

**3.2.12** These are areas of land where the landowner has provided public access to areas of land, such as country or urban parks, nature reserves and parts of the coast.

### ***Open Space***

**3.2.13** Open space<sup>(4)</sup> refers to publicly accessible recreational space and includes playing fields, sports pitches and courts, children's play areas, facilities for older children, informal open space, greenspace, parks and allotments. Many of these will refer to access opportunities identified above, either on a permanent or permissive basis.

# 3 . Access to the Countryside

### 4 Assessment of Access Provision in Neath Port Talbot

**4.0.1** The assessment of current access provision across the County Borough has confirmed that there are a broad range of opportunities to facilitate public access to the countryside. Whilst the findings of the assessment is outlined in more detail below, Figure 4.1 overleaf illustrates these areas in broad terms.

#### 4.1 Public Rights of Way (PROW)

**4.1.1** The total recorded length of legally existing PROW across the County Borough amounts to 777.3 kilometres (km). This is the PROW that legally exist and is not necessarily an indication of the length of routes that are open / physically accessible.

**4.1.2** The table below presents a breakdown of PROW by 'Definitive Map Classification', with the data showing that footpaths make up the most significant proportion of the network.

**Table 4.1.1 Extent of PROW in Neath Port Talbot**

| Definitive Map Classification | For Use By   | Length (km)  | Network % (Approx) |
|-------------------------------|--|--------------|--------------------|
| Footpath                      | Walkers  | 591.52       | 76.1%              |
| Bridleway                     | Walkers / Horse Riders / Cyclists                                | 147.12       | 18.9%              |
| Byway Open to All Traffic     | Walkers / Horse Riders / Cyclists / Horse Drawn & Motor Vehicles | 38.66        | 5%                 |
| <b>TOTAL</b>                  |  | <b>777.3</b> | <b>100%</b>        |

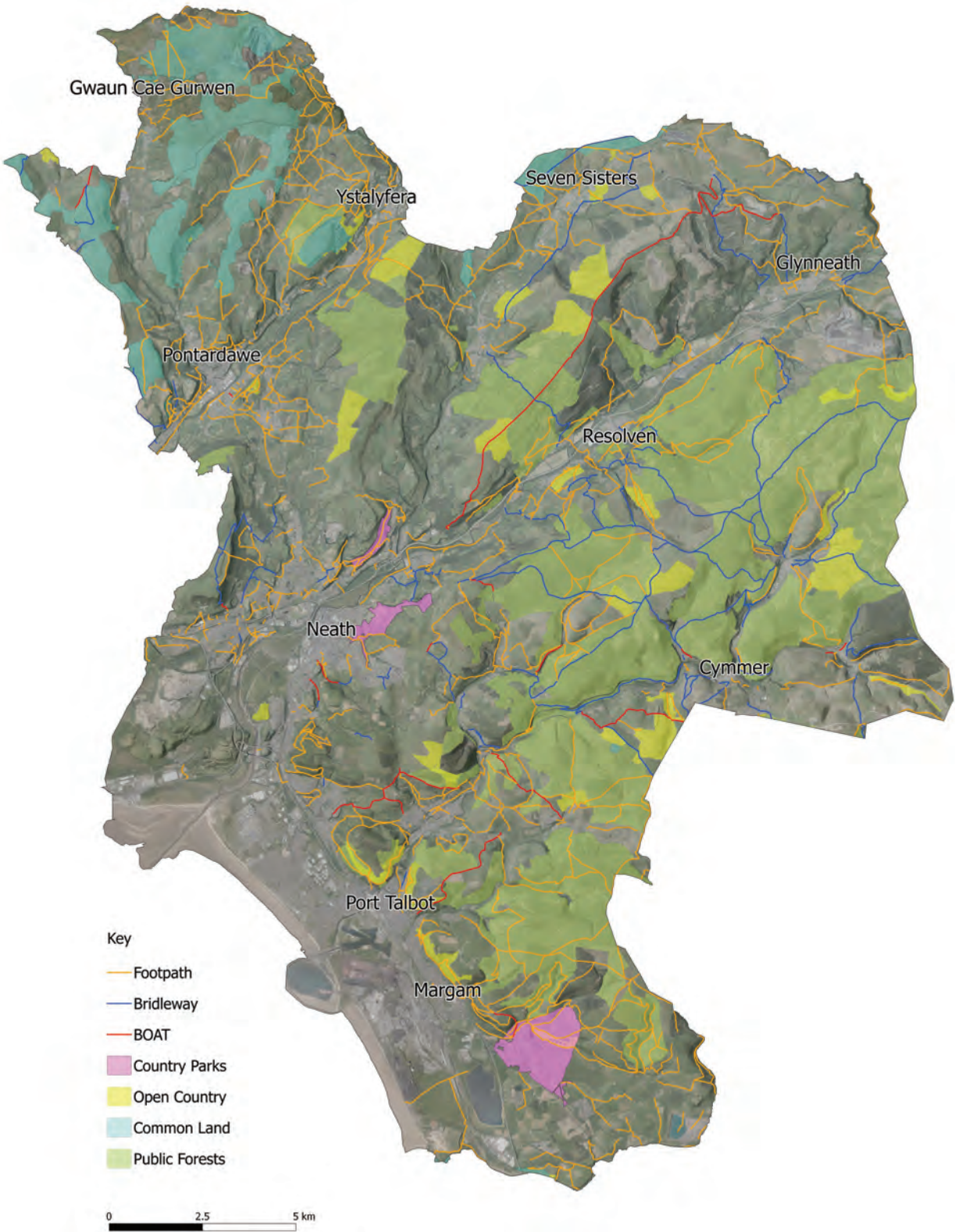
**4.1.3** Whilst the Council does not hold data on individual paths, survey work was previously carried out on randomly selected paths as part of statutory performance indicators, providing a percentage of the paths that are '*open and easy to use*'. Consequently, this provides an indication of the condition of the network. Although these surveys are no longer a statutory requirement and therefore no longer undertaken, the figures presented in the table below demonstrate a relatively stable trend.

**Table 4.1.2 Paths in Neath Port Talbot 'Open and Easy to Use'**

| Year    | Paths Open & Easy to Use |
|---------|--------------------------|
| 2014/15 | 68.9%                    |
| 2013/14 | 67.3%                    |
| 2012/13 | 68.2%                    |
| 2011/12 | 59.9%                    |
| 2010/11 | 59.9%                    |
| 2009/10 | 64.8%                    |
| 2008/09 | 68.6%                    |

# 4 . Assessment of Access Provision in Neath Port Talbot

Figure 4.1 Access Provision in Neath Port Talbot



Neath Port Talbot Council - Rights of Way Improvement Plan 2019-2029 (Consultation Draft - September 2019)

## 4 . Assessment of Access Provision in Neath Port Talbot

**4.1.4** As paths can be created, diverted or extinguished, the length of the rights of way network is not static. Extinguishments are however rare, with a greater tendency for paths to be diverted onto more appropriate routes. With that being the case, the path network is gradually growing each year, following successful applications made by members of the public for new public rights of way. Since the publication of the first ROWIP, the Council's PROW network has increased from 697km to 777km.

**4.1.5** The Definitive Map and Statement can be viewed by appointment at the Council Offices at The Quays, Baglan Energy Park. A further good resource for anyone interested in using the PROW network are the 'Ordnance Survey Explorer Maps', which not only show the updated path network but also the open access land which includes open country, common land and dedicated land.

**4.1.6** Since the network of PROW is basically a historic one, it does not always meet current needs. However, when other forms of countryside access are considered alongside the path network, any deficiencies in the network itself are often less relevant.

### 4.2 Cycle Routes and Adopted Highway

**4.2.1** Within the urban and semi-rural environment, PROW are often intertwined with the adopted highway network and with cycle routes, providing a sustainable transport alternative for commuters, as well as the role they play as a leisure resource.

**4.2.2** National Cycle Network (NCN) 887 was created in 2013 as part of the Lottery funded Connect 2 scheme, creating a cycle route between Aberafan Seafront, Port Talbot, Cwmafan, Pontrhydyfen and Afan Forest Park, the majority of which is off-road. In addition, there are sections of the Neath Canal towpath which have been recently improved and are open to cyclists by permission of the Neath Canal Navigation Company, also offering easy access opportunities for less able users.

**4.2.3** Rural cycleways are an important element in the range of opportunities for gaining access to the countryside in Neath Port Talbot. Where they have been developed on disused railway lines their gradient is often suitable for users with various mobility problems. The 'Amman Valley Cycle Route' is a proposed cycle route from Garnant to Cwmtwrch, largely utilising a disused railway track, traversing both Neath Port Talbot and Carmarthenshire. As of 2019, the cycle route is largely complete from Garnant to Cwmllynfell, with a short gap near the Forge Washery site in Lower Brynamman.

**4.2.4** Neath Port Talbot has also developed an international reputation for the quality of its mountain biking routes in the Afan Valley. These routes are a valuable tourism resource and have helped raise the profile of Neath Port Talbot as an outdoor visitor destination. Whilst there are challenges to be had with managing conflict between walkers and mountain bikers, the momentum behind the mountain biking industry has resulted in wider access improvements, such as family friendly routes and provides opportunities to engage the younger generation in increased physical activity.

## 4 . Assessment of Access Provision in Neath Port Talbot

### 4.3 Canal Network

**4.3.1** The remnant canal network in Neath Port Talbot provides a highly valued and locally significant means of countryside access. The canal towpaths alongside the Swansea, Neath and Tennant Canals allow walkers of all abilities an opportunity to walk through the countryside, also acting as commuter routes between settlements.

**4.3.2** Due to their relatively flat surface and their proximity to residential areas, the towpaths are particularly important as a means of access for people with limited mobility problems.

**Picture 4.1 Neath Canal**



### 4.4 Long Distance Trails

**4.4.1** There are long distance trails which pass through Neath Port Talbot, providing links to adjacent local authority areas.



## 4 . Assessment of Access Provision in Neath Port Talbot

### *Wales Coast Path*

**4.4.2** The Wales Coast Path was opened formally in 2012, with the section in Neath Port Talbot benefiting from the creation of a new footpath into Bridgend and a new route through Baglan Burrows to Aberafan Seafront.

**4.4.3** Owing to the industrial presence along the coastline, the challenges of remaining within the desired 2km resulted in the creation of two routes in Neath Port Talbot. The routes enter the County Borough over the newly installed bridge from Kenfig National Nature Reserve in Bridgend, splitting into an upland and lowland route, before entering Swansea along the Tennant Canal at Jersey Marine. The upland route provides the best views of the coastline, whilst the lowland route takes in Aberafan Seafront and our most extensive dune system at Baglan Burrows.

**Picture 4.2 Installation of Bridge Linking Neath Port Talbot and Bridgend**



## 4 . Assessment of Access Provision in Neath Port Talbot

### ***Great Dragon Ride (North South Bridleway)***

**4.4.4** The 47km section of this national bridleway commences at Margam Park and passes through Afan Forest Park in a generally northern direction to Banwen. From Banwen, the route travels up through the Brecon Beacons west to Talybont, near Aberystwyth, before heading up to the north coast. This is a challenging upland ride or walk, much of it through forest areas, but there are also outstanding views of the Brecon Beacons and the coast.

### ***St. Illtud's Walk***

**4.4.5** This path links Pembrey Country Park in Carmarthenshire with Margam Park in Neath Port Talbot, passing through the upland part of Swansea en route. The trail is 110km in length, of which 61km is within Neath Port Talbot, and passes through a variety of rural and coastal landscapes. In conjunction with the Ramblers Association the route has recently been more closely re-aligned onto public rights of way by the three local authorities, resulting in its re-launch in 2017.

### ***Ogwr Ridgeway***

**4.4.6** This path starts at Margam Country Park and extends to the western end of the Taff Ely Ridgeway in Bridgend. The trail is 24.1km in length, of which 5km is within Neath Port Talbot, and offers spectacular walking in a variety of upland and valley scenery. Panoramic views of rugged, narrow valleys can be obtained to the north, with the hills of Devon and Somerset usually visible to the south.

## **4.5 Waterfall Walks**

**4.5.1** Of particular interest to Neath Port Talbot is the range of waterfall walks that exist, including Aberdulais and Melincourt Falls, and Sgwd Gladus (Angel Falls) at the foot of the Brecon Beacons National Park. The falls are steeped in industrial heritage, in addition to being sited within some of our most important ecological sites, providing a range of points of interest for visitors.

Picture 4.3 Angel Falls



### 4.6 Public Access under CROW Act 2000 and Common Land

**4.6.1** Whilst PROW provide the main linear means of access in Neath Port Talbot, there are also extensive areas of open access and common land, currently comprising:

- 1,389 hectares open access land;
- 1,783 hectares common land;
- 9,784 hectares freehold estate of Natural Resources Wales (NRW).

**4.6.2** The 'Register of Common Land' is held at the Civic Centre in Port Talbot. Land classified as open country under the CROW Act is shown on maps which can be viewed on the NRW website.

**4.6.3** Figure 4.1 gives a broad overview of the extent of these areas. Access provision in the Afan and Neath Valleys is improved greatly by the extent of NRW owned forest plantations / woodland. Whilst there may be historic issues with the overplanting of PROW, alternative routes are generally available along forest tracks providing significant opportunities for walking, cycling and horse riding. Common Land is particularly prevalent in the Amman Valley and provides an additional resource for access to the countryside.

## 4 . Assessment of Access Provision in Neath Port Talbot

### 4.7 Coastal Access

**4.7.1** With exception to the Wales Coast Path, Aberafan Beach at Sandfields is the main area of accessible coastline in Neath Port Talbot and is promoted as a tourist destination. The beach is adjacent to the urban area, is easily accessible and has a range of play facilities and food outlets.

**4.7.2** The promenade also provides links to the wider Coast Path and the National Cycle Network, linking through to the rural cycle network in the valleys. It is very urban in nature, with a number of facilities for families and visitors, whilst a short walk to Whitford Point at the mouth of the Neath Estuary, provides a more natural coastal environment.

**4.7.3** At the eastern side of the County Borough, a public footpath gives access to the edge of the foreshore at Margam Sands, although there is no public right of access over the foreshore, which is privately owned. The beach can however, be accessed by following the Coast Path over the border into Bridgend, at Kenfig National Nature Reserve.

### 4.8 Permissive Access

**4.8.1** In addition to statutory rights of access, the County Borough is fortunate in having considerable areas of land to which public access is available by permission of the landowners, making a significant contribution to the range of options for access to the countryside.

**4.8.2** Access to these areas of land is provided on a very secure basis as the landowners are either public bodies, trusts or private landowners who have entered into access agreements with the Local Authority. There are a number of ecologically important sites and accessible sites owned by the Woodland Trust and Wildlife Trust of South and West Wales, however most significant in terms of access are those owned by the Council and Community / Town Councils.

**4.8.3** There are three major country parks in Neath Port Talbot: Margam Park, Gnoll Country Park and Afan Forest Park, and there is also a smaller Country Park at Craig Gwladus, Cadoxton. These parks provide the public with an opportunity to experience a variety of countryside landscapes in a secure and more easily accessible environment. The parks have waymarked paths, are accessible by public transport and have car parks, whilst the three major parks also have visitor centres and/or cafes.

**4.8.4** In addition, there are currently five Local Nature Reserves, a number of accessible woodlands and a range of high quality urban parks throughout the County Borough. There are too many to list here, however many of them can be found on the Council's website under Leisure and Culture<sup>(5)</sup>.

## 4 . Assessment of Access Provision in Neath Port Talbot

Picture 4.4 Gnoll Country Park



### 4.9 Open Space

**4.9.1** In 2013, the Council undertook and published an assessment of open space provision across Neath Port Talbot as part of the evidence base supporting the Local Development Plan (LDP), ultimately informing the policies in the adopted Plan.

**4.9.2** The assessment identified shortfalls in the different categories of provision across the County Borough, with all wards having a shortfall in at least one category of open space, with the vast majority experiencing multiple deficiencies by category. There is better provision for 'informal' open space, however this category was also found to be lacking in 30% of the wards.

### 4.10 Neath Port Talbot Public Consultation (2017)

**4.10.1** A targeted consultation was undertaken by the Council in November 2017. An online questionnaire was disseminated via existing networks and also publicised extensively through partners and social media. Whilst the majority of the questions related to use of the public rights of way network and countryside access, participants were also asked whether they felt it was easy to access the countryside in Neath Port Talbot.

**4.10.2** 62% answered yes to this question, citing a wide range of access opportunities to substantiate their view. Of the 38% that answered no, reasons primarily focused on a need for better information / signage, with some localised examples of routes in need of improvement work.

## 4 . Assessment of Access Provision in Neath Port Talbot

### 4.11 Overview

**4.11.1** Whilst there is wide ranging access provision in Neath Port Talbot, there are localised areas that will need to be addressed as part of the Delivery Plan. Performance indicators demonstrate that access problems exist on substantial parts of the PROW network through lack of maintenance or obstruction, and the need to continue efforts to open up neglected paths will continue throughout the period of this plan.

**4.11.2** Where paths are in remote locations and have not been subject to public complaint, a pragmatic approach will need to be taken, ensuring that resources are targeted towards PROW that deliver the most benefit.

**4.11.3** In addition to PROW, it is clear that access provision is greatly enhanced by other resources, such as parks, permissive routes and cycle routes. However, there are deficiencies in open space within settlements and budgetary pressures will present challenges to the Council's ability in providing such resources in the future. Whilst the provision of these resources primarily falls outside the scope of this Plan, there will be a need to work collaboratively with colleagues and partners to ensure that the Council maximises opportunities to provide access to the countryside and the wider natural environment.

### 5 Assessment of Use in Neath Port Talbot

**5.0.1** In order to make the most of our Public Rights of Way, the wider countryside and open space, there is a need to understand the extent that people make use of these resources, the barriers to their use and measures that could be put in place to provide better opportunities.

**5.0.2** Where national surveys have already been undertaken, the Council has assessed this data. In addition however, the Council has also directly sought the views of local residents through a targeted consultation specifically on access to the countryside in Neath Port Talbot.

#### 5.1 National Survey for Wales (2016-2017)

**5.1.1** NRW undertook a nationwide survey on outdoor recreation between 2016 and 2017 and the Council considers the findings to be relevant to Neath Port Talbot. Respondents included people reporting relatively low participation in outdoor recreation, with 81% of adults living in Wales taking part in one or more activity at least once in the last 12 months. However, only a minority of people (18%) were 'frequent' participants, based on those who reported 20 or more visits to the outdoors in the last 4 weeks.

**5.1.2** There were some differences in the demographics of people visiting the countryside, with a higher proportion of men than women, more people living in rural areas than those in urban areas and a decrease in visits with an increase in age.

**5.1.3** Walking was by far the most common activity, at 72% of all adults, followed by picnicking (31%) or taking children to the playground (31%). Local parks are clearly an important resource, as these are the most frequently visited locations (30%), followed by the beach or coast (19%) and woodland / forest (14%). Also of note, 47% of adults typically travel less than a mile to visit the outdoors, demonstrating the importance of 'doorstep' opportunities in outdoor recreation.

#### ***Motivation and Barriers***

**5.1.4** The reasons for visiting sites seem to be different for each location. People visiting the beach or coast do so for fresh air, relaxation and good weather, whilst visits to the hills are more motivated by health and exercise. Not surprisingly, visits to parks are usually to spend time with the family or entertain children.

**5.1.5** For those reporting no visits in the last year, the most common reason that was given was lack of time (28%), closely followed by physical disability (24%), other health reasons (19%) and old age (19%). Only 2% said there was nowhere for them to go or that they did not know where to go (1.7%).

**5.1.6** For respondents who hadn't visited the outdoors in the last 4 weeks, the most common response was bad weather.

## 5 . Assessment of Use in Neath Port Talbot

### 5.2 Neath Port Talbot Public Consultation (2017)

**5.2.1** A targeted consultation was undertaken by the Council to assess the extent of use and access to the countryside in Neath Port Talbot. A total of 106 responses were received.

**5.2.2** A significant proportion of respondents were frequent users of PROW, or the countryside in general, with 37% visiting the countryside daily, and 46% visiting at least weekly.

**5.2.3** Of type of area visited, country / urban parks were the first choice for most people, closely followed by mountain / open moorland. When considering the total number of choices made for this category (including 2<sup>nd</sup>, 3<sup>rd</sup>, etc. options) however, the highest categories: mountain / open moorland, woodland / forest and country / urban parks are almost equal in popularity. Of note, farmland and pavement / country lane are least popular.

**5.2.4** PROW were the most popular means to visit the countryside at 49%, with open access land / publicly accessible space at 24%.

**5.2.5** In terms of motivation for visiting the countryside, 40% of people cited health and well-being, with dog walking / leisure in general, motivating approximately 20% each. Of leisure, these were generally a combination of horse riding, walking, fishing and photography. A smaller proportion of people (13%) cited family activity as their reason.

**5.2.6** When asked whether it was easy to access the countryside, of the answers received, 62% indicated yes and 38% no. Reasons used for this response included (for yes), areas being accessible / easy to get to and from where people lived, good choice of walks, although availability of / cost of parking was mentioned a few times as a constraint. Of reasons cited for preventing people accessing the countryside, lack of information (28%), lack of signage / waymarking (22%), obstructions / accessibility issues (20%) were the most popular responses.

**5.2.7** When asked what measures could be put in place to encourage greater use of the countryside, the strongest responses were better site based signage (54%), followed by better parking / transport links (39%), suggestions on places to go (34%), with organised activities and ideas for family activities being selected by 16% each.

**5.2.8** For access to information on where to go, web based information was by far the most popular answer, at 42% of responses received, followed by smart phone at 21%. More traditional methods are still being used, with 14% of people preferring to use ordnance survey maps and 11% preferring leaflets.

**5.2.9** In addition, respondents were asked to identify specific areas that were important to them and issues / areas that required improvement works. These responses will be used to inform the work plan in the form of Delivery Plans, which will be produced on an annual basis to support the delivery of this Improvement Plan.



## 6 Evaluation

**6.0.1** The first ROWIP provided the Council with a framework within which to deliver positive change for countryside access. Local Authorities throughout Wales were fortunate in being able to utilise a dedicated fund to support delivery of the Plan, in the form of the Welsh Government 'Rights of Way Improvement Programme'. With the support of this grant, the Council has delivered an annual programme of improvement works, with a particular focus on increasing accessibility, improvement to structures and delivery of promotional activities and resources.

**6.0.2** Notable achievements include the creation of the Neath Port Talbot section of the Wales Coast Path and the Great Dragon Bridleway, re-routing and re-launching St. Illtyd's Walk, a significant expansion in provision for cycling, creation of an online resource for promoted walks and delivery of a wide range of activities to promote access to the countryside and health. A more detailed breakdown of delivery against the ROWIP is provided in Appendix B.

**6.0.3** Despite these achievements, the Council recognises that challenges still exist. There remain areas of the network that are overgrown or obstructed and there remain deficiencies for horse riders, although the Great Dragon Ride has enhanced this provision. Furthermore, it is clear that participation in the outdoor environment is still low for significant proportions of the population and measures to address this will need to play a prominent part in future action.

**6.0.4** Progress has been made in processing legal orders, with the number of outstanding legal orders greatly reduced. The need to deal with these remains, with issues to do with historic anomalies on PROW that are shown going through housing estates becoming increasingly prevalent over the last few years.

**6.0.5** The overall aims and policy areas of the first ROWIP are still very relevant and will be addressed as part of the revised Plan. Broadly, these were:

- Definitive Map policies;
- Public rights of way maintenance and improvement;
- Enforcement;
- Publicity and promotion; and
- Management of countryside access other than public rights of way.

**6.0.6** There have been a number of policy and legislative changes since the first ROWIP was published and these will need to be considered in identifying what needs to be done over the next 10 years. Most significantly, the 'Well-being of Future Generations Act' requires the Council to take a holistic and sustainable approach to all activities and the Council should be meeting the needs of our future generations through implementation of this Plan.

## 6 . Evaluation

### 6.1 Benefits of Public Rights of Way

**6.1.1** The PROW network along with wider access provision, provides notable benefits for:

#### **Health**

**6.1.2** DEFRA published an evidence statement in 2017 that outlined the benefits between health and the natural environment<sup>(6)</sup>. The statement recognised the role that access to the natural environment had for well-being, particularly so for mental health.

**6.1.3** The cited benefits included reductions in stress, fatigue, anxiety and depression, together with evidence that these benefits may be most significant for marginalised groups. Socio-economic inequality in mental well-being has been shown to be 40% narrower among those who report good access to green / recreational areas, compared with those with poorer access.

**6.1.4** The report reinforces the concept that PROW, and other access to the countryside / natural environment, play a significant role in improving health and well-being, whilst providing opportunities to reduce the impacts of socio-economic inequalities through greater equality of access to green space.

**6.1.5** 'Green Infrastructure' is recognised as delivering multiple benefits for both urban and rural residents, and opportunities should be taken to integrate access provision into the delivery of green infrastructure, working collaboratively with partners and colleagues across the Council.

#### **Open Space / Recreation**

**6.1.6** Given that transport and mobility may be more limited for some members of our communities, urban and semi-urban networks and parks will play an important role in the provision of access for health, well-being and recreation.

**6.1.7** Although not traditionally seen as a means to access the countryside, their role in supporting more active lifestyles and enjoyment of the natural environment is significant, either as destinations in their own right, or as stepping stones to accessing more rural locations.

**6.1.8** The more focused provision of facilities and surfaced paths offers greater access opportunities to a much wider range of the public, who may not be able to access more remote locations. Consequently, opportunities should be taken to improve access to, or encourage use of, urban green space, alongside the wider countryside.

6 Maxwell, S & Lovell, R. (2017) 'Evidence Statement on the links between Natural Environments and Human Health' (Defra and University of Exeter Medical School)

### Active Travel

**6.1.9** In recognition of the need to increase physical activity and reduce carbon emissions, promotion of more sustainable means of travel is now a high priority in Wales. The Council's 'Integrated Network Map' has identified key opportunities to create or improve commuter routes for cycling and walking, and PROW are well placed to support delivery and linkages to these routes.

### Tourism

**6.1.10** PROW also plays a key factor in economic development, in particular by supporting the growth of the tourism economy. PROW create opportunities for connecting visitors to rural and urban areas and enables access to natural assets such as waterfalls and other key routes such as mountain bike trails.

**6.1.11** In future, visitors will be looking for 'undiscovered' places to visit in addition to existing, well-maintained, high profile routes so investment is crucial in maintaining and creating visitor interest in our area.

## 6.2 Key Issues in Neath Port Talbot

**6.2.1** The key issues that emerged from the assessments are summarised in the table below, including the measures that will be taken to address the points.

**Table 6.2.1 Key Issues & Targeted Action in Neath Port Talbot**

| Issue  | Action   |
|--|--|
| Locally, PROW are the most popular means to access countryside. Nationally, local access was considered to be important.                           | Maintain focus on maintenance and improvement of PROW whilst continuing to take a holistic approach to countryside access and access to local green space. |
| Processing of legal orders remains a requirement, with a need to address historic anomalies.   | Retain provision for the processing of legal orders.   |
| Locally, open moorland / forest / parks are almost equal in popularity, whilst nationally, urban parks are most popular.                           | Ensure access provision remains varied, providing access to key areas of interest, including local green space.  |
| Walking is the most popular activity.  | Deliver measures that support walking, focus on footpaths, provision of information to promote new routes and encourage new users.                         |
| Frequent users are low, and there is an inequality in the demographics of users, seeing reduced use by women, urban residents and older residents. | Introduce measures to encourage increased participation, and in particular for low use groups; engage with low use groups to ensure needs are being met.   |

## 6 . Evaluation

| Issue   | Action  |
|---|---|
| Health is the biggest motivator for visiting the countryside and countryside access is proven to provide benefits for physical and mental health and well-being.  | Actively pursue 'access for all routes', alongside more challenging routes, providing the opportunity for users to progress and increase fitness; work in partnership to deliver activities that promote access to the countryside for health benefits. |
| Nationally, family orientated activities (picnic or playground) are the second most popular activity, although locally, family activity is relatively low at 13%.   | Work in partnership to deliver activities and provide resources that encourage families to access the countryside.  |
| The majority of people locally feel it is easy to access the countryside, on the basis of areas being accessible and a good choice of walks.  | Maintain existing maintenance programme, undertaking a process of continual assessment with opportunity for revision.   |
| 38% of respondents locally feel that it is not easy to access the countryside, citing lack of information and signage as the primary reason, followed by issues with obstructions.                                | Introduce further measures to provide information on access to the countryside; continue with programme of waymarking; continue to deal with obstructions as they are identified and/or reported by users.  |
| Measures to put in place to encourage greater use of the countryside include better site based signage, then better parking/ transport, suggestions on places to go, organised activities / ideas for activities. | Promote easy / short / accessible routes; improve and promote access for all routes; where possible, identify parking / public transport options as part of promotion of routes.  |
| For access to information, web based followed by smart phone most preferred.  | Prioritise provision of information digitally, whilst continuing to support the provision of leaflets where appropriate.  |
| Specific issues identified in localised areas.  | Each to be assessed and/or addressed during first year of the Delivery Plan, with remaining work to be built into subsequent years work.  |
| Access to the countryside is a key element of the tourism economy.  | Deliver initiatives that support the promotion of Neath Port Talbot as a tourist destination.   |
| PROW can support the aims of the Active Travel Act.   | Work collaboratively to support delivery of the Integrated Network Map and to encourage walking and cycling as a means of travel.   |

### 7 Vision and Objectives

**7.0.1** The 'Statement of Action' outlines the Council's vision for Neath Port Talbot and the objectives that will be addressed as part of this Rights of Way Improvement Plan.

**7.0.2** The objectives are designed to deliver against the needs identified in the assessment, whilst also recognising the legislative processes that are required to underpin delivery of the Plan. It will also provide a framework for the actions and activities to be taken in delivering the requirements of this Plan.

#### ***Vision***

That countryside access provision in Neath Port Talbot provides the best opportunity possible for residents and visitors to enjoy the benefits that it provides.

**7.0.3** In working towards this vision, the Council will adopt the principles of 'Sustainable Management of Natural Resources'<sup>(7)</sup>, whilst also taking each opportunity to contribute towards the well-being goals and objectives set for Neath Port Talbot.

#### ***Objectives***

**Objective 1:** The Public Rights of Way network will be protected, maintained in good condition and easy to use.

**7.0.4** Actions will deliver against the following themes:

- *Routine Works* - including maintenance, improvement, waymarking and inspection.
- *Enforcement and Negotiation* - addressing obstructions such as overplanting and illegal structures.
- *Strategic Planning* - inputting to wider strategies and plans such as the Local Development Plan, Active Travel, other highways policies, etc.
- *Advice and Advocacy* - advising on planning applications and works being undertaken by the Council, partners and members of the public.

**Objective 2:** Opportunities to improve access to wider countryside / green space will be improved, working in partnership where necessary.

**7.0.5** Actions will deliver against the following themes:

- *Open Access* - providing and improving signage.

## 7 . Vision and Objectives

- *Public Open Space* - ensuring that PROW that serves these areas meets the needs of users.
- *Partnership Working* - pursuing opportunities to deliver multiple benefits alongside maintenance of PROW, through collaboration and advice.

**Objective 3:** Maintain a robust system to record and process information on public rights of way and relevant countryside access.

### 7.0.6 Actions will deliver against the following themes:

- *Definitive Map and Statement* - kept up to date and an electronic mapping system is in place to portray the map and statement.
- *Claimed Rights of Way* - continuing to process in line with policies for prioritisation.
- *Legal Orders* - continuing to process in line with policies for prioritisation.

**Objective 4:** Public Rights of Way and other countryside access meet the needs of users, now and for the future.

### 7.0.7 Actions will deliver against the following themes:

- *Involvement* - people will have the opportunity to inform works being carried out and partnership working with the Local Access Forum and wider sectors will be actively pursued to understand the needs of people who require additional measures to access the countryside.
- *Access for All* - ensuring that maintenance and improvement works maximise the opportunities for all users to access the countryside.
- *Monitoring and Evaluation* - ensuring that the ROWIP, and associated Delivery Plans, remain fit for purpose and meeting the needs of users.

**Objective 5:** Countryside access will be promoted, providing benefits for health and well-being, tourism and recreation.

### 7.0.8 Actions will deliver against the following themes:

- *Provision of Information* - to include improvements to online-material and further exploration of digital technology.
- *Site-Based Signage* - to support waymarking, and information points.
- *Engagement* - through the provision of activities that encourage use of the natural environment for health, recreation.
- *Partnership Working* - raising awareness of the opportunities and benefits that the natural environment provides.

## 8 Policies

**8.0.1** The following policies will be implemented in support of the delivery of the identified objectives.

### Maintenance / Improvement Works

#### Policy 1

Standards of maintenance will be based on an assessment of the historic nature and use of the path. There will be a presumption to retain surfaces in a permeable / natural state unless of priority as an easy access route.

#### Policy 2

Public Rights of Way which also carry private rights of access will be maintained in accordance with the maintenance requirements of the public right only. Additional access requirements as part of the private right will remain the responsibility of the private user.

#### Policy 3

An annual maintenance programme is in place, addressing the needs of the most frequently used paths. Additional work will be undertaken and/or added to the maintenance programme on a priority basis, with highest priority given to those that present a safety hazard to the public, followed by well used paths and then those that have potential to be well-used / promoted.

#### Policy 4

Improvements to Public Rights of Way will be prioritised on a number of criteria, to include current and potential levels of public use, potential to improve accessibility and accessibility from public transport routes.

## 8 . Policies

### Policy 5

There will be a presumption of least restrictive option and minimal use of structures in response to applications for new furniture on Public Rights of Way. Stiles will no longer be approved or installed by the Council unless a legitimate reason can be demonstrated.

### Policy 6

The Council will only erect new barriers on footpaths and bridleways to restrict vehicles as a last resort and only where certain criteria are met, including evidence of illegal use and where legitimate users are not disadvantaged.

### Policy 7

Improvement and maintenance works will be carried out in accordance with all legislative requirements in respect to biodiversity, including the biodiversity and resilience of ecosystems statutory duty. All works will ensure biodiversity is maintained and enhanced.

## Legal Processes / Orders

### Policy 8

Applications for making legal orders in respect of Public Rights of Way will be prioritised using a suitable scoring matrix, taking into account health and safety, benefit to network and wider Council strategies<sup>(8)</sup>.

### Policy 9

The Council will seek to resolve issues on Public Rights of Way through negotiation with the landowner before resorting to legal proceedings.



### **Policy 10**

There will be a presumption against permitting Town and Country Planning Act Diversions unless it can be proven that a Public Right of Way must be diverted to enable the development to be carried out and where an acceptable and comparable alternative route will be provided.

### **Financial Charges**

### **Policy 11**

The Council will recover from applicants the costs associated with making legal orders, including full cost of advertising and costs incurred by the Council. If the change to the path in question has some public benefit, the Council may decide to share the cost of making the order.

### **Policy 12**

The Definitive Map will be available for public inspection free of charge at the Council Offices at Baglan Energy Park during normal office hours. Copies of the map will be available to members of the public at a charge.

### **Policy 13**

In response to Definitive Map enquiries by prospective purchasers or their agents, written responses will incur a charge, in line with fees charged for similar enquiries of the highway network.



### 9 Implementation and Monitoring

#### 9.1 Annual Delivery Plans

**9.1.1** 'Annual Delivery Plans' will be developed, outlining the action that will be taken to deliver against the Statement of Action, and ultimately the Rights of Way Improvement Plan.

**9.1.2** Each Delivery Plan will be informed by the framework provided by the Statement of Action, a review of the previous year's delivery plan (where relevant) and current resources and funding availability. Issues identified as part of the assessment process will be addressed within the Delivery Plans.

**9.1.3** The Delivery Plan will be held by the Countryside and Wildlife Team, and may be updated in response to more urgent priorities coming to light during the year. Activities that are delayed for such reasons, will be rescheduled for delivery in the following year.

#### 9.2 Delivery Mechanism and Funding

**9.2.1** Delivery of the ROWIP will be led by the Countryside and Wildlife Team, within the Planning and Public Protection Department of the Council. Whilst the responsibility for Public Rights of Way falls to this team, the ROWIP carries a wider vision for countryside access, recreation, health and well-being and tourism. This will require a collaborative approach between many departments of the Council, to maximise the benefits that this Plan can deliver.

**9.2.2** Current funding for delivery of this Plan is reliant on existing resources within the Council's core budget. The Welsh Government Rights of Way Improvement Programme no longer exists, therefore significant improvement works will require efforts to secure external funding.

**9.2.3** The Local Access Forum will also play a role in delivery of the Plan, through the provision of advice and through the role that its members has in promoting access to the countryside. Furthermore, opportunities to work collaboratively with other external partners will be pursued.

#### 9.3 Monitoring and Evaluation

**9.3.1** At the end of every 3 years, a more comprehensive review and evaluation process will be undertaken, assessing effectiveness of the policies and actions being taken. The outcome of the review will be reported to Council and the Local Access Forum, whilst providing the opportunity to make changes to key policies of the Plan.

**9.3.2** As part of the third review (Year 9), an assessment will be undertaken to assess future delivery of the ROWIP and a potential full review of the Plan.

# 9 . Implementation and Monitoring

### Appendix A: Legal Processes

#### A. Procedure for Applications for Diversion, Extinguishment and Creation Orders (generally based on consent)

**A.1** To make an application to divert, extinguish or create a Public Right of Way, please contact the Rights of Way Officer on 01693 686868 or [countryside@npt.gov.uk](mailto:countryside@npt.gov.uk)

**A.2** The applicant will then be provided with the application forms that must be completed and returned. It is recommended that the applicant meets with the Rights of Way Officer to discuss the proposal and understand what additional information may be required.

**A.3** An application form will need to be accompanied by:

- An Ordnance Survey Map detailing the proposal;
- Proof of ownership of all land involved with the proposal and consent from all parties, if other landowners are involved; and
- Confirmation of acceptance of any charging policy.

#### B. Procedure for Applications for New Public Rights of Way (based on user and / or historic evidence)<sup>(9)</sup>

**A.4** To make an application for a new Public Rights of Way on user and/or historic evidence, the person who will be identified as the 'Main Applicant' should contact the Rights of Way Officer on 01639 686868 or [countryside@npt.gov.uk](mailto:countryside@npt.gov.uk)

**A.5** The process will be conducted in two stages:

##### Stage 1

**A.6** The Main Applicant will be provided with official evidence forms and maps for the proposed new path. Ideally, the forms should be completed by at least 10 people who have used the path for a period of at least 20 years.

**A.7** Each completed evidence form will need to be accompanied by an Ordnance Survey Map detailing the proposed new Public Right of Way.

**A.8** The Main Applicant must also provide proof of ownership for the entire length of the new path. The Land Registry will be able to supply a copy of the title plan and schedule.

##### Stage 2

**A.9** The Main Applicant will meet with the Rights of Way Officer, who will review the evidence forms, OS maps of the claimed path and the land Registry Information.

**A.10** If everything is in order the Main Applicant will be required to complete three notices:

9 There is no charge for this process.

## Appendix A: . Legal Processes

- One advising the Council as to the nature of the application;
- One to be sent to each owner of the new path (with assistance from the Rights of Way Officer); and
- One advising the Council that the owners have been notified.

**A.11** Where the land is unregistered, with no information being held by Land Registry, the Main Applicant will be required to erect a copy of the notice, with a plan, on site for at least 28 days. The Rights of Way Officer will assist with this process.

**A.12** Following the 28 days the Main Applicant will again meet the Rights of Way Officer and complete the remaining two notices:

- One advising the Council as to the nature of the application; and
- One advising the Council that the owners have been notified (via the site notice).

## Appendix B: ROWIP (2008-2018) - Evaluation of Delivery

**Table B.0.1 Rights of Way Improvement Plan (2008-2018) - Evaluation of Delivery**

| POLICY AREA DM: DEFINITIVE MAP  |   |
|---|---|
| <p><b>DM: Introduction</b></p> <p>The Map can only be amended through the legal order making process, and the authority undertakes this area of work through an agency agreement between the Council's legal officers and those in the City and County of Swansea.</p>  | <p>Due to efficiency savings, the agency agreement was cut and the legal function in relation to Rights of Way has been undertaken by Neath Port Talbot's Legal Section since January, 2015.</p>  |
| <p><b>DM1: Continuous Review of the Definitive Map</b></p> <p>Keep the Definitive Map under continuous review in accordance with the requirements of Section 53 of the Wildlife and Countryside Act 1981.</p> <p>Changes to the network are currently kept as a separate, but complementary, record. This has not caused any managerial problems to date but, nevertheless, the authority does intend to make a composite legal event order during the plan period which will formally allow the changes to be recorded on the Map itself, and it will then be republished with a new relevant date</p>   | <p>The Council has continued to process applications under section 53 of the Wildlife and Countryside Act as well as other legal orders.</p> <p>Due to budgetary pressures and limited staff resources, this has not been achieved. Due to potential changes on the legal process by the Welsh Government on the legal process this will be revisited when any changes are confirmed.</p> |
| <p><b>DM2: Priority for making Legal Orders in respect of Public Rights of Way</b></p> <p>(i) Orders for the diversion or extinguishment of footpaths and bridleways made under the Town and Country Planning Act 1990 which are necessary for development to take place.</p> <p>(ii) Orders for the diversion or stopping up of public rights of way made under the Highways Act 1980.</p> <p>(iii) Definitive Map Modification Orders for adding new public rights of way to the Definitive Map based on evidence of public usage.</p> <p>(iv) Definitive Map Anomalies.</p> <p>(v) Orders to register historic public rights (CROW Act Sections 53 to 56).</p> | <p>Legal orders were undertaken in accordance with this order of priority, as follows:</p> <p>(i) None since 2015 (no requests)</p> <p>(ii) 3 since 2015. 3 remaining</p> <p>(iii) 16 since 2015. 14 remaining</p> <p>(iv) none since 2015. 65 remaining</p> <p>(v) none since 2015. 0 remaining</p>  |
| <p><b>DM3: Temporary Orders for Diversion or Closure of Public Rights of Way</b></p> <p>It will be the policy of the Council to make orders for the temporary diversion or closure of public rights of way, where appropriate, on the request of landowners or statutory undertakers. Orders of this nature are usually made within six weeks of the request, and this period allows time for statutory notices to be placed in the press.</p>  | <p>Since 2008 the Council has processed 62 temporary closures on the rights of way network, they majority of which were to allow forestry operations to take place, on safety grounds.</p>  |

## Appendix B: . ROWIP (2008-2018) - Evaluation of Delivery

|  |   |
|--|---|
| <p><b>DM4: Charges for certain types of Legal Order which affect Public Rights of Way</b></p> <p>It will be the policy of the County Borough Council to make an appropriate charge for certain types of legal order:</p> <ul style="list-style-type: none"> <li>• Developers and statutory undertakers who require temporary or permanent orders, will be expected to pay for the costs incurred in making the order.</li> <li>• Landowners who require orders to be made which are primarily for their own benefit will be charged the full cost of the order. If the change to the path in question has some public benefit, then the Council may decide to share the cost of making the order.</li> <li>• If the Council itself wishes to change the location of a public path because it is in the public interest, the council will pay for the order.</li> </ul> | <p>Policy implemented. With exception to orders in the public interest, the Council currently charges £1,250 (including a £1,000 legal fee) for a temporary or permanent diversion. This does not include advertising costs which are charged separately.</p> |
| <p><b>DM5: Public Inspection of the Definitive Map</b></p> <p>The Definitive Map will be available for public inspection free of charge at the Council Offices at Baglan Energy Park during normal office hours. Copies of the map will be available to members of the public at a charge set by the Service Level Agreement with the Ordnance Survey.</p>   | <p>The Definitive Map and Statement are available for viewing, etc., as per the policy.</p>   |
| <p><b>DM6: Definitive Map Land Charges Enquiries</b></p> <p>The Countryside Section will respond to Land Charges Section within ten working days regarding public rights of way enquiries on Part 2 of the CON 29 search form.</p>   | <p>Policy implemented and achieved.</p>   |
| <p><b>DM7: Additional Definitive Map Enquiries by Prospective Purchasers or their Agents</b></p> <p>If the request requires only a verbal reply, the information will be given free of charge. If a written response is required, the County Borough Council will provide this additional information on payment of an appropriate fee which is consistent with the fee charged for similar enquiries of the main highway network.</p>   | <p>Policy implemented and achieved.</p>   |
| <p><b>DM8: Protecting Public Rights of Way from Development.</b></p> <p>The Countryside Section will respond to the Planning Section within 21 days regarding applications for planning consent which affect public rights of way.</p>   | <p>Policy implemented and achieved.</p>   |
| <p><b>POLICY AREAS M &amp; IP: MAINTENANCE AND IMPROVEMENT</b></p> <p>The County Borough Council has a statutory duty to maintain public rights of way under Section 41 of the Highways Act 1980, and it also has a wide range of powers to improve them under the same Act. Section 60 of the CROW Act provides the authority with a duty to include measures to improve the network of public rights of way in its ROWIP, and this is a clear indication that highway authorities are expected to use their powers of improvement. The policies in this section provide the basis on which maintenance and improvement work will be carried out during the plan period.</p>  |   |



## Appendix B: . ROWIP (2008-2018) - Evaluation of Delivery

|  |  |
|--|--|
| <p><b>M1: Improving performance in maintaining the Rights of Way Network</b></p> <p>The Wales Data Unit Performance Indicator on rights of way will continue to be the main means by which the achievement of improved standards will be measured. Over the plan period, the council will aim to increase the proportion of the path network which is in a condition that is fit for purpose.</p>  | <p>The Performance Indicators were downgraded from being compulsory to optional. Due to budgetary pressures the decision was taken to cease monitoring against the indicator, however maintenance of the Network continued as normal.</p>  |
| <p><b>M2: Standards of Path Maintenance</b></p> <p>The Council has a duty to keep a highway in a safe and fit condition for the ordinary traffic of the neighbourhood at all times of the year. In practice, this means that the standard of maintenance which is appropriate for each right of way has to be based on its historic character and use. The Council will continue to base its maintenance duties on an assessment of the historic nature and use of the path.</p>   | <p>Policy implemented.</p>   |
| <p><b>M3: Maintenance Priorities</b></p> <p>The Council has an annual programme of routine maintenance work but often additional work has to be carried out urgently in the interests of public safety. The Council will undertake the work on a priority basis:</p> <p>(i) Where a problem is discovered on a well used path and it is a potential safety hazard to the public, the remedial work will be regarded as top priority and it will be carried out as soon as possible.</p> <p>(ii) A hazard discovered on a little used path will be treated as high priority in the interests of public safety.</p> <p>(iii) If a problem is discovered on a very well used path, but it is not an immediate safety hazard, this will be next in priority after safety issues.</p> <p>(iv) Non urgent work on paths which are little used will be the lowest priority.</p> | <p>The Council has continued to undertake the annual programme of routine maintenance and paths are added to the list as and when it is expedient to do so.</p> <p>The system of prioritising non-routine work has continued to be implemented and has worked well, enabling the Council to target its resources effectively.</p>  |
| <p><b>M4: Methods of Implementation</b></p> <p>The Countryside Section will manage the maintenance and improvement programmes, by the means outlined below:</p> <p>(i) <b>Countryside Project Team:</b> This is a team of two workers based in Unit 20 at the Crynant Business Park, where stocks of materials and equipment are held.</p> <p>(ii) <b>Contractors:</b> The Council will continue to employ experienced contractors to carry out maintenance work where their skill and expertise is required.</p> <p>(iii) <b>Community Council Path Maintenance Scheme:</b> Since 1996, the Council has offered 75% grants to Community Councils in order for them to undertake approved maintenance on public rights of way.</p>   | <p>Maintenance and improvement works have continued to be overseen by the Countryside and Wildlife Team (formerly Countryside Section) by the means outlined, with the following changes:</p> <p>The Countryside Project Team has relocated to the Council building at the Quays, with storage at the adjacent Service Response Centre.</p> <p>Due to budgetary pressures, the Community Council Path Maintenance Scheme was revised. The Council now offers a fixed grant for the distance of Public Rights of Way being maintained by the Town / Community Councils, of which three are now partaking.</p> |

## Appendix B: . ROWIP (2008-2018) - Evaluation of Delivery

|  |   |
|--|---|
| <p>The Council will welcome the continuing support of the Community Councils during the plan period.</p> <p>(iv) <b>Neath Port Talbot Highways Staff:</b> Each year, part of the structural maintenance work is undertaken by Council highway staff. This is work which is beyond the scope of the rights of way contractors, and includes the repair of tarmacadam surfaces and major footbridges which are more than 10 metres in length.</p> <p>(v) <b>Landowners:</b> Where appropriate and cost effective, to carry out work on paths which cross their land.</p> <p>(vi) <b>Volunteers:</b> Where public liability cover can be provided by the volunteer group itself.</p>  |   |
| <p><b>IP1: Priorities for Public Rights of Way Improvement</b></p> <p>The criteria below will be used to determine priorities for improvements to the Public Rights of Way network. Highest priority will be given to:</p> <ul style="list-style-type: none"> <li>• Paths which provide communities with access to attractive areas of countryside or coast. Additional factors will be the level of public use and public pressure for improvement.</li> <li>• Paths which can be improved to provide access to the countryside for people with mobility problems, or improve the safety of the path for all users.</li> <li>• Paths which provide access to the countryside from public transport routes.</li> <li>• Paths which are little used but have the potential to be well used following improvement works.</li> <li>• Paths which are located in Communities First areas of the authority, or help meet the objectives of the Western Valleys Strategy.</li> <li>• Paths which are located in the coastal area and will contribute to the achievement of an all Wales coast path with associated access improvements.</li> </ul> | <p>The Council has run an annual programme of improvements works throughout the duration of the Plan, primarily funded through Welsh Government ROWIP (Rights of Way Improvement Programme) grant funding, initially set at £57K, reducing to £35K by 2018.</p> <p>The grant funding was utilised to carry out improvement works and undertake promotional and engagement activities to encourage use of the Public Rights of Way Network and access to the wider countryside.</p> <p>Improvement activities were prioritised in line with this policy and within the ROWIP grant criteria.</p> <p>The ROWIP grant was cut in 2018 therefore future improvement and promotional work will be undertaken where funding can be secured.</p> |
| <p><b>IP2: Improvement of Structures on Public Rights of Way</b></p> <p>The Council has an on going programme of stile and gate replacement, with the aim of improving the accessibility of the path network by replacing structures which are easier to use. There will be a presumption in favour of:</p> <p>(i) Replacing existing stiles on public footpaths with self latching kissing gates,</p> <p>(ii) Replacing gates on bridleways with bridlegates which meet British Horse Society standards wherever possible.</p>  | <p>Policy implemented, with an active programme of replacement with easy access structures. The Council no longer installs stiles on the network.</p>   |
| <p><b>IP3: Approval for new stiles and gates on footpaths and bridleways</b></p>   | <p>Policy implemented, taking into account potential loss of enjoyment of the path.</p>   |

## Appendix B: . ROWIP (2008-2018) - Evaluation of Delivery

|  |  |
|--|--|
| <p>Where landowners wish to erect new fence lines across a Public Right of Way, it will be the policy of the Council to approve applications for new structures which meet the statutory requirements, and which do not adversely affect the public enjoyment of the path to an unacceptable degree.</p>   |  |
| <p><b>IP4: Erection of barriers to restrict vehicles</b></p> <p>The Council will only erect new barriers on footpaths and bridleways as a last resort and only if the following criteria are met:</p> <p>(i) There is strong evidence that the path is being used by unauthorised vehicular traffic.</p> <p>(ii) If there are any private vehicular rights along the path, all those persons holding such rights will have to agree to the type of barrier being proposed.</p> <p>(iii) The physical nature of the site of the proposed barrier will allow the installation of a barrier which cannot be easily by-passed.</p> <p>(iv) It will be possible to provide a barrier that will enable the passage of all categories of user, including those with mobility problems. If the whole length of the path is of a width and gradient that enables it to be used by disabled persons, then a barrier which allows the passage of wheel chair users will be appropriate.</p> | <p>The Council has seen an increase in requests from landowners for structures to help combat the increasing illegal off-road vehicle use. The Council has implemented this policy in deciding on the structure, if any, that should be installed.</p> <p>Wherever possible, other measures to curtail misuse have been explored first, such as seeking involvement of the Police. Every effort has been made to establish whether there are private access rights and where these exist, structures have not been erected without the agreement of all parties.</p> |
| <p><b>IP5: Improvement of path surfaces</b></p> <p>The criteria set out in Policy IP1 will be used to determine the paths to be improved and the nature of the works to be undertaken, recognising future maintenance requirements of such works. Typically the work will entail the following:</p> <p>(i) Providing rolled aggregate surfaces on previously unsurfaced paths.</p> <p>(ii) Providing additional drainage on waterlogged paths.</p> <p>(iii) Construction of steps on steep slopes to encourage greater public use.</p> <p>(iv) Constructing footbridges where none previously existed to improve the accessibility of the paths to the whole community.</p>  | <p>See response to IP1 above.</p>  |
| <p><b>POLICY AREA E: ENFORCEMENT</b></p>   |  |
| <p>Under Section 130 of the Highways Act 1980 the County Borough Council, as highway authority, has a duty to assert and protect the public right to use the highways in its administrative area, and this includes Public Rights of Way.</p>  |  |
| <p><b>E1: Priorities for removing obstructions on Public Rights of Way</b></p>   | <p>Policy implemented where required.</p>  |

The criteria which the Council will use to prioritise the workload are set out below:

**(i) High Priority**

(a) Where members of the public are prevented from using the path by intimidating or aggressive behaviour by, or on behalf of the landowner, this will be regarded as an immediate priority, and the police will be involved if appropriate.

(b) Recently erected structures on well used public rights of way which are subject of numerous public complaints.

(c) Obstructions on well used paths which are a safety hazard, such as barbed wire fences, locked gates with barbed wire on them, metal barriers with sharp edges, seriously defective stiles or gates.

(d) Encroaching vegetation on well used paths which is a responsibility of the landowner to cut back.

(e) Obstructions which have been subject of a notice served on the authority under Section 130A of the Highways Act 1980.

These five categories are all regarded as top priority, but which of them will be regarded as first priority at any point in time, will depend on the circumstances of each case.

**(ii) Medium Priority**

If the problems listed in points a) to d) above are discovered on paths which are not currently well used, but have the potential to be well used, they will be treated as medium priority. Such problems may be discovered through routine monitoring, or by receiving a first complaint from the public.

**(iii) Low Priority**

Where the authority discovers obstructions on little used parts of the network which have not been subject of any public complaint, they will be treated as low priority.

**E2: Procedure to be used to secure the removal of obstructions**

The Council will adopt the following procedure when dealing with any obstructions on Public Rights of Way:

(i) Determine the identity of the landowner responsible for the obstruction. Where this is not the case, the authority will carry out a search of Land Registry records. Where there is no record of land ownership, the Council will use its powers under Section 143 of the Highways Act 1980 to serve a notice requiring the removal of the obstruction.

(ii) If the landowner can be identified, the authority will make contact in order to request the removal of the obstruction. In most cases a discussion with the landowner will result in the removal of the obstruction. In appropriate circumstances, particularly where the obstructions have not been intentional

Policy implemented. Enforcement is seen as the last resort and it is unusual to not succeed in resolving an issue through negotiation or agreement. Whilst there has been occasion to serve legal notices in relation to obstructions, each has been resolved without needing to seek prosecution at Court.

|   |   |
|---|---|
| <p>the Council may assist in the removal of obstructions by providing stiles or gates as part of its path improvement programme. In such instances landowners will be informed that they will remain primarily responsible for future maintenance of the structures. This approach is in accordance with the duty of the authority to secure an improved rights of way network which is set out in Section 60(b) of the CROW Act 2000.</p> <p>(iii) In situations where a landowner refuses to remove an obstruction, this is a criminal offence under Section 137 of the Highways Act 1980, and the Council will seek a prosecution of the offender in the magistrates Court.</p>  |   |
| <p><b>POLICY AREA P: PUBLICITY AND PROMOTION</b></p>  |   |
| <p><b>P1: Improving Publicity and Promotion</b></p> <p>The Council will improve the provision of information on countryside access by the following means:</p> <p>(i) Create a countryside access point on the Council’s website which will contain information on the types of public access available in the County Borough. The site will contain information on public access rights and also on the responsibilities expected of the public when enjoying access to private land. The site will be linked to the National Access data base being established by CCW, and this will assist members of the public who live outside the area to find information on local access opportunities if they are planning to visit the area.</p> <p>(ii) Increase the range of access information leaflets produced by the Council, and include the information on the countryside access point on the Council website. The Local Access Forum will be consulted on the form and content of the material that will be produced.</p> <p>(iii) Make access information available at public buildings throughout the County Borough, including those provided by Community Councils.</p> <p>(iv) Work with members of the Local Access Forum to distribute information through organisations with which they are involved.</p> <p>(v) Promote the use of public access to the countryside for the benefit of public health. This will be in accordance with the aims of the Neath Port Talbot Physical Activity Plan, and will be done as a corporate exercise and in conjunction with outside organisations.</p> <p>(vi) Signposting and waymarking is an ongoing task undertaken under the maintenance and improvement programmes, as described above. The authority will attempt to increase the proportion of the network which is adequately signed and waymarked by 1% a year in line with Policy M1, and priorities for this work will be as described in that Policy. However, additional priority will be given to signposting or waymarking promoted paths or access areas, including those in the coastal zone.</p> | <p>(i) Action achieved. See <a href="http://www.npt.gov.uk/countrysideaccess">www.npt.gov.uk/countrysideaccess</a>.</p> <p>N.B. The National Access database was not established therefore no link to this page was possible.</p> <p>(ii) Production of leaflets has been carried out and have either been distributed locally or are available on the website (see <a href="http://www.npt.gov.uk/countryside">www.npt.gov.uk/countryside</a>), including the new series of Wildlife Walks. However, given an increasing demand for web-based information and the need to reduce waste, efforts have been focused on creating an online, interactive walking map, with the ability to edit / update walks as needed. See <a href="http://www.npt.gov.uk/walking">www.npt.gov.uk/walking</a>.</p> <p>(iii) See (ii) above. Whilst leaflets have been shared at information points where they exist, the focus to provide information has been through the online map.</p> <p>New initiatives and routes for promotion have been communicated to Forum members to share with local members of their organisations.</p> <p>(v) Due to budgetary savings, staff resources to deliver activities as a corporate exercise has been limited. However, use has been made of external funding to work collaboratively with partners to deliver health focused activities such as the Council run ‘Working with Nature’ Project ‘ and Actif Woods’ Project (delivery partner Small Woods Association / Coed Lleol). Each of these projects have encouraged access to the wider countryside through engagement and delivery of health focused activities.</p> <p>(vi) The Council has continued to sign and waymark the network and is committed to renew and replace signs that form part of significant and / or promoted routes. New signage was designed and installed for the Wildlife Walks and more recently, the St. Illtyd’s Walk was re-routed, and signage updated, as part of a collaborative project with the Ramblers</p> |

## Appendix B: . ROWIP (2008-2018) - Evaluation of Delivery

|   |  |
|---|--|
|   | Association. However, due to staff pressures, data is not available to quantify the percentage of the network that is fully waymarked.   |
| <b>POLICY AREA CA: MANAGEMENT OF COUNTRYSIDE ACCESS (OTHER THAN PUBLIC RIGHTS OF WAY)</b>   |  |
| <p><b>CA1: Management of open access land provided under the CROW Act 2000, and common land</b></p> <p>The County Borough Council will ensure that open access land provided under the CROW Act 2000 is accessible to the public, and this includes areas of common land which previously had no public rights of access.</p> <p>The Council will consider public requests for additional means of entry to access land, and in consultation with landowners, will assist in providing the necessary structures subject to the availability of funding.</p>   | <p>The Council has a power (not duty) to provide new access provision onto open access land. Requests to provide additional means of access onto common land have been very limited, however additional access points were provided at the Common at Barry Road, Lower Brynamman.</p>  |
| <p><b>CA2: Management of access land owned by the County Borough Council.</b></p> <p>The County Borough Council owns considerable areas of countryside which are already open to public access. This includes the country parks at Margam, and the Gnoll as well as land within Afan Forest Park.</p> <p>The Countryside Section will continue to support efforts to improve public access to land in Council ownership, and will work in partnership with Council land managers on specific projects.</p>  | <p>The Council continues to provide public access to extensive areas of countryside, including Country Parks and Local Nature Reserves. In addition, urban green space provides opportunities to access and benefit from the natural environment. Budget pressures have reduced the Council's resources in maintaining and improving these areas, however greater use has been made of external funding, community engagement and partnership working to ensure these sites remain open and accessible to the public. The Countryside and Wildlife Team (formerly Countryside and Biodiversity teams) have supported these activities and continued to ensure that Public Rights of Way are maintained within these areas.</p> |
| <p><b>CA3: Management of Long Distance Trails.</b></p> <p>The Council considers that the maintenance and waymarking of the long distance trails which pass through the County Borough should be considerably improved. This can only be achieved through partnership working with the adjacent local authorities and the Forestry Commission, because some sections of the trails are permissive routes on FC land and they are not public rights of way. A coordinated approach to the work is essential and a group has already been set up to programme work on the Coed Morgannwg way. It is proposed that this will be extended to include the development of other waymarked trails, in order to ensure that they are managed more effectively.</p> <p>The Council will survey the former Cerdded Bro Nedd in order to re-establish this waymarked walk around the Vale of Neath.</p> | <p>Due to budgetary savings and reduction in staff, opportunities to improve our long distance trails have been limited, resulting in a need to prioritise on routes.</p> <p>The Coed Morgannwg Way and Cerdded Bro Nedd are no longer actively promoted, however Ridgeway path and St Illtyd's Walk are still promoted, with an extensive re-routing and waymarking programme having been undertaken for St. Illtyd's Walk. In addition, a new long distance bridleway has been established; in partnership with the British Horse Society; The Great Dragon Ride, which links North Wales to South Wales, finishing at Margam Park.</p>  |
| <p><b>CA4: Development of the Rural Cycle Network</b></p> <p>The County Borough Council will improve and extend the access available to cyclists in the plan period by the following means:</p>   | <p>The Council works where possible to develop and improve provisions for both horse riders and cyclists:</p> <p>(i) Work undertaken as part of the Red Dragon Ride and schemes undertaken on Byway 1 Port Talbot and Byway 10 Tonna.</p>  |

## Appendix B: . ROWIP (2008-2018) - Evaluation of Delivery

|  |  |
|--|--|
| <p>(i) Improving the standards of maintenance of bridleways and byways through the policies in this plan.</p> <p>(ii) Working in partnership with the Forestry Commission to provide waymarked trails in the forest plantations.</p> <p>(iii) Extending the rural cycle network in the valley and coastal areas of the authority area. The following work is proposed to be undertaken in the plan period:</p> <p>(a) Cycleway link between Aberafan Seafront and the Afan Forest Park</p> <p>(b) Cycleway link between Aberafan Seafront and Brunel Dock</p> <p>(c) Cycleway link between the Celtic Trail and the Goytre to Bryn Cycleway.</p> <p>(d) Completion of the Amman Valley Cycleway between Cwmllynfell and Lower Brynamman, in partnership with Carmarthenshire County Council.</p> <p>(e) Completion of National Cycle Route 46 between Neath and Glynneath</p> <p>(iv) Developing waymarked cycle trails in the forest plantations</p> <p>(v) Providing better publicity on the availability of cycling in Neath Port Talbot.</p> | <p>(ii) NRW (formerly Forestry Commission) have constructed numerous mountain bike trails in the Afan Valley.</p> <p>(iii) See below.</p> <p>(a) Completed in 2013.</p> <p>(b) A potential route has been identified through the Energy Park, however delivery would be dependent on opportunities to be pursued through development.</p> <p>(c) As part of the Welsh Government's Active Travel fund in 18/19 a feasibility study looked at the route between Celtic Trail (NCN4) and Goytre to Bryn Cycleway. Funding opportunities are now being explored.</p> <p>(d) The cycle route is largely complete from Garnant to Cwmllynfell, with a short gap near the Washery site in Lower Brynamman.</p> <p>(e) A feasibility study was undertaken in 2018/19 identifying where future improvements could be made to the NCN between Neath and Resolven.</p> <p>(iv) See (ii) above.</p> <p>(v) A cycle leaflet has been produced showing the cycle routes in the County Borough, see <a href="http://www.npt.gov.uk/cycling">www.npt.gov.uk/cycling</a>. In collaboration with Swansea Council a scheme called Swansea Bay Cycle Routes aimed to promote cycle routes for commuting in the County Borough, see <a href="http://www.cycleswanseabay.org.uk">www.cycleswanseabay.org.uk</a></p> |
| <p><b>CA5: Access to the Canal network in Neath Port Talbot</b></p> <p>In terms of public access, the Council recognises the importance of the canal network to persons with mobility problems and will aim to:</p> <p>(i) Maintain the sections of canal which are registered public rights of way to a high standard which will enable their use by all members of the community.</p> <p>(ii) Maintain public access to the Swansea Canal Nature Reserve between Ynysmeudwy and Ystalyfera.</p> <p>(iii) Continue to promote public access to the remainder of the canal network under on-going access agreements.</p>   | <p>Access provision to the canal network has been maintained with surface improvement works carried out on significant sections, either as part of Active Travel, Wales Coast Path or ROWIP funded schemes. The canal towpaths remain in good condition and are well used by the public.</p>   |
| <p><b>CA6: Coastal Access Improvement Programme</b></p> <p>The County Borough Council is committed to participating in the national Coastal Access Improvement Programme which is being implemented as a partnership between the coastal local authorities and CCW.</p>  | <p>The Wales Coast Path was opened on 5 May 2012, and offers a 870-mile (1,400 km) walking route from Chepstow in the south to Queensferry, Flintshire, in the north.</p>  |

# Appendix B: . ROWIP (2008-2018) - Evaluation of Delivery

|  |  |
|--|--|
| <p>The project will have two main aims:</p> <ul style="list-style-type: none"><li>(i) To create an All Wales Coastal Path. It is envisaged that this will be completed by 2012.</li><li>(ii) To carry out other coastal access improvements within a notional 2km strip inland of the high water mark.</li></ul> | <p>Due to restrictions along the coastline in Neath Port Talbot, two routes were opened in Neath Port Talbot, an upland and lowland route. In addition to utilisation of existing routes, a new Public Right of Way was created to enable access into Kenfig National Nature Reserve in Bridgend, and an access agreement was secured to create a new permissive route from Briton Ferry along the coastline to Aberafan Seafront.</p> |
|--|--|



## Appendix C: Priority Criteria for Claimed PROW and Other Orders

**Table C.0.1 Priority Criteria for Claimed PROW and Other Orders (e.g. Downgrading and Extinguishment)**

| CRITERIA  | POINTS |
|---|--------|
| Path has recently been obstructed:  |        |
| (a) Where the obstruction renders the path inaccessible   | 10     |
| (b) Where the obstruction results in access being inconvenient  | 2      |
| Threatened by development   | 10     |
| Currently in use or in use just prior to claim<br><br>(That is, it is not a retrospective claim based on use which has long ceased, but there is a demand, well supported)  | 4      |
| Fills a gap in the network (useful short cut), contributes significantly to the ROWIP or is of strategic importance. This may include re-alignment  | 2      |
| Elderly users<br><br>(There is a risk the evidence will be lost, could create a significant delay or additional work in assessing evidence, resulting in a failed claim which would otherwise had better prospects) | 4      |
| Access to sites of historic, scientific or scenic interest  | 1      |
| Used by a wide section of the public:   |        |
| (a) Would benefit the wider community e.g. less able people, use by push chairs and multi reasons for use i.e. attend school, surgery, Post Office, shops, bus stops  | 2      |
| (b) Claimed bridleway, could benefit three categories of users  | 2      |
| Avoids busy roads and/or improves public safety   | 2      |
| Application to delete/downgrade/re-align:   |        |
| (a) Affects promoted route or regional trail  | 5      |
| (b) Where evidently an error exists   | 10     |
| Application supported by 6 or less  | 0      |
| Application supported by 10 to 20   | 1      |
| Application supported by over 20  | 2      |
| Application outstanding for up to 5 years   | 1      |
| Application outstanding for up to 6-10 years  | 2      |
| Application outstanding for up to 11-15 years   | 3      |
| Application outstanding for up to 16-20 years   | 4      |

**C.1** Any application that does not score any points will be prioritised according to the date the application was made.





## Appendix 2 – ROWIP (2019-2029) First Stage Integrated Impact Assessment

### 1. Details of the Initiative:

|  |
|--|
| <b>Initiative Description/Summary:</b> Consultation Draft of Rights of Way Improvement Plan, setting out the means by which the Council intends to improve and promote access to the countryside across the County over the next 10 years. |
| <b>Service Area:</b> Planning and Public Protection  |
| <b>Directorate:</b> Environment  |

### 2. Does the initiative affect:

|                                      | Yes | No |
|--------------------------------------|-----|----|
| Service Users                        | ✓   |    |
| Staff                                |     | ✓  |
| Wider Community                      | ✓   |    |
| Internal administrative process only |     |    |

### 3. Does the initiative impact on people because of their:

|                            | Yes | No | None/<br>Negligible | Don't<br>Know | Impact<br>H/M/L | Reasons for your decision (including evidence)/How might it impact?  |
|----------------------------|-----|----|---------------------|---------------|-----------------|--|
| Age                        |     | ✓  |                     |               |                 | Plan is intended to be inclusive aiming at encouraging greater use of Public Rights of Way and the wider countryside by all community members. |
| Disability                 |     | ✓  |                     |               |                 |  |
| Gender Reassignment        |     | ✓  |                     |               |                 |  |
| Marriage/Civil Partnership |     | ✓  |                     |               |                 |  |
| Pregnancy/Maternity        |     | ✓  |                     |               |                 |  |
| Race                       |     | ✓  |                     |               |                 |  |
| Religion/Belief            |     | ✓  |                     |               |                 |  |
| Sex                        |     | ✓  |                     |               |                 |  |
| Sexual orientation         |     | ✓  |                     |               |                 |  |

**4. Does the initiative impact on:**

|   | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence used) / How might it impact?   |
|---|-----|----|---------------------|---------------|-----------------|--|
| People's opportunities to use the Welsh language            |     | ✓  |                     |               |                 | Plan will be inclusive aiming at encouraging all community members to be involved. Plan and all public communications will be bilingual. |
| Treating the Welsh language no less favourably than English |     | ✓  |                     |               |                 | Plan will be inclusive aiming at encouraging all community members to be involved. Plan and all public communications will be bilingual. |

**5. Does the initiative impact on biodiversity:**

|  | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence) / How might it impact?  |
|--|-----|----|---------------------|---------------|-----------------|--|
| To maintain and enhance biodiversity   |     |    | ✓                   |               | L               | Service Assessment has been carried as part of the Biodiversity Duty Plan requirements, and appropriate working practices are in place to avoid impact on biodiversity. Policy for the protection of biodiversity is embedded into the ROWIP.  |
| To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc. |     |    | ✓                   |               | L               | Service Assessment has been carried as part of the Biodiversity Duty Plan requirements. Appropriate working practices are in place to allow continuation of necessary works whilst minimising any impact on the resilience of ecosystems.<br><br>The ROWIP supports promotion of countryside access and greater engagement with the natural environment, leading to improved awareness and understanding of biodiversity and ecosystem resilience. |

**6. Does the initiative embrace the sustainable development principle (5 Ways of Working):**



|  | Yes | No | Details |
|--|-----|----|---------|
|  |     |    |         |

|  |   |  |   |
|--|---|--|---|
| <b>Long term</b> - how the initiative supports the long term well-being of people                                | ✓ |  | Plan is promoting greater engagement and awareness with the natural environment, leading to long term improvements to health and well-being of users.   |
| <b>Integration</b> - how the initiative impacts upon our wellbeing objectives                                    | ✓ |  | The Plan delivers against a range of plans and initiatives, links with which have been identified with the Plan. Local Well-being objectives have been reflected within the Plan, and its felt that delivery against the Plan will contribute towards these goals.  |
| <b>Involvement</b> - how people have been involved in developing the initiative                                  | ✓ |  | A consultation process was undertaken prior to commencement of this review, and has informed the decision to undertake the review, as well as the content of the plan itself. Furthermore, wider relevant consultations were assessed as part of the process. A further public consultation process will be undertaken of the draft plan.   |
| <b>Collaboration</b> - how we have worked with other services/organisations to find shared sustainable solutions | ✓ |  | Internal consultation of the draft plan has been carried out and built into the content of this Plan.   |
| <b>Prevention</b> - how the initiative will prevent problems occurring or getting worse                          | ✓ |  | The Plan is providing a framework for the effective management of our Public Rights of Way, looking to undertake necessary maintenance works before problems deteriorate. Delivery of the Plan will provide the opportunity for residents and visitors to be more physically active, leading to improved health, whilst participation in the natural environment leads to improved mental well-being, in the short term and in the long term. |

## 7. Declaration - based on above assessment (tick as appropriate):

|  |   |
|--|---|
| A full impact assessment (second stage) <b>is not</b> required   | ✓ |
| Reasons for this Conclusion  |   |
| <p><b>Equalities</b> – The Plan is outlining an inclusive and community focused approach to management, and promotion, of the Public Rights of Way and wider countryside, ensuring that groups of people are not disadvantaged.</p> <p><b>Welsh Language</b> – Plan will be inclusive aiming at encouraging all community members to be involved. Plan and all public communications will be bilingual.</p> <p><b>Biodiversity</b> – A policy is integrated into the Plan to ensure negative impacts on biodiversity are avoided. Working methodologies will be underpinned by this policy.</p> <p><b>Well-being of Future Generation (5 ways of Working)</b> – The 5 ways of working has been followed in the review of the Plan, and will continue to be followed in delivery of the plan.</p> |   |

|  |  |
|--|--|
| A full impact assessment (second stage) <b>is</b> required |  |
| Reasons for this conclusion                                |  |
|  |  |

|               | Name          | Position                           | Signature   | Date                         |
|---------------|---------------|------------------------------------|---|------------------------------|
| Completed by  | Catrin Evans  | Countryside & Wildlife Team Leader |  | 24 <sup>th</sup> July 2019   |
| Signed off by | Nicola Pearce | Head of Service                    |  | 14 <sup>th</sup> August 2019 |





Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

### **Regeneration and Sustainable Development Cabinet Board**

*6<sup>th</sup> September 2019*

### **Report of the Head of Planning and Public Protection**

N. Pearce

#### **Matter for Information**

**Wards Affected:** *All*

#### **ENVIRONMENTAL HEALTH AND TRADING STANDARDS: FOOD AND FEED SERVICE DELIVERY PLAN 2019-2020 and the FOOD AND FEED LAW ENFORCEMENT REVIEW 2018-2019.**

#### **Purpose of the Report:**

1. To inform Members of the work plan for 2019-2020 of the Authority's Food and Feed enforcement service and the review of the Food and Feed enforcement service for 2018-2019.

#### **Executive Summary:**

2. Food Hygiene, and Food & Feed Standards enforcement remains a priority for the service.
3. Food hygiene inspection resources were prioritised and continue to be prioritised on undertaking appropriate interventions at all high risk food premises The national

performance indicator which identifies 'broadly compliant' premises remains consistently high. National and local food sampling initiatives were carried out throughout the year, and we will continue to take part and make use of sampling resources made available. The service utilises Social Media opportunities to raise awareness of current issues. Charges have been introduced for the provision of bespoke business advice and consultancy, whilst a basic level of advice and signposting remains free of charge.

4. Feed/Feeding-stuffs Standards work continues to be delivered regionally, in conjunction with City & County of Swansea Council (as funded directly by the Food Standards Agency). The cross-border arrangements appear to be a continuing success.
5. Food Standards resources were prioritised on interventions at high risk premises. However, there are still Food Standards interventions overdue at some premises. This backlog demonstrates that the allocated resource for food standards delivery is insufficient, but this is unlikely to change due to the Forward Financial Plan requirements imposed on the service. However, following a trial period, the new approach of the service utilising officers of the food hygiene team to assist with combined inspections at certain premises has been formally adopted. This new system will ease the pressure on the food standards function.

**Background:**

7. The Food Safety Act 1990 and the Food Standards Act 1999, together with associated statutory guidance, require local authorities to make provision for the enforcement of food and

animal feeding stuff safety measures and to plan for service delivery on an annual basis. The proposed Service Delivery Plan, attached as Appendix 1, sets out the way in which the Environmental Health and Trading Standards Service intends to deliver food and feed law enforcement during the period 2019-2020.

8. It sets the scene for the enforcement function locally, whilst recognising national priorities. It sets the hierarchy of priorities for which the service is responsible, and indicates the range of interventions which are designed to maximise the health gain and public protection from the resources available.
9. The aims and objectives of the food and feed law enforcement service are:
  - To help to maintain a safe and healthy environment in the County Borough
  - To ensure food and feed produced or consumed within the area does not present a risk to health and to take action to prevent it entering or limiting its introduction to the food chain
  - To ensure the effective control of feed destined for consumption by animals entering the food chain and pet animals
  - To encourage good practices in food safety, food & feed standards and fair-trading, and to take action to discourage practices which are unfair to other traders or threaten health
  - To enforce the relevant environmental health and trading standards legislation via a variety of interventions at premises in the County Borough, e.g. sampling, intelligence

led investigations and surveys, and investigation of complaints, malpractices and cases of food poisoning

- To ensure that resources are targeted where they are most effective and address areas of highest public health risk
  - To respond to requests for advice and to seek to raise awareness of food safety and food & feed standards issues
  - To help business owners to comply with their obligations under food & feed legislation and to take appropriate action as per the enforcement policy against those who do not
10. The authority must carry out an annual food and feed law enforcement performance review as part of the Framework Agreement (2010) between the Local Authority and the Food Standards Agency, which is attached at Appendix 2.
  11. The framework agreement sets out the planning and delivery requirements of feed and food official controls, based on the existing statutory Codes of Practice.
  12. The performance review considers the various requirements of “The Standard”, which include planned inspections / interventions, sampling, service requests and complaints, promotional work, training of staff and monitoring arrangements.

**Financial Impacts:**

13. No implications.

**Integrated Impact Assessment:**

14. There is no requirement to undertake an Integrated Impact Assessment as this report is for monitoring / information purposes.

**Valleys Communities Impacts:**

15. No implications

**Workforce Impacts:**

16. No implications

**Legal Impacts:**

17. No implications

**Risk Management Impacts:**

18. No implications.

**Consultation:**

19. There is no requirement for external consultation on this item.

**Recommendations:**

20. That the report be noted.

**Reasons for Proposed Decision:**

21. Matter for information

**Implementation of Decision:**

22. Matter for information

**List of Background Papers:**

23. None.

**Appendices:**

Appendix 1 - Food and Feed Service Delivery Plan 2019-20.

Appendix 2 - Food and Feed law enforcement review 2018-19.

**Officer Contact:**

Nicola Pearce, Head of Planning and Public Protection.

Tel: 01639 686680 or email: [n.pearce@npt.gov.uk](mailto:n.pearce@npt.gov.uk)

Mark Thomas, Environmental Health and Trading Standards  
Manager. Tel 01639 685612 or email: [m.thomas2@npt.gov.uk](mailto:m.thomas2@npt.gov.uk)

## Appendix 1



**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**  
**CYNGOR BWRDEISTREF SIROL CASTELL-NEDD PORT TALBOT**

**FOOD & FEED LAW ENFORCEMENT**  
**SERVICE DELIVERY PLAN**  
**2019-2020**



## CONTENTS

|                  |                                    |
|------------------|------------------------------------|
| <b>CHAPTER 1</b> | <b>Service Aims and Objectives</b> |
| <b>CHAPTER 2</b> | <b>Background</b>                  |
| <b>CHAPTER 3</b> | <b>Service Delivery</b>            |
| <b>CHAPTER 4</b> | <b>Resources</b>                   |
| <b>CHAPTER 5</b> | <b>Quality Assessment</b>          |
| <b>CHAPTER 6</b> | <b>Review of previous plan/s</b>   |

## Appendices

|          |   |
|----------|---|
| <b>A</b> | <b>Decision Making Structure</b>        |
| <b>B</b> | <b>Department Structure</b>             |
| <b>C</b> | <b>Section Structure</b>                |
| <b>D</b> | <b>Numbers of premises in each ward</b> |
| <b>E</b> | <b>Action Plan and Targets</b>          |



**Neath Port Talbot Office Hours:**

8.30am to 5.00pm Monday to Thursday  
and 8.30am to 4.30 pm Friday

**Outside of normal office hours**

Emergency food safety issues are currently directed initially to a 24 hour emergency call out service and the officer on-call has access to senior food officers in an emergency.

To meet the demands of a 24 hour economy the department regularly carries out enforcement work outside of normal office hours, including evening and weekends. Officers are expected to carry out this work as part of their normal duties.

**Correspondence address:**

Environmental Health & Trading Standards, The Quays, Brunel Way, Baglan. SA11 2GG.

**Telephone contact:**

01639 686868.

Consumer complaints for Trading Standards are automatically transferred to Citizens Advice Consumer Service on 03454 04 05 06.

**Website:**

[www.npt.gov.uk](http://www.npt.gov.uk)

The website has information on EH&TS services for consumers and business and links to other information and relevant sites.

**E-mail & Social media**

Environmental Health : [food@npt.gov.uk](mailto:food@npt.gov.uk) Trading Standards : [tsd@npt.gov.uk](mailto:tsd@npt.gov.uk)

Facebook NptEnvHealth/TradingStandards

Twitter (NPTEHTS) and other Social Media.

## **1.0 SERVICE AIMS AND OBJECTIVES**

### **1.1 Purpose of the Service**

It is the policy of Neath Port Talbot County Borough Council to strive to ensure food safety from the farm or primary producer (via enforcement of animal feed hygiene & standards and animal welfare) through to the ultimate consumer, via retail, manufacturer and catering establishments (the 'farm to fork' principle).

As part of the national Food Safety framework agreement, the Food Standards Agency (FSA), requires all local authorities to prepare a service delivery plan which reviews the implementation of the previous plan and details the delivery of their food safety enforcement responsibilities for the following year.

The plan seeks to ensure that national priorities and standards are delivered locally and provides a balanced approach to local food safety enforcement. This is achieved by not merely directing resources towards the programmed inspection process, but also by ensuring that adequate provision is made to address food complaints, food poisoning notifications and other reactive work, advice to businesses, and also the ability to follow-up on intelligence driven areas of work such as sampling, food fraud and targeted inspections.

There are similar provisions in place for feed enforcement, which is funded directly from the Food Standards Agency and administered across Wales by the Welsh Heads of Trading Standards.

## **1.2 Aims and Objectives**

The aims and objectives of the food and feed law enforcement service are:

- To help to maintain a safe and healthy environment in the County Borough
- To encourage good practices in food safety, food & feed standards and fair-trading, and to take action in line with the enforcement policy to discourage practices which are unfair to other traders or threaten health (via inspections, sampling, intelligence led investigations and surveys, investigation of complaints, malpractices and cases of food poisoning and advising feed and food business operators)
- To ensure that resources are targeted where they are most effective and address areas of highest public health risk

## **1.3 Link to corporate objectives and plans**

In delivering the food and feed law enforcement service, both Food and Health Protection, and Trading Standards will continue to promote the corporate aims and objectives of the authority and sustain the reputation of the council. In particular the service will be delivered in a manner that is sensitive to service users and citizens' individual expectations. The emphasis will be on protecting and improving health, and promoting the economy of the County Borough. There are Local and National Performance Indicators for these services (see Paragraph 3.1.4 below). These are monitored on a quarterly basis via the corporate performance management framework.

## **2.0 BACKGROUND**

### **2.1 Profile of Neath Port Talbot**

Neath Port Talbot County Borough Council is a Unitary Authority, situated in South Wales and is a recognised statutory Food Authority. The towns of Neath, Port Talbot and Pontardawe are the largest settlements in the Borough. A number of other villages and settlements are dispersed throughout the remaining rural valley areas of the County Borough. The County Borough serves a population of approximately 139,800 (Census, 2011) and covers an area of 44,217 hectares. It is the seventh largest authority in terms of population in Wales. There are over 1500 food/feed premises within the County Borough (being circa 1274 food premises and circa 250 feed premises) in which food or drink and feed or drink is produced, manufactured, processed, stored or sold. (See section 2.4 for further details on premises profile).

## **2.2 Organisational Structure**

The charts attached as appendices A, B and C illustrate the organisational structures of the sections.

The functions of Environmental Health and Trading Standards are the responsibility of the Head of Planning & Public Protection service in the Directorate of Environment.

The day to day service delivery of the Food & Feed Services is overseen by the Team Leader- Food & Health Protection, and the Team Leader - Trading Standards.

External services are provided to the section by:

Public Health Wales (formerly the Public Health Laboratory Service, PHLS) at West Wales General Hospital, Carmarthen– for food examination (Microbiological).

Public Analysts (Minton, Treharne & Davies Ltd and Public Analyst Scientific Services Limited) – for food & feed analysis (Non-microbiological).

Occasional use of contracted workers (contractors / locum officers) to cover maternity and other staffing shortfalls, or emergencies.

Food Standards Agency - for guidance and partnership working opportunities.

Citizens Advice Consumer Service - referrals of food and feed complaints.

The City & County of Swansea as part of the regional delivery group for feed enforcement.

## **2.3 Scope of the Food & Feed Law Enforcement Service**

The Food Hygiene service is delivered by officers of the Food & Health Protection Team. The Food Standards and Feed functions are delivered by officers of the Trading Standards section.

| Other Service Functions                            | Delivered via  |
|--|--|
| Fair Trading                                       |  |
| Health Promotion                                   | Inspection programmes                                    |
| Consumer Fraud                                     | Provision of advice to businesses                        |
| Weights & Measures                                 | Sampling programmes<br>Criminal investigation            |
| Underage Sales                                     | Responding to national food /<br>feed alerts and recalls |
| Investigation and control of communicable diseases | Inspection of weighing &<br>measuring equipment          |
| Animal Welfare                                     |  |
| Petroleum Enforcement                              |  |

When necessary, suitably competent and qualified food hygiene and food standards contractors are used to cover long term sickness/maternity leave/vacant posts or project work funded by external sources, but all in accordance with service need, the resources available and with authorisation by the Head of Planning and Public Protection.

#### **2.4 Demands on the Food & Feed Service (Food Hygiene; Food Standards; Feed Standards)**

##### **Premises Profile**

**Table 1(a): Total number of Food & Feed premises within the Authority**

| Food premises                                      | Feed Premises |
|--|---------------|
| 1274<br>(of which 1222 are Registered within NPT). | 250           |

See Appendix D for numbers of premises by Ward area

**Table  
1(b):**

| <b>CODE</b>  | <b>FOOD PREMISES</b>                              | <b>NO. OF<br/>PREMISES<br/>(2017/18)</b> | <b>NO. OF<br/>PREMISES<br/>(2018/19)</b> | <b>NO. OF<br/>PREMISES<br/>(2019/20)</b> |
|--------------|---|--|--|--|
| F01          | Primary Producer                                  | 1  | 2  | 1  |
| F02          | Manufacturer / Packer                             | 23                                       | 26                                       | 28                                       |
| F03          | Importers / Exporters (EU)                        | 0  | 0  | 0  |
| F04          | Distributor / Transporter                         | 15                                       | 10                                       | 9  |
| F05          | Supermarket / Hypermarket                         | 23                                       | 24                                       | 23                                       |
| F06          | Small Retailer                                    | 232                                      | 203                                      | 197                                      |
| F07          | Retailer / Other                                  | 71                                       | 92                                       | 91                                       |
| F08          | Restaurant / Café / Canteen                       | 189                                      | 198                                      | 185                                      |
| F09          | Hotel / Guest House                               | 22                                       | 12                                       | 12                                       |
| F10          | Pub / Club  | 209                                      | 191                                      | 186                                      |
| F11          | Takeaway  | 145                                      | 140                                      | 142                                      |
| F12          | Caring Premises                                   | 217                                      | 207                                      | 176                                      |
| F13          | School / College                                  | 96                                       | 79                                       | 75                                       |
| F14          | Mobile Food Unit                                  | 52                                       | 53                                       | 47                                       |
| F15          | Restaurants & Caterers – Other                    | 123                                      | 135                                      | 100                                      |
| F16          | Importers / Exporters (3 <sup>rd</sup> Countries) | 2  | 2  | 2  |
| <b>TOTAL</b> |   | <b>1420</b>                              | <b>1374</b>                              | <b>1274</b>                              |

- Food advice is available, in a variety of languages, to businesses via the Food Standards Agency’s initiative “Safer Food, Better Business” (SFBB).
- Note: 1222 premises have their Registered base with NPTCBC area, however once Registered they can trade in any area. Conversely, there will be a small number of traders (mainly mobile traders) who are based outside of the Borough, but regularly trade within the Borough, and can be subject to official control interventions (usually co-ordinated with their local LA).

| Table 1(c):   |   | <b>Types of Feed premises:</b>   |                                  |                                  |
|---------------|---|----------------------------------|----------------------------------|----------------------------------|
| <b>Code</b>   | <b>Animal Feed Premises</b>               | <b>No. of PREMISES (2017/18)</b> | <b>No. of PREMISES (2018/19)</b> | <b>No. of PREMISES (2019/20)</b> |
| A             | Manufacturer Using / containing additives | 2                                | <b>2</b>                         | <b>2</b>                         |
| B             | Manufacturer Not Using Additives          | 3                                | <b>3</b>                         | <b>3</b>                         |
| D             | On Farm Mixer Using Additives             | 1                                | <b>1</b>                         | <b>1</b>                         |
| E             | Store - In Region Distribution            | 4                                | <b>3</b>                         | <b>3</b>                         |
| I             | Importer - Out Of Region Distribution     | 2                                | <b>1</b>                         | <b>2</b>                         |
| J             | Surplus Food Supplier                     | 8                                | <b>12</b>                        | <b>8</b>                         |
| P             | Co Product Producer - In Region           | 0                                | <b>2</b>                         | <b>0</b>                         |
| S             | Livestock Farm                            | 210                              | <b>283</b>                       | <b>216</b>                       |
| T             | Arable farm                               | 10                               | <b>17</b>                        | <b>10</b>                        |
| U             | Any Other Business                        | 0                                | <b>1</b>                         | <b>0</b>                         |
| X             | Not Known                                 | 1                                | <b>1</b>                         | <b>1</b>                         |
| <b>Total:</b> |   | <b>241</b>                       | <b>326</b>                       | <b>246</b>                       |

Increased feed enforcement activity has meant that the department's feed premises records are becoming more accurate. This accounts for the large drop in registered feed premises.

The County Borough has 3 specialist feed manufacturers requiring inspection by officers with specific qualifications and competencies.

In line with the Food Law Code of Practice, the authority has placed an emphasis on "interventions" at food & feed businesses rather than full inspections. Full inspections / audits are targeted at the highest risk businesses, or at businesses that the department has received intelligence on. This is explored further in Paragraph 3.0.

Lower risk food and feed businesses will not necessarily be subject to a full programmed inspection, but may be dealt with via a focussed survey or as part of the food sampling programme.

The authority's food and feed enforcement activity is recorded on the Authority APP system. The annual returns and enforcement data that are to be submitted to the



Food Standards Agency are exported from this system via the Local Authority Enforcement Monitoring System (LAEMS).

## 2.5 Joint working / sharing resources and information & Agile Working

Following the systems review of 2017/18, the Food & Health Protection Service (delivering the food hygiene function) and the Retail section of the Trading Standards Service (delivering food standards), have a closer and more integrated working relationship. Information is exchanged between the two services more readily and regularly and joint exercises have been undertaken to increase awareness of the duties of each service for each service, and to promote stronger working relationships and joint working. This has led to improved coordination of food law enforcement between the services, minimising duplication and sharing information and intelligence. Similar exercises have been planned for 19/20 and shadowing visits are to become a regular feature of officer development.

Furthermore, the post of Senior Trading Standards Officer has been created within the Retail section to support officers and consequently food and feed delivery. Although this post has supervisory responsibilities, it is still front line and has enforcement duties.

The two services continue to pilot “agile” working within the authority. Resources and policies have been put in place to enable the officers to minimise office “downtime”.

In addition to the normal workloads, further demands will be made on the service in 2019/20. These include:

- The implementation of the requirements of the General Data Protection Regulations
- The continuing long term impact on food safety of the Pennington Report following the public inquiry into the (fatal) South Wales E. coli outbreak and recommendations for enforcement.
- 
- Sustaining collaboration on the operation of the mandatory Food Hygiene Rating Scheme and Food Hygiene Rating (Wales) Regulations 2013 and to provide open feedback on the compliance levels achieved by individual businesses.
- Continued promotion of the requirement for relevant Businesses to be operating

to a documented Food Safety Management System, which is commensurate with their activities.

- 
- The implementation of a new Trading Standards intelligence database replacing the existing one. The new system is more user-friendly and instinctive. It also has the advantage of being web based and is accessible by services other than TS, potentially fostering greater links with other teams within EH&TS.
- 
- Further development of cross boundary and regional work in the fields of food and feed, to build resilience within service delivery.
- 
- Seeking new business partners to broaden the implementation of the Primary Authority Scheme within NPT.
- The implications of the UKs exit of from the European Union and its effect it will have on enforcement and the economy.
- 
- Identifying food businesses supplying “co-products” (i.e. former foodstuffs reprocessed as animal feed) and advising them of their obligations and responsibilities.
- Tackling the areas identified as local and national priorities for food & feed standards : food allergens, food supplements (particularly sold over the internet) and the adulteration and substitution of food.
- The maintenance of the regional feed enforcement delivery model with Swansea Trading Standards as per the agreement with the Food Standards Agency.
- 
- Continue to meet the demands of new feed & food businesses within the county borough.

- 
- Accommodating service delivery in line with the identified priorities relevant to the service, in addition to NPT's Forward Financial Plan (FFP).
- 
- To continue to monitor for the presence of illicit and /or counterfeit foodstuffs that have been detected in other authorities, utilising and analysing intelligence received from the Regional Intelligence Analyst, National Food Crime Unit, local intelligence sources and partners.
- 
- Fostering stronger partnerships with bodies that have an interest in breaches of legislation relating to food, including Her Majesty's Revenue & Customs, and the Animal & Plant Health Agency.
- 
- To continue to develop procedures to minimise the duplication of efforts from Environmental Health and Trading Standards when visiting food and feed premises.
- 
- The revised continuous professional development requirements of the Food Law Code of Practice, from 10 hours CPD to 20 hours CPD.

## **2.6 Regulation Policy**

The department has a Member Approved enforcement policy incorporating the concepts of the Enforcement Concordat, Regulatory Enforcement and Sanctions Act 2008, Primary Authority Scheme and the relevant food and feed law codes of practice.

The enforcement policy can be found on the Council [website](#):

Officers of the service will seek to ensure food & feed business operators comply with relevant legislation by means of:

- providing information and advice, education & training
- raising awareness of the law and good practice associated with the legislation,
- taking enforcement action where necessary and in line with the enforcement policy

### **3.0 SERVICE DELIVERY**

#### **3.1 Interventions at Food and Feeding stuffs establishments**

##### **3.1.1 Intervention Policy**

The authority will continue to implement a planned programme for food hygiene and food standards interventions and feed inspections at premises within the County Borough.

The Food Law Code of Practice (Wales) has introduced a range of possible interventions to allow officers to use their professional judgment to apply a proportionate level of regulatory and enforcement activities to each food business.

Interventions are split into 2 categories

1. Official controls include:- inspections; monitoring; surveillance; verification; audit; and sampling (where the analysis is to be carried out by an official laboratory).
2. Other interventions which do not constitute official controls include:- education, advice & coaching provided at a food establishment; and information & intelligence gathering.

Interventions are applied in a risk-based manner such that more intensive regulation is directed at those food businesses that present the greatest risk to public health.

##### **3.1.2 Systems review and the coordinated intervention programme**

Following the internal review of the food safety service, interventions are managed via a coordinated food hygiene and food standards inspection programme. Most lower risk food standards premises (category “C” rated) will be inspected for that element by suitably trained and competent food hygiene officers during their programmed food hygiene inspections.

Similarly, low risk food hygiene businesses (category “E” rated) will be subject to an unofficial control from food standards officers. In both cases, more complex

matters detected during the inspection will be referred back to the relevant team.

Shadowing visits will take place in 2019/20 following their trial in 2018/19, this is to promote consistency and continuity between the teams and contributes towards officers' professional development.

## Food Hygiene

The intervention programme is based on the intervention rating scheme contained in Annex 5 of the Food Law Code of Practice, which means that, dependent on risk, premises should be subject to a suitable intervention within a range of 6 months to 3 years.

Food Hygiene Interventions will be undertaken in accordance with the guiding themes contained within the Food Hygiene Interventions Procedure, the relevant legislation, Food Law Code of Practice and Practice Guidance and the Industry Guides. Officers will carry out food hygiene interventions to ensure that food meets the requirements of food hygiene and safety law, including microbiological quality, absence of pathogenic micro-organisms, and safety for consumption.

During interventions, competent officers will place particular emphasis on assessing and advising food businesses on the requirement for a documented food safety management system and food hygiene training.

Following a systems review, the section has redesigned into reactive and proactive teams. Resources can flow between the two teams as required.

Table 2(a): Planned Food Hygiene Interventions due 2019/20 (as at 1<sup>st</sup> April 2019)

| RISK CATEGORY                                | NUMBER OF PREMISES CARRIED FORWARD | (NUMBER OF PREMISES IN CATEGORY 2019/20) | NUMBER OF NEW INTERVENTIONS DUE / PLANNED 2019/20 | TOTAL NUMBER DUE / PLANNED 2019/20 | ESTIMATE NUMBER DUE / PLANNED 2020/21 |
|--|------------------------------------|--|---|------------------------------------|---------------------------------------|
| <b>HIGH RISK</b>                             |                                    |  |   |                                    |                                       |
| <b>A</b><br>(2 interventions per year)       | <b>0</b>                           | (2)                                      | <b>4</b>  | <b>4</b>                           | <i>e.10</i>                           |
| <b>B</b><br>(1 intervention per year)        | <b>0</b>                           | (56)                                     | <b>56</b>   | <b>56</b>                          | <i>e.60</i>                           |
| <b>C</b><br>(1 intervention every 18 months) | <b>0</b>                           | (510)                                    | <b>315</b>  | <b>315</b>                         | <i>e.320</i>                          |
| <b>Unrated</b>                               | <b>23</b>                          | ---                                      | ---   | <b>23</b>                          | ---                                   |



|  |     |       |     |                          |                               |
|--|-----|-------|-----|--------------------------|-------------------------------|
| initially until formally inspected (prior to opening / within 28 days of opening).   |     |       |     |                          |                               |
| <b>Sub Total</b>   | --- | ---   | --- | <b>398</b>               | <b><i>e.390</i></b>           |
| ESTIMATE: New Businesses   | --- | ---   | --- | <b>Circa e.120 – 150</b> | <b><i>Circa e.120-150</i></b> |
| ESTIMATE: No of premises likely to Cease Trading   |     |       |     | Circa e.120 – 150        | <i>Circa e.120-150</i>        |
| <b>LOW RISK</b>  |     |       |     |                          |                               |
| D<br>(1 intervention every 2 years)  | 2   | (139) | 70  | <b>[70]*</b>             | <b><i>e.70</i></b>            |
| E<br>(premises should be inspected every 3 years or can be subject to an Alternative Enforcement intervention in lieu of inspection) | 0   | (546) | 81  | <b>[81]*</b>             | <b><i>e.100</i></b>           |

Certain low risk premises may at the discretion of the authority be subject to an alternative enforcement regime.

As per the Code of Practice:

Category D premises should receive an intervention every 2 years. Such interventions can alternate between an intervention that is an official control and an intervention that is not an official control.

Category E premises should be subject to an intervention every 3 years, which could be part of an Alternative Enforcement Strategy.

\*Priority for interventions will always lie with Higher Risk categories, consequently, lower risk (category D & E) may be de-prioritised, where resources are capped.

In addition to the planned interventions above, any 'newly opened / change of ownership' food premises will be targeted for inspection / an intervention. In 2018/19, there were 276 requests for advice in relation to food premises registration and new food businesses, and a similar figure is estimated for 2019/20.

It is estimated that in addition to the planned primary inspections/interventions to be undertaken, a further 200 food hygiene "revisits" will also be carried out. This detailed involvement with Food Business Operators and their staff is an ideal opportunity to progress Best Practice standards and promote health and well-being in the wider context, as well as ensuring improvements are made.

Premises eligible for a rating under the mandatory Food Hygiene Rating Scheme have their scores publicised on the following website: [www.food.gov/ratings](http://www.food.gov/ratings) .

Businesses who initially fail to meet the highest standard (Food Hygiene Rating of 5), but who subsequently implement improvements are entitled to apply for a re-assessment visit. This has caused an increase in demand for resources to undertake these re-inspections, but due to the importance of implementing the scheme and the need to support businesses going forward, we will prioritise this work area. An all-Wales fee is set for this work. This council fully supports and implements the Food Hygiene Rating Scheme.

### **Food Standards & Feed Standards**

The inspection / intervention programme is based on the inspection rating scheme contained in Annex 5 of the Food Law Code of Practice and the Feed Law Code of Practice,

Therefore, dependent on risk, all premises are due for an intervention within a range of 12 months to 5 years.

At the discretion of the authority and in accordance with the Code of Practice certain low risk food standards premises may, be inspected via an alternative enforcement regime or during a food hygiene visit as set out in 3.1.2. The latter

interventions focus on durability and the traceability of food, and those premises where allergen controls are robust.

Officers undertaking food and feed standards inspections will ensure that the food or feed business is meeting the legal requirements relating to quality, description, composition, labelling, presentation and advertising of food, and of materials or articles in contact with food and feed.

The Feed Standards & Feed Hygiene inspection programme is set and funded by the Food Standards Agency and delivered regionally in conjunction with Swansea Trading Standards.

Animal health officers have the responsibility of inspecting feed hygiene systems on farms alongside their animal welfare duties. These officers are assessed as competent as per the Code of Practice. Feed manufacturers and retailers are inspected by Trading Standards Officers with the appropriate qualification and competencies.

During inspections / interventions competent officers will carry out statutory duties in line with the legislation and local policy.

| Table 2(b):                                       | <b>Planned Food Standards Interventions due 2019/20<br/>and estimated for 2020/21</b> |  |  |  |   |   |
|---|---|--|--|--|---|---|
| <b>CATEGORY</b>                                   | <b>(TOTAL NO. OF PREMISES IN CATEGORY 2019/20)</b>                                    | <b>NO. OF PREMISES CARRIED FORWARD (BACKLOG-DUE PRIOR TO 31/3/19).</b> | <b>NO. OF NEW INTERVENTIONS DUE 2019/20 (1/4/19-31/3/20)</b> | <b>CUMULATIVE TOTAL NUMBER PLANNED BY 31/3/2020 (INCLUDING BACKLOGS)</b> | <b>ESTIMATED NUMBER OF REVISITS 2019/20</b> | <b>ESTIMATED NUMBER DUE / PLANNED 2020/21</b> |
| <b>A<br/>(1 intervention a year)</b>              | 11  | 0  | 11   | 11   | <i>e.5</i>                                  | <i>e.12</i>                                   |
| <b>B<br/>(1 intervention every 2 years)</b>       | 319   | 12   | 149  | 161  | <i>e.12</i>                                 | <i>e.180</i>                                  |
| <b>C<br/>(1 intervention every 5 years / AES)</b> | 749   | 17   | 58   | 75   | <i>e.5</i>                                  | <i>e.110</i>                                  |
| <b>UNRATED</b>                                    | 302   | 302  | 0  | 302  | <i>e.10</i>                                 | <i>e.150</i>                                  |

\*In accordance with the Framework Agreement and frequencies set in the Food & Feed Law Code of Practice :

- Food Standards Category B premises should receive an intervention every 2 years. Such interventions can alternate between an intervention that is an official control and an intervention that is not an official control, as long as the business is broadly compliant (COP 5.2.7.1.5.2)
- Food Standards Category C premises should be subject to an intervention every 5 years, which could be part of an Alternative Enforcement Strategy.
- Where resources are restricted, the priority is to carry out interventions at category "A" and unrated businesses

| Table 2(c):                                | <b>Planned Feed Standards Interventions</b><br><b>2019/20 &amp; estimated for 2020/21</b><br>Feed is co-ordinated on a regional basis, interventions are directed by<br>the Food Standards Agency |                                     |
|--|---|-------------------------------------|
| <b>Premises Type</b>                       | <b>NPT Planned 2019/20</b>  | <b><i>NPT Estimated 2020/21</i></b> |
| Manufacturer                               | 1   | 2                                   |
| Co Product Producer                        | 4   | 6                                   |
| Mobile Mixer                               | 0   | 0                                   |
| Importers                                  | 0   | 0                                   |
| Feed Stores                                | 1   | 1                                   |
| Distributor                                | 2   | 2                                   |
| Transporter                                | 1   | 1                                   |
| On Farm Mixer (Annex II)                   | 1   | 2                                   |
| On Farm Mix                                | 0   | 0                                   |
| Pet Food Manufacturer                      | 1   | 1                                   |
| Supplier of feed materials/Surplus<br>Food | 0   | 0                                   |
|  |   |                                     |
| <b>Sub Total<br/>"Above The Line"</b>      | 11  | 15                                  |
|  |   |                                     |
| Livestock farms                            | 35  | 40                                  |
| <b>Total due for inspection</b>            | 46  | 55                                  |

### 3.1.3 Resources For Inspections / Interventions

#### Food Hygiene

The following table contains the current staffing structure breakdown

**Table 3(a) – as at 1/4/2019 (expressed as FTE's- Full Time Equivalents)**

|  | EHORB<br>(EHO)  | EHORB<br>(Higher Risk<br>premises) | Non-EHORB<br>(Support Staff)   | Total   |
|--|---|------------------------------------|--|---|
| Team Leader (F&HP)   | 1.0   |                                    |  |   |
| Senior EHO (F&HP)  | 0.92  |                                    |  |   |
| EHO (F&HP)   | 5.24  |                                    |  |   |
| Enforcement Officer  |   | 1.86*                              |  |   |
| Support Officer  |   |                                    | 1.0  |   |
|  |   |                                    |  |   |
| <b>Total as at 2019-04-01</b>  | <b>7.16</b>   | <b>1.86*</b>                       | <b>1.0</b>   | <b>10.02</b>  |
| <b>*Note: 1.0 fte EO (F&amp;HP)<br/>is currently seconded to<br/>Gen EH team</b> |   |                                    |  |   |
|  |   |                                    |  |   |
| <i>Historic Totals (trends):</i>   |   |                                    |  |   |
| <i>Total as at 2018-04-01</i>  | <i>6.05*</i><br><i>(*balance:<br/>1.0 FTE<br/>seconded)</i> | <i>2.86</i>                        | <i>1.0</i>   | <i>9.91</i>   |
| <i>Total as at 2017-04-01</i>  | <i>6.84</i><br><i>(+0.22<br/>temporary)</i>                 | <i>1.86</i>                        | <i>1.33</i><br><i>approx.</i><br><i>(NB- 1 officer<br/>pursuing<br/>qualification)</i> | <i>10.03</i><br><i>(+ 0.22<br/>temporary<br/>= 10.25)</i> |
| <i>Total as at 2016-04-01</i>  | <i>6.84</i>   | <i>1.86</i>                        | <i>1.33 approx.</i>  | <i>10.03</i>  |
| <i>Total as at 2015-04-01</i>  | <i>5.2</i>  | <i>1.0</i>                         | <i>3.9</i>   | <i>10.1</i>   |

|                               |            |            |            |            |
|-------------------------------|------------|------------|------------|------------|
| <i>Total as at 2014-04-01</i> | <i>5.1</i> | <i>1.0</i> | <i>3.0</i> | <i>9.1</i> |
|                               |            |            |            |            |

Food Hygiene: All EHO's currently in post have either the B.Sc. (Hons) degree, M.Sc. or Diploma in Environmental Health and are approved by EHRB (Environmental Health Registration Board). All Enforcement Officers hold the Higher Certificate in Food Premises Inspection, or equivalent. The Table above illustrates the FTE number of staff working on food hygiene law enforcement (food hygiene and associated matters) including support staff and their relevant competencies as per the Code of Practice.

In 2018, a temporarily seconded EHO post was returned to the service from General EH team, whilst a secondment of a vacant EO post was made to the General EH team for 18 months. Temporary staff and locums/contractors have also been utilised in previous years to support the service, when additional resources have been needed.

There is the facility to redeploy Food Hygiene qualified staff to or from other parts of the service when necessary (see Chapter 4 on Resources for fuller details on the current staffing structure).



**Staffing Allocation (Apportionment estimates: Required & Allocated)**

Table 3(b):

| <b>Food Hygiene Resources</b>   |                                |           |                                   |
|---|--------------------------------|-----------|-----------------------------------|
|   | Estimate of Required Resources | Allocated | Relative priority assigned        |
| Food hygiene inspections: Cat A-C   | 3.0                            | 3.0       | High / Medium-high                |
| Food hygiene inspections: Cat D   | 0.5                            | 0.5       | Medium-low                        |
| Food hygiene inspections: Cat E   | 0.5                            | 0.5       | Low                               |
| Food hygiene Complaints   | 1.2                            | 1.2       | High / Medium-high                |
| Food hygiene Sampling   | 0.2                            | 0.2       | Medium                            |
| FH New Businesses & Compulsory Registrations                                    | 1.0                            | 1.0       | Medium-high                       |
| FH Advice & Promotional work  | 0.3                            | 0.2       | Medium / Medium-low               |
| FH Revisits   | 1.0                            | 1.0       | Medium-high                       |
| FH Rating Scheme Re-Rating visits   | 0.2                            | 0.2       | High                              |
| FH Rating Scheme enforcement  | 0.1                            | 0.0       | Resources diverted when required. |
| FH Prosecutions   | 0.1                            | 0.0       | Resources diverted when required. |
| Food Fraud investigations and surveillance                                      | 0.1                            | 0.0       | Resources diverted when required. |
| Food hygiene Unrated inspections & work carried forward.                        | 0.1                            | 0.1       | Medium                            |
| Food Related Infectious Disease control, inc food poisoning cases & outbreaks   | 1.0                            | 1.0       | High                              |
| Food hygiene Approved Premises  | 0.1                            | 0.1       | High                              |
| FH Import & Export; & Novel foods   | None at present                | 0.0       | Resources diverted when required. |
| FH Service Improvement (Monitoring, Planning, Reviews, Policies, Consultations) | 0.8                            | 0.7       | High / Medium-high                |

|   |             |              |                                   |
|---|-------------|--------------|-----------------------------------|
| Food hygiene safety alerts                      | 0.1         | 0.1          | Medium                            |
| Other Food hygiene work                         | 0.2         | 0.0          | Resources diverted when required. |
| Non-hypothecated / generic enforcement resource |             | 0.22         |                                   |
| <b>TOTALS (in FTE's):</b>                       | <b>10.5</b> | <b>10.02</b> |                                   |

It is estimated that the required resource to deliver all aspects of the Framework Agreement and Code of Practice is 10.5 FTE.

### Food Standards and Feeding stuffs

Table 4(a):

| <b>Trading Standards Staffing at 1/4/2019 devoted to Food &amp; Feed by Full Time Equivalent of officer</b> |            |            |                 |               |            |              |
|---|------------|------------|-----------------|---------------|------------|--------------|
| <b>Food Standards</b>   | DTS        | DCA        | DCATS Qualified | (Unqualified) | TS Total   | EH input     |
|   |            |            |                 |               |            |              |
| TS Team Leader  | 0.3        |            |                 |               | 0.3        |              |
| Senior TSO  |            |            | 0.4             |               | 0.4        |              |
| TSO   | 1.0        |            |                 |               | 1.0        |              |
| Enforcement Officer   |            | 0.5        | 0.1             |               | 0.6        |              |
| TS Assistant  |            |            |                 | 0.1           | 0.1        |              |
| Admin   |            |            |                 | 0.1           | 0.1        |              |
| <b>Food Hygiene staff qualified for standards</b>   |            |            |                 |               |            | 0.5          |
| <b>Total as at 1.4.2019</b>   | <b>1.3</b> | <b>0.5</b> | <b>0.5</b>      | <b>0.2</b>    | <b>2.5</b> | <b>(3.0)</b> |
|   |            |            |                 |               |            |              |
| <i>Total as at 1.4.2018</i>   | <i>1.3</i> | <i>0.5</i> | <i>1.0</i>      | <i>0.2</i>    | <i>2.5</i> | <i>(3.0)</i> |
| <i>Total as at 1.4.2017</i>   | <i>1.2</i> | <i>0.4</i> | <i>0.4</i>      | <i>0.2</i>    | <i>2.2</i> |              |
| <i>Total as at 1.4.2016</i>   | <i>1.2</i> | <i>0.4</i> | <i>0.4</i>      | <i>0.2</i>    | <i>2.2</i> |              |
| <i>Total as at 1.4.2015</i>   | <i>1.5</i> | <i>0.3</i> | <i>0.3</i>      | <i>0.8</i>    | <i>2.9</i> |              |
| <i>Total as at 1.4.2014</i>   | <i>1.5</i> | <i>0.3</i> | <i>0.3</i>      | <i>0.8</i>    | <i>2.9</i> |              |
| <i>Total as at 1.4.2013</i>   | <i>1.2</i> | <i>0.3</i> | <i>0.3</i>      | <i>0.8</i>    | <i>2.9</i> |              |

| <b>Feed</b>                 | <b>DTS</b> | <b>DCA</b> | <b>DCATS<br/>Qualified</b> | <b>(Unqualified but<br/>Competent)</b> | <b>Total</b> |
|-----------------------------|------------|------------|----------------------------|--|--------------|
|                             |            |            |                            |  |              |
| TS Team Leader              | 0.1        |            |                            |  | 0.1          |
| TSO                         | 0.1        |            | 0.1                        |  | 0.2          |
| Enforcement Officer         |            | 0.0        |                            | 0.5                                    | 0.5          |
| TS Assistant                | 0          | 0          | 0                          | 0                                      | 0            |
| Admin                       |            |            |                            | 0.1                                    | 0.1          |
| <b>Total as at 1.4.2019</b> | <b>0.2</b> | <b>0.0</b> | <b>0.1</b>                 | <b>0.6</b>                             | <b>0.9</b>   |
|                             |            |            |                            |  |              |
| <i>Total as at 1.4.2018</i> | <i>0.2</i> | <i>0.0</i> | <i>0.0</i>                 | <i>0.6</i>                             | <i>0.9</i>   |
| <i>Total as at 1.4.2017</i> | <i>0.2</i> | <i>0.0</i> | <i>0.0</i>                 | <i>0.6</i>                             | <i>0.8</i>   |
| <i>Total as at 1.4.2016</i> | <i>0.3</i> | <i>0.4</i> | <i>0.0</i>                 | <i>0.5</i>                             | <i>1.2</i>   |
| <i>Total as at 1.4.2015</i> | <i>0.3</i> | <i>0.1</i> | <i>0.0</i>                 | <i>1.0</i>                             | <i>1.4</i>   |
|                             |            |            |                            |  |              |

Food Standards & Feed Standards: The 2.0 Trading Standards Officers undertaking food standards work hold the Diploma in Trading Standards or one of its antecedents necessary to allow officers to undertake food & feed standards inspections. One enforcement officer holds the Diploma in Consumer Affairs (DCA) together with the Food and Agricultural Standards paper, and another Enforcement Officer holds the Diploma in Consumer and Trading Standards (DCATS) Food qualification. Food standards are further bolstered by lower risk food standards inspections being carried out by suitably qualified food hygiene officers.

2 trading standards officers and additional enforcement officers have non primary producer/farm inspection duties. Inspection of feed on farms is the responsibility two enforcement officers. All officers are suitably qualified and deemed competent, and carry out the assessments on an annual basis.

For staffing structure see Appendix C

The proportion of time spent by each officer on the feed and food function can be found below.

Table 4(b):

| <b>Food Standards Resources</b>   |                                       |                  |
|---|---------------------------------------|------------------|
| <b>Food Standards Function</b>  | <b>Estimate of Required Resources</b> | <b>Allocated</b> |
| Food Standards Interventions  | 2.1                                   | 2.3              |
| Food Standards Complaints   | 0.3                                   | 0.2              |
| Food Standards Home Authority / Primary Authority   | 0.3                                   | 0.2              |
| Food Standards Business Advice  | 0.3                                   | 0.2              |
| Food Standards Sampling / Incidents   | 0.2                                   | 0.2              |
| Food Hygiene Primary Production Inspections   | 0.1                                   | 0.1              |
| Liaison & Promotion   | 0.1                                   | 0.1              |
| Food Safety alerts  | 0.2                                   | 0.2              |
| <b>Sub-Total</b>  | <b>3.6</b>                            | <b>3.5</b>       |
|   |                                       |                  |
| <b><i>Estimated additional resource required for Recovery of Backlog of Food Standards Work (short term: 2 years approx.)</i></b> | 2.1                                   | 0.0              |

At current intervention rates, to achieve inspections targets as per the code of practice (that is, inspection of all A, B, C rated and Unrated businesses) and taking into account complaints and sampling work, the department would need to increase the number of full time equivalent qualified and competent officers to approximately 5.7 FTE to overcome the backlog, particularly unrated businesses, in a reasonable period of time (estimated as two years).

Unrated businesses are initially assessed by food hygiene team during their registration and new businesses phase for referral as necessary to Trading Standards - as per the protocol following the systems review discussed earlier in this document. This will allow Trading Standards to focus on the higher risk food standards businesses.

Once the backlog of inspections is recovered, to then maintain the inspection rate the department would need to maintain 3.6 FTE food officers.

Feed work provisions are now arranged regionally (in conjunction with the City & County of Swansea) and funded directly by the Food Standards Agency.

### 3.1.4 Targets and Priorities for 2019/20

#### Food Hygiene:

1. To ensure a high level of Business compliance with Food Hygiene legislation.  
This is illustrated by the percentage of food businesses which are classed as “Broadly Compliant” when assessed against the definition provided by the National PI / Public Accountability Measure PAM 023: “The percentage of food establishments which are ‘broadly compliant’ with food hygiene standards”;
2. To undertake a suitable variety of Regulatory Interventions to promote good health and ensure legal compliance to avoid dangerous health risks. This will include the issuing of ratings and the administration of the national Food Hygiene Rating Scheme, which has been mandatory since 28<sup>th</sup> November 2013;
3. To undertake inspections / interventions at high risk premises for food hygiene. (See table 2(a) for number of inspections due). This PI is based on the inspection of 100% of Category A premises; and 100% of Category B premises. With respect of Category C premises, interventions will be part of a risk based strategy.
4. To inspect or otherwise assess new businesses for compliance with legal standards.
5. To respond to infectious disease incidents, complaints and enquiries within the target response time laid down by the Authority.
6. To promote the improved understanding and implementation of food safety management systems for food businesses in the County Borough.
- 
7. To further develop a cross-discipline approach to undertake certain combined food hygiene and food standards assessments, following appropriate training and up-skilling of staff.

### **Food Standards and Feeding stuffs:**

1. To achieve 100% of inspections/interventions of “A” rated premises for food standards & feed purposes
2. To assess businesses for compliance with basic legal standards via a variety of intervention tools.
  -
3. To ensure that significant breaches are acted upon and proper controls are evenly applied to all businesses in a fair and equitable manner in line with the enforcement policy.
  -
4. To complete the annual food sampling plan
5. To complete the regional feed delivery plan
6. To continue to implement the Intelligence Operating model across the service.
  -
7. To maintain competency and training for all relevant staff
  -
8. To promote good practice within food & feed businesses.
9. To continue to support and develop the cross-discipline approach to undertake certain combined food hygiene and food standards assessments, following appropriate training and up-skilling of officers from both teams.

#### **3.1.5 Possible Restrictions on Providing Service**

Due to limitations of staff resources, extended periods of absence can lead to a drop in service provision- this issue is constantly monitored.

It is important to maintain officer competencies across a variety of disciplines to continue to remain flexible and of optimum value when emergencies occur.

The section has had little turnover of food and feed qualified personnel in the last two years. When a member of staff does leave, it is often difficult to replace them due to the restricted availability of suitably qualified officers.

The section has a wide remit, but food and feed standards work is a high priority.

Occasionally, projects and targets need to be re-assessed to focus on the areas of greatest need.

Through implementing the Intelligence Operation Model and utilising the intelligence led approach advocated by National Trading Standards, the department is focussing on the areas which require most attention. The new regime of Food Hygiene officers undertaking limited Food Standards work will help meet demand.

### **3.1.6 Experience of Officers and Access to Expert Information When Necessary**

All relevant officers within the Section are appropriately qualified and experienced to deal with routine and many unusual matters associated with all current types of food & feed premises within the area. The EDR (Employee Development Review) and supervision review process means that officer's competency is continually monitored and training is delivered where required.

#### **Communication, reference and expert support:**

The department has access to the following:

- Technical Indexes,
- Police National Legal Database (PNLD)
- Knowledge Hub
- National Anti-Fraud Network (NAFN)
- RIAMS (as provided by the Food Standards Agency)
- Food Standards Agency
- IDB (The Trading Standards Intelligence Database)



- Coordinating groups and panels specialising in food and feed enforcement
- Public analyst (s)
- Email & Internet
- Trading Standards Regional Intelligence Analyst intelligence database and Local Intelligence Officer Network.

Where additional expertise is required the Head of Service will be briefed and a suitable response will be formulated.

**Coordinated enforcement:**

Trading Standards has representation on the Glamorgan regional coordinating group for food standards.



Trading Standards participates in surveys and exercises held under the auspices of the Glamorgan Group, the Welsh Heads of Trading Standards (WHOTS) and the Food Standards Agency. Swansea Trading Standards represent Neath Port Talbot’s interests in regional feed coordination. Regular communication takes place between the two authorities on feed issues and delivery of feed enforcement across the Swansea / Neath Port Talbot region.

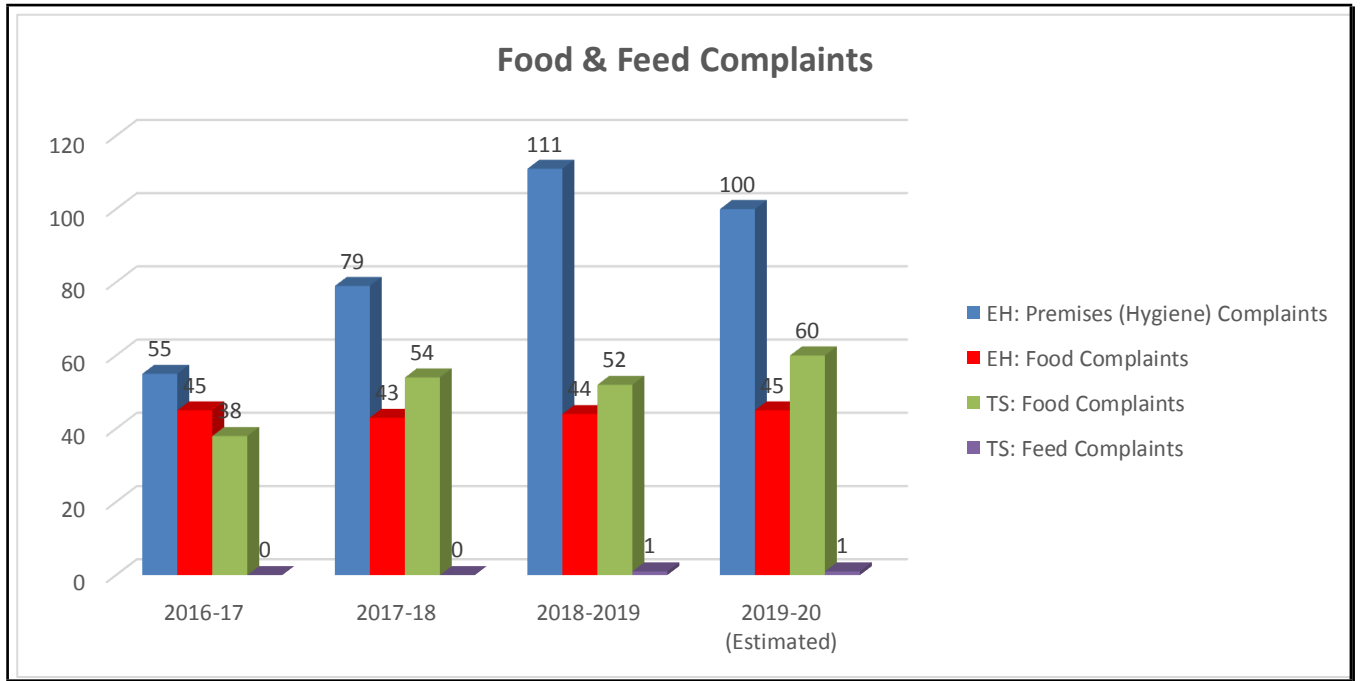
Food Hygiene and Health Protection work closely and liaise with the Public Health Laboratory, Public Health team of the NPHS, and the Public Analysts when expertise is required. The Authority’s public analyst service is consulted during the drafting of the sampling programme for sampling subjects, costs and sampling techniques.

**3.2 Food and Feeding-stuffs Complaints**

The authority will continue to ensure that all notified complaints in relation to food and feeding stuffs are suitably investigated and dealt with promptly, consistently and as per the enforcement policy and internal policy and procedure

The following graph illustrates number of complaints/ service requests received by the department

Table 5(a):



The reactive workload is equivalent to approximately 1.4 FTE- based on 1.2 FTE for food hygiene and 0.2 FTE for food standards and feeding stuffs.

The demands placed on this Reactive service are periodically reviewed, to ensure that resources for investigating food complaints are targeted on a risk basis. The available resources will need to be focused on significant food safety risks. As a consequence, certain categories of service request may receive a more streamlined response.

### **3.3 Primary Authority Scheme & Home Authority Principle**

The authority will continue to provide advice and assistance to food businesses for which we are originating authority and to any that may set up their decision making centre within the authority. The department has made a commitment to initiate Primary Authority partnerships, including food and feed. The Trading Standards service has made a commitment to expand its number of partnerships in 2019/20.

The Primary Authority scheme requires UK enforcement authorities to be mindful of national inspection plans organised with multi-site businesses, to ensure consistency of approach on a nationally coordinated basis (See also our Enforcement Policy and Primary Authority Policy). Potential enforcement action would need to be coordinated with the Primary Authority of the business involved.

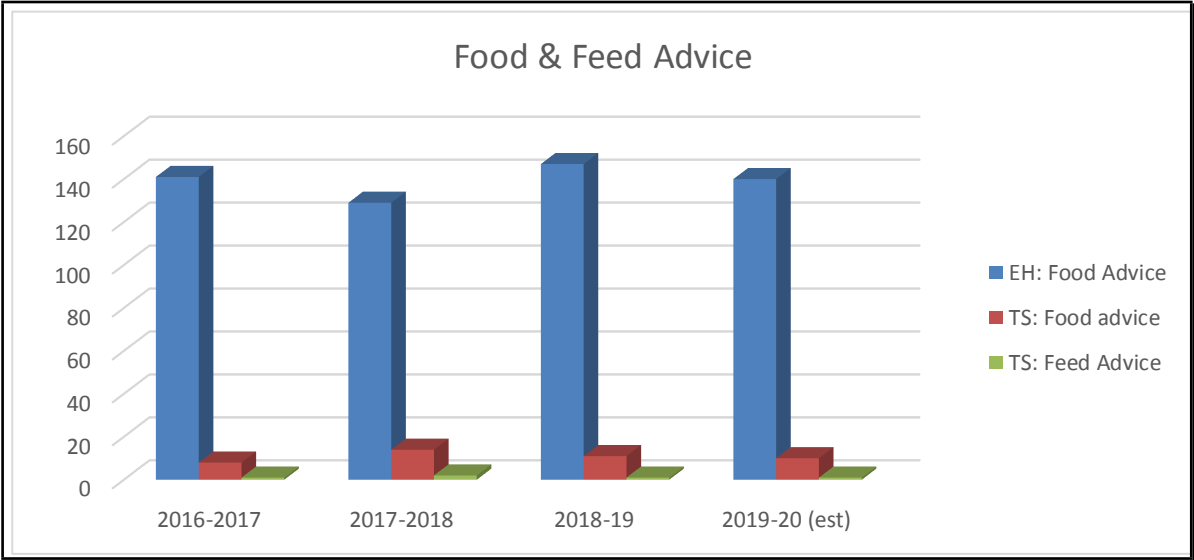
Elsewhere, where a breach is detected involving a company based in another part of the UK, liaison is instigated with the relevant local authority / authorities under the Home Authority principle.

Where significant food or feed breaches with a potential national or international impact occur, the department will liaise with the Food Standards Agency and relevant border inspection points / ports.

### **3.4 Advice to Businesses**

In 2018/19 the EHTS department began charging for the provision of certain business advice. The department will not charge for “signposting” businesses to sources of advice, but will charge for bespoke or enhanced consultancy type assistance- such as examination of products, systems and labels. It is hoped that this will go some way to offsetting service provision costs.

Table 5(b):



There has been no noteworthy fall in demand for the service, but nor has the income generated been significant.

### **3.5 Food and Feed Sampling**

Food sampling trends, intelligence and Food Standards Agency priorities are examined, analysed and informs the authority's food sampling plan.

Priority areas for sampling are identified on the basis of safety, consumer or trade detriment, type of food or feed business and risk.

Additionally, food samples should be taken as part of a programmed intervention if deemed appropriate or in connection with enforcement investigations.

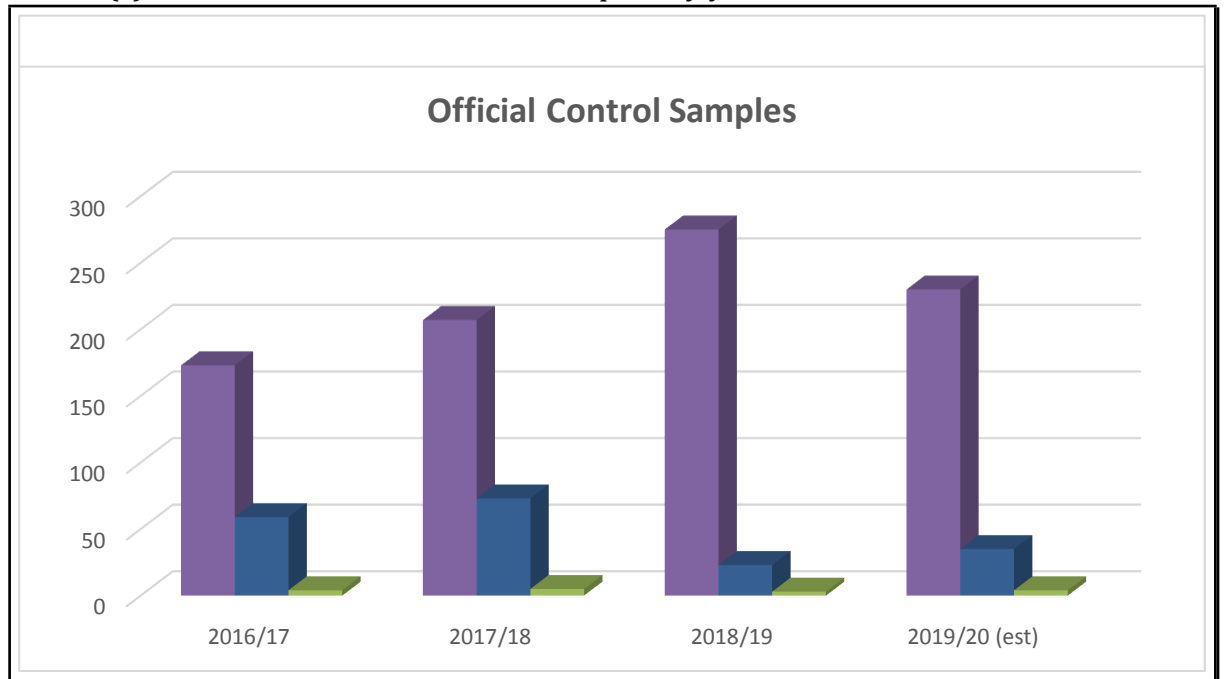
The Authority participates in various co-ordinated sampling programmes from such bodies as:

- Welsh Food Microbiological Forum targeted surveys;
- the All Wales 'Shopping Basket' Food Sampling Survey;
- Welsh Head of Trading Standards Surveys;
- Glamorgan Trading Standards Group Surveys;
- Public analysts co-ordinated surveys;
- Food Standards Agency surveys

The Food Standards Agency directs the regional feed coordination plan's sampling programme.

Trading Standards are embarking on a larger food standards sampling programme than previous years. The service is targeting problem areas such as allergens, colours and descriptions at takeaway outlets and carrying out sampling of manufacturers and wholesalers as part of the intervention programme. Sampling between Food & Health Protection and Trading Standards is now coordinated and are incorporated into the annual plan of food sampling devised respectively by Environmental Health and Trading Standards.

Table 5(c): Numbers of Official Control Samples, by year.



Resource allocation:

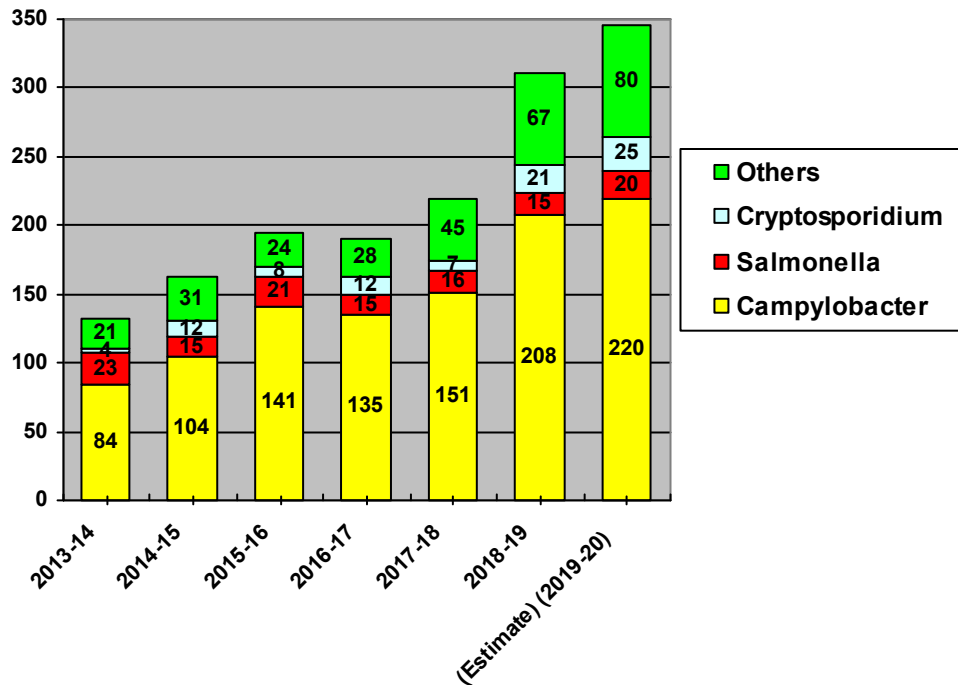
- Approximately 3 days a month are spent by one officer (usually a Support Officer) sampling foods for microbiological analysis and undertaking the subsequent administration.
- Most food standards samples are taken by qualified and competent officers. However, Trading Standards will be utilising the TS assistant for informal sampling surveys, follow up action to be taken by suitably qualified and authorised officers.
- Samples taken are submitted to either the local Microbiology testing laboratory (PHW- lab) or Public Analyst within 24 hours of sampling.

**3.6 Control and Investigation of Outbreaks and Food Related Infectious Disease**

All formal notifications (of all types of Infectious Disease notifications) are recorded on an NHS shared platform (called TARIAN). Subsequent investigations

are based on the type of organism, the number of cases, and are in accordance with the over-arching Communicable Disease Outbreak Control Plan for Wales (re-issued September 2012 by Chief Medical Officer- Wales). Additionally, there are various supporting infectious disease investigation procedures utilised locally by Neath Port Talbot.

**Table 5(d): Graph to show Notifications of all Infectious Diseases, including Food-related**



Periodically, we receive complaints from members of the public as self-referrals. These are often reported as suspected cases of food poisoning. Initially, advice is given for the case to report to their GP, but invariably these are followed up as service requests and investigated accordingly. They are also reported to the NPT Consultant in Communicable Disease Control. Workloads are consistently high in this area of work, and where Emergencies / Major Outbreaks occur, they are dealt with as top priority, with other work being re-scheduled.

The existing internal resources are sufficient to deal with the estimated number of food poisoning cases for the forthcoming year

### **3.7 Food & Feed Safety Incidents**

The service has a documented procedure which deals with action to be taken following the receipt or initiation of a food alert. In line with the current Code of Practice, the department uses the APP / Flare database for recording actions taken following a food or feed alert.

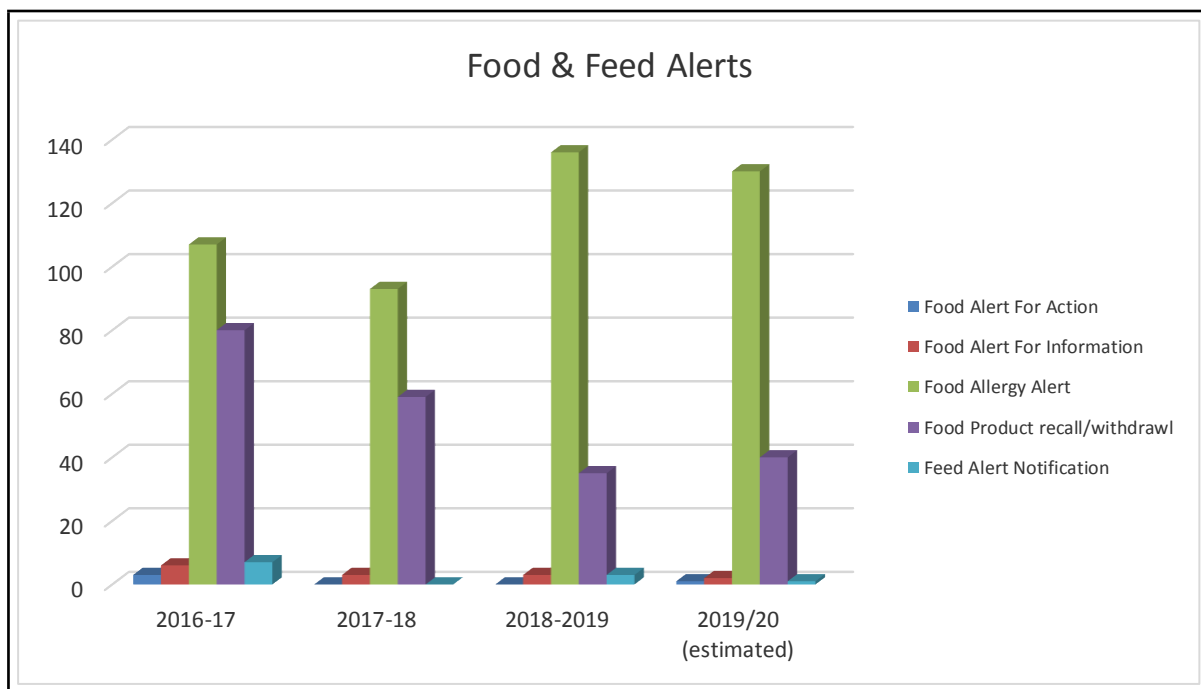
Alerts are received by a direct email from the Food Standards Agency Wales (FSA-W) to enforcement officers. The warning procedure for food incidents recognises that Alerts for Action (FAFA) are required to be dealt with quickly, and are treated as a very high priority - which often takes priority over other work of the sections. More often, Food Alerts for Information or Allergy are issued. Most food alert warnings received require only a small officer resource. However occasionally more resources will be required.

When necessary, affected businesses will be contacted and encouraged to commence a withdrawal. Enforcement procedures exist to ensure an appropriate response.

Equally, the department will liaise with the Food Standards Agency Wales and other relevant agencies who will be contacted immediately via the applicable Food Incident report form/ mechanisms for breaches detected in NPT.

Table 5(e):





The department receives a significant number of allergy alerts; however few of these require action on the part of the food authority. Existing internal resources will be sufficient to deal with the estimated number of food alerts / food incidents, as each inspecting officer also deals with reactive work.

### 3.8 Liaison with other Organisations

The authority has a number of arrangements to ensure enforcement action is consistent with neighbouring local authorities. Officers participate in a variety of external liaison groups, which are summarised below:

| <b>Table 6 : Breakdown of resource allocation for liaison with other organisations.</b>   |                                    |            |
|---|------------------------------------|------------|
| <b>GROUP</b>  | <b>AVERAGE RESOURCE ALLOCATION</b> |            |
| TS Glamorgan Food Group   | 4 days per year                    | 1 Officer  |
| TS NPT/Swansea Feed Region  | 4 days per year                    | 1 Officer  |
| TS Glamorgan Group  | 4 days per year                    | 1 Officer  |
| WHoTS Animal Health and Welfare Panel   | 4 days per year                    | 1 Officer  |
| WHoTS Group   | 6 days per year                    | 1 Officer  |
| WWhoEHG Food Safety (Task Group & Technical Panel)  | 4 days per year                    | 1 Officer  |
| WWhoEHG Communicable Disease (Task Group & Technical Panel)   | 4 days per year                    | 1 Officer  |
| WWhoEHG: Environmental Health Group   | 4 days per year                    | 1 Officer  |
| Welsh Food Microbiological Forum  | 3 days per year                    | 1 Officer  |
| Meetings with CCDC  | Estimate 2 days per year           | 1 Officer  |
| Consultee to Building Control & Planning Department & Licensing Department.   | Estimate 2 consultations per week  | 1 Officer  |
| Regulatory Delivery   | Estimate 2 days per year           | 2 Officers |
| Welsh Food Fraud Coordination Unit  | Estimate 2 days per year           | 2 Officers |
| National Food Crime Unit  | Estimate 2 days per year           | 2 Officers |
| Ad hoc meetings with NPTCBC Education and Social Services Departments   | 4 days per year                    | 1 Officer  |
| <b>Key: WWhoTS = Welsh Heads of Trading Standards.</b><br><b>WWhoEHG = Welsh Heads of Environmental Health Group</b><br><b>CCDC = Consultant in Communicable Diseases</b> |                                    |            |

### 3.9 Food and Feed Safety and Standards Promotion & Intelligence

Educational and promotional activities are considered to be important aspects in the delivery of a varied and comprehensive food safety service. The following table illustrates how this authority achieves this function.

| <b>Methods of Food &amp; Feed Promotion</b>                              |   |   |   |
|--|---|---|---|
| Food information available directly from EH& TS and via the website.     | Attendance at consumer education events.        | Liaison with NPTCBC food delivery services  | Targeted advice to consumer groups, FBOs and FeBOs.     |
| Disseminating information on the work of the department via social media | Active promotion of national food Safety events | Facilitating hand washing demonstrations in educational establishments and voluntary groups when requested. | Targeted seminars and training sessions to FBOs & FeBOs |

The authority will continue to promote food safety and standards in all areas of its work. Most inspections are carried out pro-actively and include an element of the promotion of best practices” by officers to encourage businesses implement systems that achieve compliance with relevant legislation. Prospective business owners are encouraged to seek the advice of the department before the food business opens to prevent possible food hygiene and standards contraventions from occurring, however this will attract a charge.

The business side of health promotion function is integrated within the food service delivery team. Although there is no specific staffing resource allocated to this function, the daily contacts which the teams have with businesses are an important

opportunity to positively influence the wider business community, their employed staff and customers.

| <b>Methods of Sharing Intelligence</b>  |  |   |  |
|---|--|---|--|
| Knowledge Hub<br>(reference and discussion site)  | National Anti-Fraud Network (NAFN)                 | IDB (The Trading Standards Intelligence Database) | RIAMS (as provided by the Food Standards Agency)                         |
| Trading Standards Regional Intelligence Analyst intelligence database and Local Intelligence Officer network. | Civica / APP. Local authority enforcement database | FSSiNet – Food Sampling Surveillance System       | Coordinating groups and panels specialising in food and feed enforcement |

## 4.0 RESOURCES

### 4.1 Financial Allocation

The table below provides a summary of actual expenditure and income for the Food Service.

| <b>Table 7</b>   |                        |
|--|------------------------|
| <b>Budget Figures</b>  |                        |
| <b>Revenue Budget</b>  | <b>Actuals 2018/19</b> |
| Expenditure  |                        |
| Staffing- Food Hygiene                                       | 418,578                |
| Staffing- Infectious Disease                                 | 46,509                 |
| Staffing- Food Standards                                     | 82,113                 |
| Staffing- Animal Feeding Stuffs                              | 22,124                 |
| Transport (TS)   | 2,110                  |
| Transport (EH)   | 6,907                  |
| Equipment (EH)   | 2,931                  |
| Legal Fees – (TS)  | 0                      |
| Sampling & Analysis – Food Hygiene                           | 1483                   |
| Sampling and Analysis – Trading Standards – Food & Feed only | 28777                  |
| <b>Total Expenditure</b>                                     | <b>611,532</b>         |
| Income   |                        |
| Government Grant   | 0                      |
| Other Income   | 7960                   |
| <b>Total Income</b>  | <b>7960</b>            |
| <b>Net Expenditure</b>                                       | <b>603,572</b>         |

### 4.2 Staff Development Plan

The department is committed to providing appropriate training for staff. A training and development plan is in place for the Environmental Health and Trading Standards Service. All food & feed enforcement staff participate in one-to-one supervisory review with a manager approximately every 6-9 weeks and an annual appraisal. Regular Food Hygiene Team meetings are held to discuss ongoing food and communicable disease issues. Trading Standards hold monthly briefing sessions to update staff on new developments in the field, business plan progress, administration issues and to discuss cases.

The training and development budget for 2019/20 for the whole of the EH & TS service is initially set at £8,923. Training is arranged regionally, and by attending events arranged by the FSA and utilising e-training facilities.

The Authority participates in the All-Wales Communicable Disease Lead Officer Training events funded by the Wales Centre for Health. All-Wales update training on food related topics is also provided by the Food Standards Agency on key issues, but is of necessity restricted to usually 2 officers per local authority, and is often free. Officers are expected to maintain their competencies, and undertake to ensure their continuing professional development (CPD) by undertaking suitable study or training equivalent to a minimum of 10 Hours per annum (from 1<sup>st</sup> January, annually). This is monitored by the respective service managers and discussed during the one to one reviews. There is considerable reliance placed upon the Food Standards Agency for external training in respect of food and feed standards matters.

Feed CPD runs over the financial year, April to March. Training is arranged regionally via the funding provided by the FSA.

#### **4.3 Legal Expenditure**

Legal fees and costs for taking action in connection with food standards and food hygiene cases have remained fairly constant over the past few years. Whilst there is no direct budget allocated for this purpose, resources are provided as needed from both the commissioning directorate and Corporate legal services, and costs incurred by both are applied for at the conclusion of the legal action - where there is an overspend/shortfall in resource, this is reported to the Head Of Service for subsidising on an ad-hoc basis, or from central reserves. There is a recent example of this kind of occurrence with a consumer fraud investigation which is likely to incur 6 figure legal fees.

Receipts from the incentivisation scheme under the Proceed of Crime Act can be re-invested in enforcement related actions. There has been a moderate rise within both food services of cases referred for prosecution as significant infringements have been detected. This is likely to continue to persist over the coming years as intelligence indicates that there is continued infringement of allergen, adulteration and misdescription legislation within Neath Port Talbot.



## 5.0 QUALITY ASSESSMENT

- 5.1 The quality of the food service will be regularly assessed to ensure the Service Delivery Plan and Food Standards Agency framework agreement on local authority enforcement ('The Framework Agreement Standard') is being achieved.

### **Management monitoring**

Evaluation methods to be used will include:

- Monitoring of performance measures is carried out on a Quarterly basis, and reported to the relevant Member forum for scrutiny. Additionally, ad-hoc internal checks are undertaken to monitor progress towards the Business Plan priorities.
- Monitoring of inspections by supervisors and management within each section. Monitoring of inspection reports and records.
- Officer reviews held every 6-9 weeks, plus an annual appraisal, which includes a competency assessment for food and feed enforcement as appropriate.
- Accompanied visits and Peer assessments- following internal protocols.

These evaluations are recorded.

The Food Standards Agency (FSA) has discretion to undertake audits (full or focussed) of food authorities, and their latest full assessment was undertaken in 2014, with a follow up visit in August 2016.

## **6.0 REVIEW**

### **6.1 Review Against Service Plan**

Strategically, the Head of Service and the Environmental Health & Trading Standards Manager has overall responsibility for the direction and performance of the service.

The Environmental Health & Trading Standards Manager is the Accountable Manager for the food hygiene, food standards and feed standards & hygiene functions.

The Manager reviews the key performance measures and service improvements contained in the plan on a quarterly basis as part of the performance management process, these are reported internally at quarterly intervals to Cabinet Board and the associated Scrutiny Committee.

#### **6.1.1 Food Hygiene**

In addition, regular meetings are held with the food hygiene team (food and health protection). This is to ensure that on-going projects, improvements and inspection targets outlined in this service plan and the business plan are effectively monitored and managed.

Achievements for 2018/19 included:-

- Inspecting 100% of all High Risk premises for food hygiene purposes.
- Issuing over 500 food hygiene ratings to businesses;
- Sampling food products in line with the all-Wales surveys of food quality
- Serving 34 hygiene improvement (enforcement) notices to ensure certain businesses met minimum legal standards;

#### **6.1.2 Food Standards and Feeding stuffs**

Achievements for 2018/19 include:-

- Inspecting 100% of High Risk premises for food standards purposes.

- Participating in the Glamorgan Group of Trading Standards Authorities coordinated sampling exercises.
- The surrendering of over 600 bottles of non-compliant vodka to the department from a large regional supermarket chain.
- Two successful prosecutions of local businesses that despite repeated advice failed to comply with legislation. One of these was a joint investigation with the food hygiene service.
- Improving the coordination between the food hygiene and food standards intervention programmes and the subsequent sharing of intelligence.
- The continued detection and correction of breaches of allergen legislation.
- Running a food standards training event for FBOs in conjunction with the City & County of Swansea.
  - Continuing to identify and investigate a number of food fraud offences at takeaways and restaurants involving the substitution of beef for lamb in meals and the presence of prohibited colours.
  - The continued delivery of advice to traders in respect of allergen information provision and the establishment and maintenance of allergen control systems. This has been identified as a priority area, and will continue into the new financial year.
  - Meeting the targets set by the WHOTS/FSA regional feed delivery group.
  - The continued development of a coordinated enforcement plan with Food Hygiene

## **6.2 Identification of Variation from the Plan**

Variations from the Service Plan will be identified annually. Reasons for the variance and whether or not these are justified will also be given.

Trading Standards has a large backlog of inspectable businesses for Food Standards purposes. This is due to higher priority work taking precedence. The implementation of the coordinated intervention programmes has eased the pressure on the service slightly. Proactive inspections will continue to be subject to the same competition for resources as other work, and will be prioritised as necessary.

With regard to food hygiene interventions at lower risk rated premises, the previous backlog has been addressed. However, there remains a risk that if resources are capped, priority and resources will be directed at inspections of higher risk establishments and investigation of non-compliant premises.

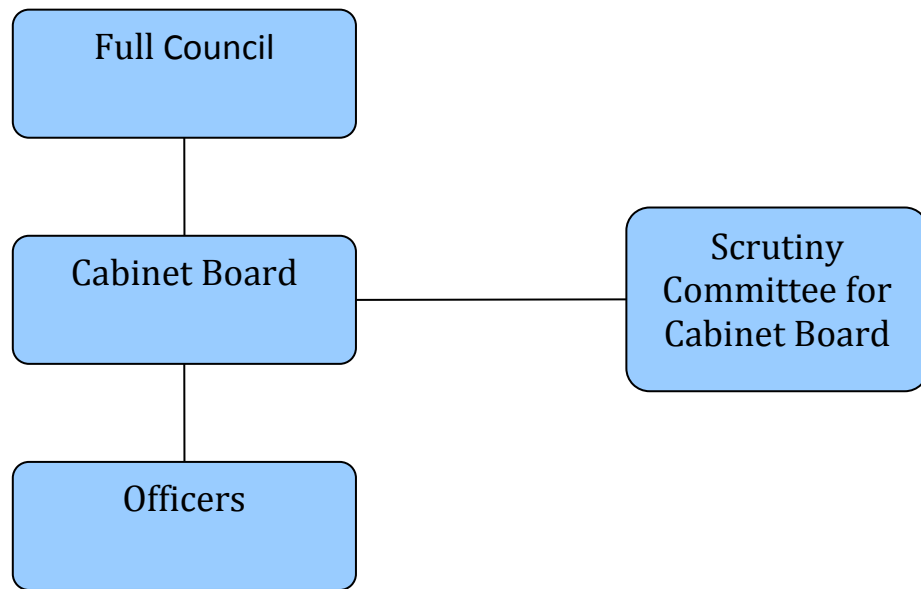
### 6.3 Areas for Improvement

Over the past 5 years, the changes to food safety legislation and the challenges faced by food safety enforcement authorities have been significant. National priorities continue to be influenced by the Food Standards Agency, Office of Product Safety & Standards (formerly Regulatory Delivery), and National Trading Standards (NTS), as well as the impact of the final report from the South Wales E.coli O157 public enquiry, and the ongoing visits from the EU Food & Veterinary Office to Welsh Authorities. However, some of the current planned improvements for 2019/20 and beyond include:-

1. Reviewing out of hours provision and cover arrangements in relation to outbreaks of communicable disease and service delivery - particularly emergencies;
2. Developing a training programme for officers involved in the investigation of outbreaks of communicable disease
3. Undertaking suitable promotional activities / campaigns
4. Establishing measures to assess the quality of the service provided
5. Consulting more with stakeholders
6. Continuing to review food standards, food hygiene (primary producers) and feed legislation in relation to qualification of officers and demands on the service
7. Continuing to develop the coordinated food hygiene / standards intervention programme, as highlighted by the internal 'System Review' process
8. Continue to develop the agile working scheme
9. Continuing to develop the use of the Intelligence Operating Model for Trading Standards
10. Continuing to improve the use of alternative enforcement strategies in relation to food and feed inspections
11. The challenges regarding local government financing and organisation
12. Assessing and addressing the demands on the service following the United Kingdom's exit from the European Union
13. Addressing the demands on the service from the Food Standards Agency "Regulating Our Future" programme

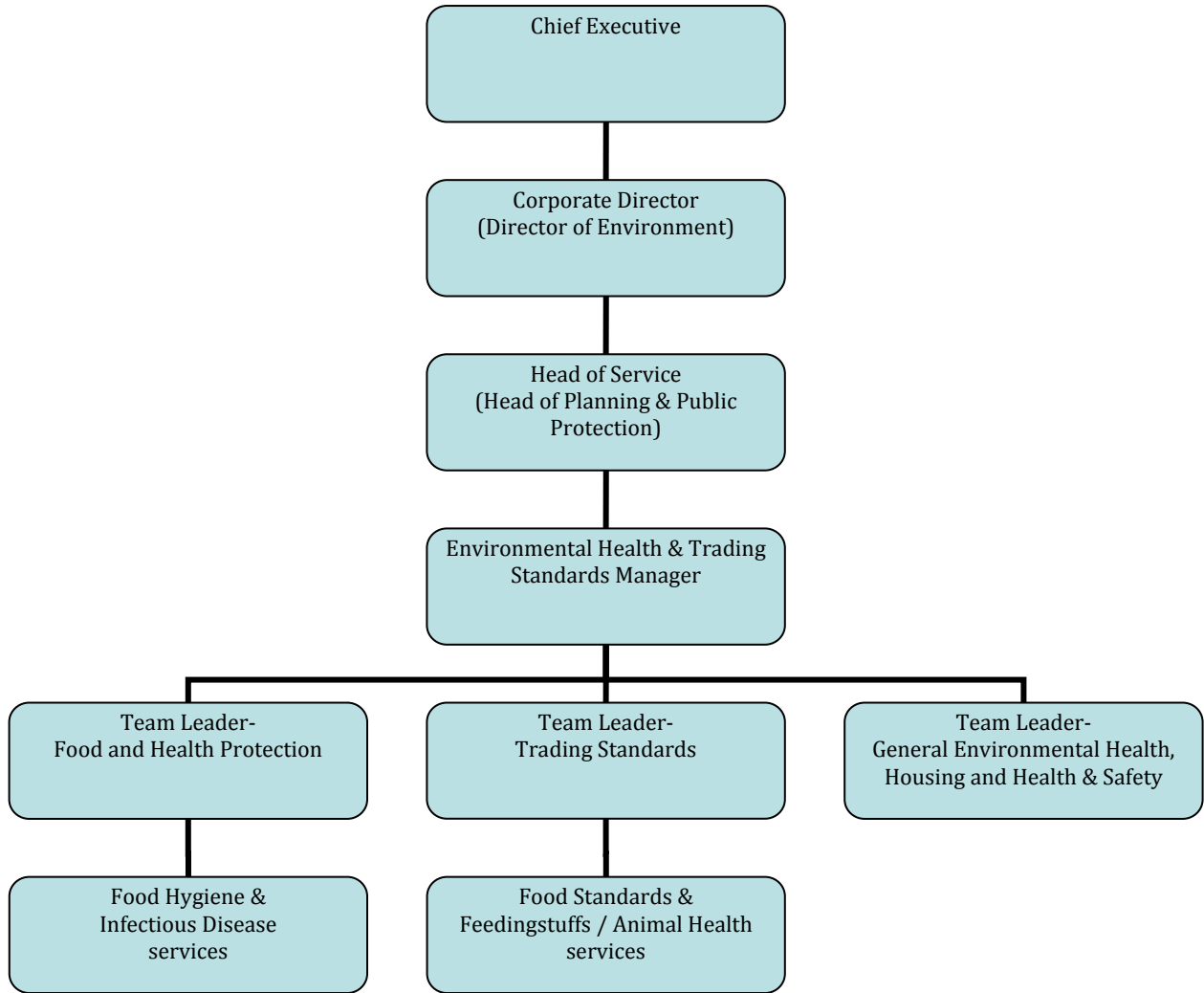
**APPENDIX A**

**Decision Making Structure:**



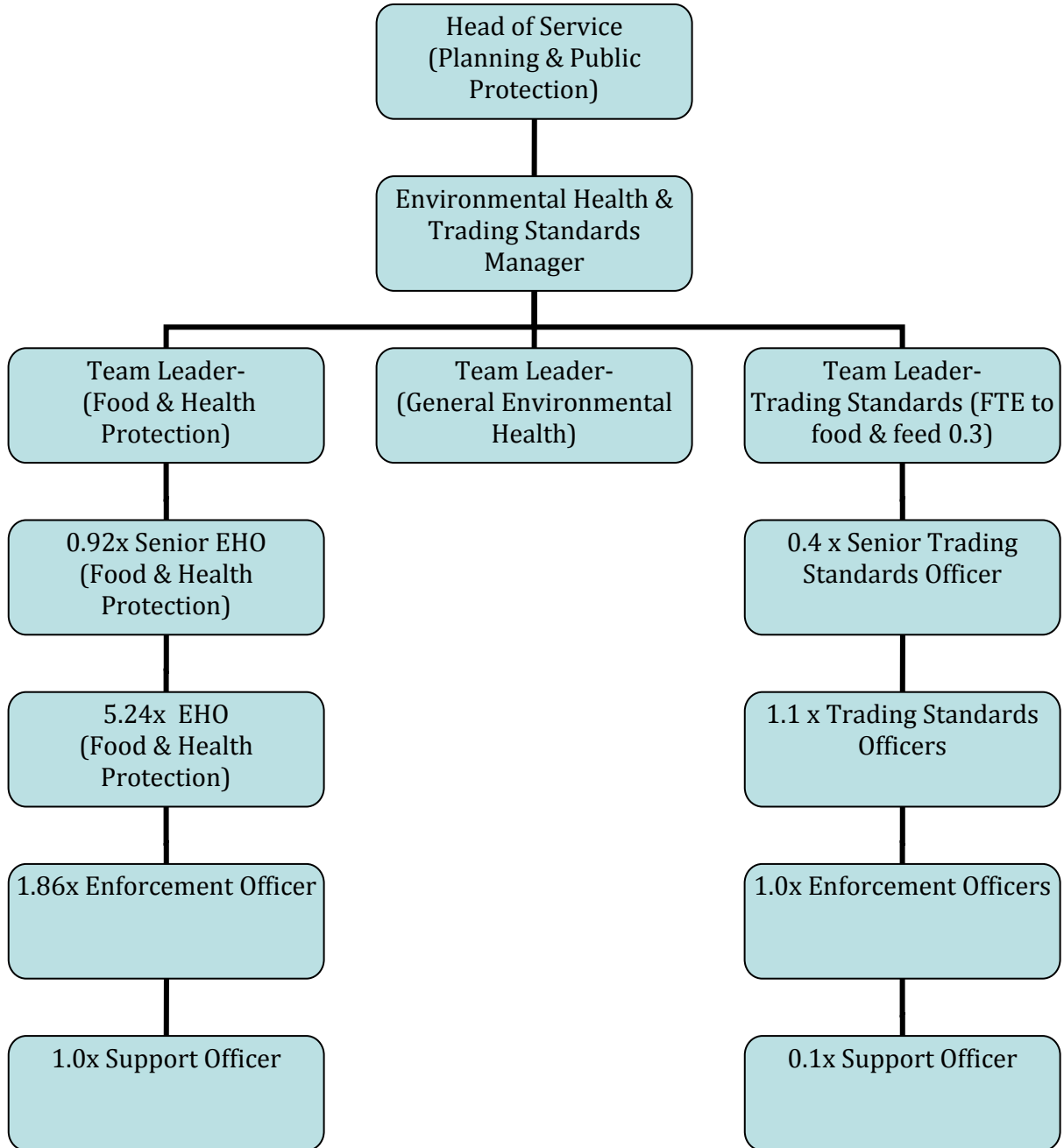
**APPENDIX B**

**Department Structure:**



**APPENDIX C**

**Service Structure: (As at 1/4/2019)**



## APPENDIX D

### Number of Registered Food Premises by Ward (2018 & 2019)

| WARDS :                 | (WARD CODES) | 2018 | 2019 | WARDS:                        | (WARD CODES) | 2018 | 2019 |
|-------------------------|--------------|------|------|-------------------------------|--------------|------|------|
| <b>NEATH</b>            |              |      |      | <b>PORT TALBOT</b>            |              |      |      |
| Aberdulais              | ABD          | 15   | 14   | Aberavon                      | ABV          | 77   | 73   |
| Alltwen                 | ALL          | 14   | 14   | Baglan                        | BAG          | 41   | 37   |
| Blaengwrach             | BLA          | 12   | 12   | Briton Ferry East             | BFE          | 43   | 43   |
| Bryncoch North          | BRN          | 22   | 19   | Briton Ferry West             | BFW          | 13   | 12   |
| Bryncoch South          | BRS          | 36   | 33   | Bryn and Cwmavon              | BRY          | 52   | 49   |
| Cadoxton                | CAD          | 11   | 12   | Coedffranc Central            | COC          | 44   | 39   |
| Cimla                   | CIM          | 21   | 20   | Coedffranc North              | CON          | 10   | 13   |
| Crynant                 | CRY          | 15   | 13   | Coedffranc West               | COW          | 43   | 41   |
| Cwmllynfell             | CWM          | 14   | 12   | Cymmer                        | CYM          | 32   | 27   |
| Dyffryn                 | DYF          | 26   | 21   | Glyncorrwg                    | GLC          | 10   | 8    |
| Gwaun-cae-Gurwen        | GCG          | 26   | 23   | Gwynfi                        | GWY          | 11   | 11   |
| Glynneath               | GLN          | 36   | 32   | Margam                        | MAR          | 46   | 45   |
| Godrergraig             | GOD          | 7    | 8    | Port Talbot                   | POR          | 75   | 71   |
| Lr Brynamman            | LBR          | 8    | 8    | Sandfields East               | SAE          | 42   | 40   |
| Neath (East)            | NEE          | 44   | 42   | Sandfields West               | SAW          | 38   | 32   |
| Neath (North)           | NEN          | 149  | 132  | Taibach                       | TAI          | 41   | 39   |
| Neath (South)           | NES          | 21   | 18   | <b>Port Talbot area Total</b> |              | 618  | 580  |
| Onllwyn                 | ONL          | 10   | 9    |                               |              |      |      |
| Pelenna                 | PEL          | 9    | 11   | Other / Out of area           | xxx          | 0    | 0    |
| Pontardawe              | PON          | 91   | 88   | <b>NPT Combined Total</b>     |              | 1309 | 1222 |
| Resolven                | RES          | 21   | 21   |                               |              |      |      |
| Rhos                    | RHO          | 12   | 14   |                               |              |      |      |
| Seven Sisters           | SEV          | 18   | 17   |                               |              |      |      |
| Tonna                   | TON          | 19   | 15   |                               |              |      |      |
| Trebanos                | TRE          | 7    | 8    |                               |              |      |      |
| Ystalyfera              | YST          | 27   | 26   |                               |              |      |      |
| <b>Neath area Total</b> |              | 691  | 642  |                               |              |      |      |



## Appendix 2

### ENVIRONMENTAL HEALTH AND TRADING STANDARDS SERVICE Review of Food and Feed Law Enforcement Performance 2018 / 2019

#### 1.0 Introduction

This document is the annual food and feed law enforcement performance review to measure compliance with the Food Enforcement Framework and has been submitted to the Head of Planning and Public Protection for approval.

#### 2.0 Planned inspections/interventions 2018/2019:

##### 2.1. Food Hygiene:-

| RISK CATEGORY      | NUMBER OF PREMISES CARRIED FORWARD | BALANCE OF NEW / OLD INTERVENTIONS DUE / PLANNED BY 31/3/2019 (TO EXCLUDE ANY PREMISES WHICH CEASE TRADING) | NUMBER PREMISES INSPECTED / INTERVENTIONS ACHIEVED AS AT 31/3/2019 | OUT-TURN / ACHIEVED  |
|--------------------|------------------------------------|---|--|--|
| <b>High Risk:-</b> |                                    |   |  |  |
| <b>A</b>           | <b>0</b>                           | <b>6</b>  | <b>6</b>   | <b>100%</b>  |
| <b>B</b>           | <b>0</b>                           | <b>53</b>   | <b>53</b>  | <b>100%</b>  |
| <b>C</b>           | <b>0</b>                           | <b>306</b>  | <b>306</b>   | <b>100%</b>  |
|                    |                                    |   |  |  |
| <b>Low Risk:-</b>  |                                    |   |  |  |
| <b>D</b>           | <b>0</b>                           | <b>74</b>   | <b>72</b>  | <b>97%</b>   |
| <b>E</b>           | <b>0</b>                           | <b>81</b>   | <b>81</b>  | <b>100%</b><br><b>(mainly via AES: Alternative Enforcement Strategy) .</b> |

## **Commentary:**

Resources were prioritised on undertaking all High Risk food premises. An initiative to address 'Category E' rated premises was completed, using the flexibility permitted under the Food Law Code of Practice, which involved issuing a self-assessment questionnaire as part as an Alternative Enforcement approach, with all results reviewed and a 10% sample visited for confirmation, plus any non-responders.

### 2.1.1 Broadly Compliant PI: (PAM009)

The out-turn PI for 2018/19 was : 93.92% (based on 998/1052 premises achieving a 3/4/5 FH Rating).

### 2.1.2 Food Hygiene Ratings:

609 Food Hygiene inspections were undertaken, and Food Hygiene Ratings issued where applicable;

43 Food hygiene re-ratings were applied for and progressed;

The FSA website had regular uploads of data (at least every 28 days), and additional ad-hoc uploads were undertaken to take account of important in-month changes.

## **2.2 Food Standards : Planned Interventions**

| <b>RISK CATEGORY</b>             | <b>NUMBER OF PREMISES CARRIED FORWARD</b> | <b>BALANCE OF NEW / OLD INTERVENTIONS DUE / PLANNED BY 31/3/2019 (TO EXCLUDE ANY PREMISES WHICH CEASE TRADING)</b> | <b>NUMBER PREMISES INSPECTED / INTERVENTIONS ACHIEVED AS AT 31/3/2019</b> | <b>OUT-TURN / ACHIEVED</b> |
|----------------------------------|---|--|---|----------------------------|
| <b>A (every 12 months)</b>       | 0   | 13   | 13  | <b>100%</b>                |
| <b>B (every 24 months)</b>       | 3   | 98<br>(3 old + 95 new)   | 67  | <b>68%</b>                 |
| <b>C (every 5 years)</b>         | 94  | 150<br>(94 old + 56 new)   | 33  | <b>22%</b>                 |
| <b>UNRATED (not yet visited)</b> | 256                                       | 256  | 39  | <b>15%</b>                 |

Resources were directed to inspecting the A, B and Unrated businesses within the county borough. Certain “C” rated premises are being prioritised due to the nature of the business, the department has identified that many takeaways are risked as “C”, but due to the hazards associated with allergens and breaches of food description in this trade sector they are being targeted for more comprehensive intervention. Food standards inspections of specific C rated and some unrated businesses where it is felt that controls are likely to be robust and more than adequate will be carried out by environmental health officers during their food hygiene inspections. These businesses are referred back to Trading Standards as necessary. Trading Standards is generally intelligence led. Analysis has identified that the main areas of concern for food standards reside in catering premises, particularly in addressing concerns on allergens, presence of illegal or

restricted colours and the adulteration or substitution of food. The service continues to participate in coordinated operations and enforcement in the field of food supplements, an area that is complex and has been the subject of numerous food safety warnings. Consequently, the department is directing resources to this area.

Progress on interventions and quality checks are monitored by the Trading Standards Team Leader via spot checks, accompanied visits, annual appraisals and quarterly staff review meetings.

### **2.3 Feed Standards : Planned Inspections**

Feed enforcement within Wales is funded directly by the Food Standards Agency, and administered by the Welsh Heads of Trading Standards (WHOTS). Wales is divided into regions, Neath Port Talbot and Swansea form one of these regions. Co-ordination across the Swansea / Neath Port Talbot area is delivered by an officer from Swansea Trading Standards, the Trading Standards Team Leader in Neath Port Talbot acts as liaison with Swansea.

The feed inspection and sampling programme is drafted by WHOTS and the FSA based on the feed registers from each authority. The FSA categorises feed businesses by feed registration and approval type. These businesses are required to be inspected during the forthcoming year. Each region is expected to carry out interventions at those premises.

Neath Port Talbot and Swansea met their feed inspection targets last year. Whilst there were in-year changes to the registration and approval register, replacement businesses were identified for inspection with agreement from the FSA.

| <b>Type of Business: Feed Standards</b>   | <b>Allocation for NPT from region</b> | <b>Inspected by NPT</b> |
|---|---------------------------------------|-------------------------|
| Manufacturer A01-08 & R01-04  | 1                                     | 2                       |
| Co Product Producer R12   | 4                                     | 2                       |
| Mobile Mixer R04  | 0                                     | 0                       |
| Importers   | 0                                     | 0                       |
| Stores R09 includes Amazon, Briton Ferry Stevedoring, Cimla Equestrian Centre, remaining ones are farms | 1                                     | 0                       |
| Distributor A01-08, R01-03 & R05  | 2                                     | 2                       |
| Transporter R08 No transporters in NPT  | 1                                     | 0                       |
| On Farm Mixer R10 (Annex II)  | 1                                     | 0                       |
| On Farm Mix R11   | 0                                     | 1                       |
| Pet Food Manufacturer R06   | 1                                     | 1                       |
| Supplier of feed materials/Surplus Food R07   | 0                                     | 6                       |
|   |                                       |                         |
| <b>Total "Above The Line"</b>   | 11                                    | 14                      |
|   |                                       |                         |
| <b>Livestock farms R13</b>  | 35                                    | 32                      |
| Arable Farms  | 0                                     | 1                       |
|   |                                       |                         |
| <b>Total Premises to inspect</b>  | 46                                    | 47                      |

The service met its feed inspection commitment for 2018/19. There were in year changes of functions and some premises had closed which accounts for the disparity in targeted premises and those that had actually been inspected.

There have been issues with the delivery of the feed enforcement service across Wales, but nothing specific to Neath Port Talbot / Swansea. There are regular discussions on restructuring the arrangements, but nothing has been confirmed as yet. Any changes to delivery arrangements would take effect from April 2020 at the earliest.

### **3.0 Samples:**

#### **3.1 Food Hygiene:-**

Samples were mainly taken in accordance with the National Sampling priorities, as agreed via the Welsh Food Microbiological Forum (WFMF). Additionally, local sampling initiatives were undertaken to increase the monitoring of locally available products, and to maximise the benefit of sampling allocations - in conjunction with Wales Public Health Laboratory, based at Glangwilli Hospital, Carmarthen. During the period 1/4/2018 - 31/3/2019, 275-samples were taken, of which 165 were Satisfactory; and 72 were classed as Borderline (but not a fail), and 38 were Unsatisfactory. Satisfactory samples do not attract any further action.

All borderline samples are followed up with an advisory letter to encourage reviews of pertinent controls, such as temperature controls; stock rotation; handling practices.

All unsatisfactory results are subject to follow up actions ranging from providing advice regarding improvements to undertake, together with further sampling, through to removing products from sale and taking robust enforcement action.

#### **3.2 Food Standards**

The Trading Standards Team Leader stood down as chair for the Glamorgan Food Group following arranging 2019/20 sampling programme. The Senior TSO will now represent the authority on the group.

Sampling initiatives are intelligence led, and last year focussed on:

- **Acrylamide survey** Commission Regulation (EU) 2017/2158 took effect from April 2018. Acrylamide is a chemical substance formed when starchy foods, such as potatoes and bread, are cooked at high

temperatures (above 120°C). It has been linked to cancers in small animals. No significant breaches were detected locally.

- **Colours and description at takeaways.** Intelligence indicates that non permitted colours and substitution and mis-description of food at catering establishments is still a problem. A number of breaches have been detected locally and these are currently being investigated.
- **Food Supplements.** Significant numbers of infringements have been detected in this area, from labelling to composition including the presence of banned substances. The nature of the manufacture and distribution of these products in gyms, health clubs and the internet has meant that they can be difficult to detect. Potentially there is a significant health risk associated with these products. There have been some breaches related to labelling that has been referred on. Where previously undetected businesses have been identified, they will be subject to sampling.
- There was also a free cross border allergen training event, jointly held by Swansea and Neath Port Talbot in the Guildhall in Swansea. Take up by NPT Food Business Operators was poor, this has been put down in part to a failure to publicise extensively and as well as the time and location of the venue. It is agreed that these events are useful and these issues will be addressed at the next event.
- The authority participated in a national survey of local meat product suppliers. 4 samples were taken, no significant breaches were detected.
- Finally, the authority also participated in the OPSON this year. OPSON is an annual intelligence led, European wide food survey, which this year focussed on organic claims at local producers. No infringements were detected.

- The department also participated in joint inspections with Food hygiene to promote greater understanding of each discipline and to encourage sharing of information, these were successful and will be a more regular event in the future.

Sampling and any subsequent investigations are monitored by the Trading Standards Team Leader and Senior Trading Standards Officer via spot checks, annual appraisals and quarterly staff review meetings.

### **3.3 Feed Standards**

The new regional co-ordinated framework agreement has led to more support being available for taking samples. As part of the regional sampling programme and in line with the national priorities for sampling, the service took 3 samples. The samples were taken to identify levels of carcinogenic mycotoxins in farm feed, and animal proteins of former foodstuffs redirected to animal feed. There were no sample failures.

## **4.0 Service requests / reactive work:**

### **4.1 Food Hygiene:-**

Service requests- all types = 802

Of which:-

FNA (Food new business- advice for speculative start-up) = 29.

FNB (Food new business- advice & advisory interventions prior to trading) = 118.

FNC (Food new business- trading) = 37.

Also, the Food & Health Protection service received the following:-

Infectious Diseases- notifications of cases/incidents = 280.



Whilst target response times have been established for all service requests, a further analysis will be undertaken to ensure that they remain fit for purpose, and that prioritisation of resources (in accordance with lean systems principles) will ensure the best utilisation of resources, whilst managing expectations of service requestors.

#### **4.2 Food & Feed Standards**

The department received 7 requests for food advice last year that were not as the result of an intervention. These varied from business start-ups to specific issues.

There were no requests for feed advice.

Through the Citizens Advice Consumer Service (CACS) and other means, the department received 54 food complaints during 2018/19. Most of the complaints related to the sale of out of date food (best before and use by), however there were an increasing number relating to allergen declaration. The businesses were advised and follow action taken as appropriate. No feed complaints were received.

The department received 153 food alerts. The majority of these were allergy alerts, regarding food that failed to declare the presence of an allergen or did not display the presence prominently enough. As with Food hygiene these are mainly dealt with by support staff. Where necessary they will be escalated by the Trading Standards Team Leader. No feed alerts were received.

Requests for advice and complaints are fed into the authority's intervention plan which in turn leads to the identification of priorities and work areas for the forthcoming year.

Response times and investigations / advice are monitored by the Trading Standards Team Leader and Senior Trading Standards Officer via spot checks, annual appraisals and quarterly staff review meetings.

## **5.0 Promotional work:**

### **5.1 Food Hygiene promotional work:-**

The service was able to use various social media platforms to pass on messages relating to food safety topics- particularly the re-tweeting of information from the Food Standards Agency and the promoting of food hygiene premises which gained a 5 rating.

## **5.2 Food Standards Promotional work:-**

The section has assisted other departments in promoting business support and advice sessions by contacting local FBOs (Food Business Operators) to raise awareness of planned events.

In conjunction with Swansea Trading Standards and the Food Standards Agency, the department ran allergen training events aimed at caterers at the beginning of the year.

The service has access to the EH&TS social media accounts and is active in promoting consumer, business advice and Trading Standards activity and enforcement.

The service also had a high-profile prosecution of Marley Foods Cwmgors Limited in conjunction with food hygiene, and press releases were issued as a result. :

[Marley Foods Cwmgors Press Release](#)

## **5.3 Feed Standards Promotional Work**

New feed businesses are regularly identified and contacted to ensure that they are properly registered.

## **6.0 Primary Authority:**

### **6.1 Food Hygiene, Food Standards and Feed Standards-**

The Primary Authority scheme is UK wide and each LA must have regard to any established partnerships between businesses and regulators. Whilst currently there are no food business partnerships which NPT are responsible for, there are many which NPT must have regard to during the inspection of premises within the borough.

Where such partnerships exist, and cover businesses operating with NPTCBC, the service liaises with the relevant LA's to give general feedback following inspections which are subject to an agreed (UK wide) inspection plan, and specific feedback where breaches are detected.

NPT Trading Standards have embarked on their first Primary Authority relationship. This is with a non-food business. The service is now looking to expand its portfolio to English based companies seeking Welsh partners for devolved matters and local businesses that will benefit from the arrangement.

## **7.0 Safety Incidents:**

### **7.1 Food hygiene:-**

No food safety incident reports (e.g. withdrawals) necessitated initiation by EH of NPTCBC.

All notifications of withdrawals requiring specific action are prioritised.

### **7.2 Food Standards**

No food safety incident reports (e.g. withdrawals) necessitated initiation by TS of NPTCBC.

All notifications of withdrawals requiring specific action are prioritised.

### **7.3 Feed Standards**

No Feed safety incidents were recorded.

## **8.0 Staff Development / Training / Continuing professional development:**

### **8.1 Food hygiene:-**

All staff have achieved their expected CPD (which has been set at a minimum of 10 hours per calendar year, although this is due to change to 20 hours p.a. next year); additionally:

1 officer (REN) continued a secondment in the General EH team until Dec 2018, to deal with workload pressures. A second officer post has been seconded into the General EH team for 18 months to coincide with a project on Empty Homes.

The team has continued to implement the findings of the Food Service system review, including the closer working relationship with Trading Standards in respect of combining certain Food Standards inspections and the Agile working pilot. Five members of staff within the General Environmental Health team obtained the certificate of Registration of the Environmental Health Registration Board (EHRB). EHRB is a requirement under the Food Law code of Practice for Officers to be able to inspect Food businesses for food hygiene purposes. This gives the service greater flexibility to allocate staff resources for food hygiene if required.

### **8.2 Food Standards**

All food qualified officers met their required 10 hours CPD in 2018/19. Training was achieved by a combination of courses run by the Food Standards Agency, Welsh Heads of Trading Standards, online courses run by the FSA and workshops run within Neath Port Talbot. The CPD requirement has recently been revised to 20 hours, which includes active enforcement.

### **8.3 Feed Standards**

Only one member of the team met their required 10 hours CPD in 2018/19. This was due to a lack of opportunities for training. This has been identified by the Trading Standard Team Leader and Senior Trading Standards Officer who have already begun a programme of in house seminars to address the issue. One seminar was held in April, and another is due in August. The FSA has provided more training courses since the 1<sup>st</sup> of April, consequently CPD requirements should be met for 2019/20.

Two officers carry out the feed inspections on farms which is the bulk of the enforcement programme, these officers are required to be competent, but don't necessarily need a specific qualification. There are a smaller number of feed inspections at factories and stores that need to be carried out the TSOs who are specifically qualified.

### **9.0 Monitoring:**

#### **9.1 Food hygiene monitoring:-**

LAEMS (Local Authority Electronic Monitoring System) data is provided annually to the Food Standards Agency - which gives detailed information on the key performance statistics for each Council across the UK, for submission to EU. The detail covers areas such as: intervention totals and by risk category; enforcement actions; number of premises by type and risk categorisation; samples taken; staffing levels; certain service requests etc. On a quarterly basis key performance indicators are reported to Scrutiny Committee and the associated Cabinet Board, and are publically available. Line managers keep track of inspection targets, and the reactive workloads on a monthly basis, or more frequently when required.

## **9.2 Food & Feed Standards monitoring:-**

LAEMS data is provided annually to the Food Standards Agency - which gives detailed information on the key performance statistics for each Council across the UK, for submission to EU. The detail covers areas such as: intervention totals and by risk category; enforcement actions; number of premises by type and risk categorisation; samples taken; staffing levels; complaints etc.

Each officer's intervention programme is set at the beginning of the year. This is reviewed and updated during the relevant officer's quarterly review. Section progress is checked on a quarterly basis, key performance indicators are reported to Scrutiny Committee and the associated Cabinet board, and are publically available.

The TS Team Leader and Senior Trading Standards Officer monitors officer inspection targets and reactive workloads formally during the quarterly review. If issues with performance are identified, this frequency is increased. Food / Feed Aide Memoires and post inspection reports are reviewed by the Trading Standards Team Leader and Senior Trading Standards Officer.

Feed standards inspections progress is fed back to WHOTS and the FSA via the regional lead officer, based in the City & County Of Swansea. The Trading Standards Team Leader and regional lead identify and address issues with performance against the inspection programme

## **10.0 Review of Policies/Procedures**

### **10.1 Food Hygiene / Food Standards / Feed Standards:**

All major food policies and procedures are kept under review, with in-year updates made when necessary. This year the enforcement policy and infringements reporting procedure have also been amended.

Following a systems review of the services, the food hygiene and trading standards services have become the pilot for “agile working” within the authority. This has meant a change from paper based to digitally based recording, officers not requiring fixed desks and working remotely, which has introduced new challenges for management and support services. The two services are trialling different means of recording interventions electronically it is anticipated that by 2020/21 one of these systems will be formally adopted. Despite some technical and cultural issues, the pilot has been seen as a success and will be developed further.

In light of mounting budgetary pressures, a new Policy for charging for Business Advice was introduced.

## **11. Conclusions**

Food hygiene, and Food & Feed standards enforcement remains a priority for the service.

Food hygiene inspection resources were prioritised on undertaking all high risk food premises. The broadly compliant indicator remains consistently high - this is a National Performance Indicator. National and local food sampling initiatives were carried out throughout the year, and we will continue to make use of sampling resources made available.



The section will continue to exploit the regional connections that have been forged in respect of feed delivery.

Regional working and intelligence gathering should continue to be developed and there are clear priorities for the service in relation to both food and feed and these need to be addressed, but without ignoring other issues that are appearing on the horizon, such as EU Exit.

**12. Review of report by Head of Service**

I have reviewed and approve of this report.

A handwritten signature in black ink, appearing to read "Nicola Pearce", is written on a white rectangular background.

**Nicola Pearce**  
**Head of Planning and Public Protection**

This page is intentionally left blank



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

### Regeneration and Sustainable Development Cabinet Board

6th September 2019

#### Report of the Head of Legal Services : Craig Griffiths

#### Matter for Decision

#### Wards Affected:

Tonna

**Report Title** Alleged public footpath from Parkfield to the adopted footpath linking Dulais Fach and Park Street. Community of Tonna.

#### 1.1 Purpose of the Report:

To determine an application which alleges the existence of a public footpath commencing at its eastern end on Parkfield, Tonna, between the properties of No. 14 Parkfield and Cysgodfa, (a residential home) to join another footpath already on the list of streets, shown A-B-C on the attached plan. If agreed the Council would make a modification order to add the path to the Definitive map and Statement which is the record of public paths.

The alleged public footpath is 24 metres in length but the steps which enabled people to walk down a slope from points B-C became buried under stone and rubble between the two adjacent walls in March 2018. A retaining wall approximately 2 metres was also built across the entrance to the steps at point C, the result of which meant that the path became unsafe to use.

#### 2.1 Executive Summary:

---

[www.npt.gov.uk](http://www.npt.gov.uk)

Pennaeth Gwasanaethau Cyfreithiol  
Y Ganolfan Ddinesig, Port Talbot SA13 1PJ  
DX 135226 Port Talbot 2

Head of Legal Services  
Civic Centre, Port Talbot, SA13 1PJ  
DX 135226 Port Talbot 2

The Board is under an obligation to make a decision upon the impartial analysis of the evidence before it. The report initially considers the legal tests that have to be applied before looking at the evidence in support of the application as well as the objections made by Tai Tarian. Further information is provided as to why the public say they use the path, before the reasons are listed as to why it is recommended that a modification order is made to recognise the path as a public right of way.

### **3.1 Background**

The application has been made under the provision of the Wildlife and Countryside Act 1981 and a copy of the relevant provisions of the Act are reproduced in Appendix 1 of this report.

3.2 There are 22 people who have submitted user evidence forms in support of this claim, 9 of whom have been interviewed. The average length of use is 33 years with 19 having claimed to have walked this path for at least 20 years.

3.3 There are specific legal tests that have to be satisfied in order for the application to be agreed.

### **3.4 The Law**

For the purpose of this report it should always be noted that under Section 31 of the Highways Act 1980 (the relevant extract of which is reproduced at Appendix 2) any minimum period of 20 years of uninterrupted use, 'could give rise to the presumption that the owner or owners of the land has dedicated the path to the public.'

3.5 In addition to the statutory provisions referred to above, there may be common law provisions to take into account, where any period of use, whether it be less or more than 20 years could be deemed sufficient to

establish there has been a dedication of that path to the public. Whilst there is no minimum period required to infer common law dedication, there would nonetheless have to be a reasonable period of use to be able to conclude that the way has been dedicated to the public. In addition there needs to be evidence of positive actions by the landowner/s that shows there was an intention to dedicate and that the public have used the way which is consistent with an acceptance of that dedication (further details of the application of the principals of common law are found in Appendix 3)

- 3.6 The ownership of the path between points A and B is unregistered but the steps between points C and B are partly owned by Tai Tarian who own and manage Cysgodfa, and partly by the owners of No. 14 Parkfield, the adjacent property.
- 3.7 The path was closed by Tai Tarian and the reasons given were that the path was in poor and dangerous condition, was steeply inclined and had no lighting. In addition, that there would be a cost to improve and maintain the path.
- 4.1 The tests to be applied in determining this application are as follows:
  - (a) Whether there has been a minimum period of 20 years uninterrupted use prior to the first occasion the public's alleged right to use the way was challenged. This is known as the relevant period and is calculated by counting retrospectively from the date. If there is no clarity on this date, then the date of the application will be deemed to be the end of the 20 year period.
  - (b) Whether as outlined in paragraph 1.5 there is evidence of common law dedication.
- 1.2 Issues such as the convenience of the path to users or whether it would provide a useful amenity of use of recreational value to the public are not grounds for recognising the path as a public one. Conversely, if the registration of the path were to prove inconvenient or problematic to the owners, this would not be a relevant consideration. It is a question as to

whether the public have the right to pass and re-pass on foot via the route concerned.

### 1.3 The relevant tests are:

Whether a public right of way can be shown to exist:

- (a) On the balance of probability, or
- (b) That it is reasonable to allege one exists

In the case of (a) it would require weighing up the evidence and deciding that it is more likely than not, such a public right exists. In the case of (b) this means that the Council has to conclude there is sufficient evidence to justify making a modification order rather than have to conclude a public path exists. It is therefore a less onerous test. The latter test is explained more fully in Appendix 4.

### 5.1 The Evidence

From the information provided by the 9 people interviewed the first occasion the alleged path was closed was in March 2018. House numbers 1-3 at Parkfield appear on the 1964 edition of the Ordnance Survey plans although no worn or marked paths appear on this edition. By the 1984 edition all the houses that exist today in Parkfield are shown on this later plan. It includes the residential home of Cysgodfa as well as the claimed public path including a series of lines denoting steps.

5.2 The applicant stated his house (No. 12 Parkfield) was completed in 1980 although the work on Cysgodfa was started in 1975 and all other houses were completed by 1980. Furthermore, the applicant alleges that the steps have been open since 1976 and were therefore installed as a short cut and of benefit to the residents of Parkfield.

5.3 Tai Tarian dispute this and contend as they were built for the residents of Cysgodfa. The steps provide access to the rear lane which is adopted providing access to local facilities.

- 5.4 The applicant has produced a copy of the plan produced by Neath Borough Council, showing the plots for the proposed development at Parkfield dated November 1974 (ref A283/1) which includes the footpath A-B-C.
- 5.5 However, this path was never adopted even though the much earlier footpath between Park Street and Dulais Fach Road, (shown as D-E) to which it connects, is included in the list of streets.
- 5.6 The applicant also wishes to point out that consent was granted to Neath Port Talbot Homes (the former owners of Cysgodfa) under reference 15/0040 in January 2015 for the 'renewal and alteration of existing supported housing unit with creation of 4 new units and new entrance.' That in the planning application form there was the question 'do the proposals require any diversion / extinguishment and / or creation of rights of way' to which the answer "no" was given. However, the path under consideration is not a registered public path and so at that time Tai Tarian would have been under no obligation to have sought such an order.
- 5.7 The creation of this path in 1976, would be interpreted as either initially to have been for the benefit of the new residents of Parkfield, or solely for the residents of Cysgodfa. Nonetheless, if the public subsequently make use of a path and there is sufficient evidence of uninterrupted use, then this can lead to the presumed dedication of that way.
- 5.8 There are only 6 households from Parkfield that have submitted user evidence forms. 11 households from other roads and streets have also claimed to have made long term use of this path. These streets are highlighted on plan No. 2, with the numbers of those who have provided evidence in support of the application quoted alongside the names of the streets.
- 5.9 Tai Tarian dispute the claim from a number of those living in Parkfield given the applicant can access the adopted path from the rear of the

applicant's property. 5 of the residents of Parkfield can access this lane from the rear of their properties and it is arguable that for 3 the claimed public path would not provide a shorter route.

- 5.10 The relevance of distinguishing between a limited number of residents confined to only one street as opposed to others who live further afield, is to ensure the claim does not reflect a special user group. It is necessary to be satisfied that the path is used by the public at large, rather than confined to a more limited number for whom it is solely a useful short cut. Appendix 5 contains a more detailed explanation. It can be seen from plan No. 2 that this path is used by the general public who as the forgoing account shows make use of it for a variety of reasons.

### **Reasons for using the path**

- 6.1 The 9 people interviewed were able to provide a more detailed account of why they would wish to use the path particularly those who do not live in Parkfield.  
5 said it had been a useful path to take their dogs for walks, either as part of a circular walk via the streets or more particularly to access the canal towpath. None of the persons live in Parkfield, one said her use extends over a period of 36 years having owned 3 dogs throughout this time. Another said she had owned dogs for 20 years. The access to the canal towpath is shown at point C.T.
- 6.2 Another 3, one of whom live in Parkfield, uses the path to access the towpath and the river for general walking; all claim to have done so in excess of 20 years.
- 6.3 3 people, who do not live in Parkfield said it has been useful to use the alleged path to visit friends or relatives, one of whom stated that she has a sister in Parkfield.
- 6.4 5 people, who also do not live in Parkfield said they used it as a short cut to go to what is now a Thai restaurant, formerly the Railway Tavern, (RT) also to go to the British Legion which is opposite this restaurant, or to go



to the former Dulais Rock public house (DR) on the A465. Another person who does live in Parkfield, stated that he has used the path regularly to go to the Tonna Rugby (RC) club and the Whittington Arms (WA) situated on Park Street. All such destinations are marked on plan No. 2.

- 6.5 2 people recalled a gate from some 20-30 years ago at the entrance to the alleged path at Parkfield but stated it was never locked. One recalled a notice requesting users be quiet for the sake of residents of Cysgodfa. The applicant wished to clarify that the gate was at point C at the lower end of the steps but agreed there was a notice as described.
- 6.6 2 people wished to point out that as far as they are aware there have never been any accidents on the path, nor acts of vandalism, and no evidence of any graffiti and so would challenge the suggestion the path had to be closed for safety reasons. (Their use spans the periods 1980-2018 and 1994-2018.)

### **Other Evidence**

- 7.1 Tai Tarian who closed the path have not provided any evidence that challenges the basis of the claim. One of the reasons given for its closure was that it was no longer safe, or needed, thus an acknowledgement it had been in use but no suggestion it was only used by the residents of Cysgodfa.
- 7.2 Tai Tarian deny they have ever taken any measures to encourage the public to use their path since their ownership of part of the path and the residential home. Their actions to close the path in 2018 being a further indication of their position. It is their view that the path would have been set out for the residents of Cysgodfa, and the provision of a handrail supports this view.  
Secondly, that the fact the steps were never adopted by the Council supports their view it was never intended for use by the public only for residents of Cysgodfa.

### **Financial Impacts**

8.1 No implications

### **Integrated Impact Assessment.**

9.1 A first stage impact assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, The Welsh language Standards (No.1) Regulations 2015, the Well-Being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

The first stage assessment has indicated that a more in depth assessment is not required. A summary is included below.

### **Valley Communities Impacts**

10.1 No Implications

### **Workforce Impacts**

11.1 No Implications

### **Legal Impacts**

12.1 Section 53 of the provisions of the Wildlife and Countryside Act 1981 places an obligation on the Council to continually review the entries in the Definitive Map and Statement. It must take into account any evidence not previously considered that shows the Map and Statement need to be modified. As part of that duty the provisions of Section 31 of the Highways Act 1980 also apply in this report, where the applicant relies on the presumed dedication of the way due to a minimum period of 20 years uninterrupted use.

### **Risk Management Impacts**

13.2 There are no risks associated with implementing this Council's statutory obligations. There are risks in not doing so, as the applicant could either refer the Council to the Welsh Ministers for failing to determine this

application or complain to the Ombudsman.

## **Consultation**

14.1 This item has been subject to external consultation.

## **Recommendation**

15.1 It is recommended that a modification order be made under the provision of the Wildlife and Countryside Act 1981 to add that length of footpath A-B-C to the Definitive Map and Statement and if no objections to confirm the same as an unopposed order.

## **Reasons for the Proposed Decision**

16.1

- (a) There is no counter evidence to question the application or to challenge that residents have been able to walk the path for the periods claimed.
- (b) The reasons for using the path are varied and supported from sufficient numbers who can be said to represent the public at large.
- (c) The map evidence shows the path has been in existence since at least 1984, taken together with the accounts of those in support of the application, shows the path has been available and in use since at least this date.
- (d) The photographs taken of the path before it was filled with stone and concrete, show a series of steps and handrail evidently supports the claim that these steps were intended for use whether;
  - (i) Exclusively for the residents of Cysgodfa or,
  - (ii) Intended for use by the wider public when the houses at Parkfield were completed.

Due to the supporting evidence it should be agreed that a public path exists on the balance of probability as referred to in paragraph 3.3 (a) and a modification order made to add this path to the definitive map and statement.

The decision is proposed for implementation after the three day call in

period.

## **Appendices**

- Appendix 1:** Wildlife and Countryside Act 1981  
**Appendix 2:** Highways Act 1980  
**Appendix 3:** Dedication under Common Law  
**Appendix 4:** The test under 53(b)(i) to the Wildlife and Countryside Act 1981

## **List of background papers**

File M08/72

Officer Contact:

Mr. Michael Shaw – Principal Solicitor – Litigation

Tel: 01639 763260

Email: [m.shaw@npt.gov.uk](mailto:m.shaw@npt.gov.uk)

## **Appendix 1**

### **Wildlife and Countryside Act 1981**

Section 53 Duty to keep the Definitive Map and Statement under continuous review.

(2) As regards every definitive map and statement, the surveying authority shall:

(a) As soon as reasonably practical after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in sub-section 3; and

(b) As from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.

(3) The events referred to in sub-section (2) are as follows:-

(a) the expiration, in relation to any way in the area to which the map relates of any period such that the enjoyment by the public of the way during that

period raises a presumption that the way has been dedicated as a public path or restricted byway;

(b) the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows:

- (i) that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A a byway open to all traffic;
- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
- (iii) That there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

## **Appendix 2**

### **Highways Act 1980**

Section 31. Dedication of way as a highway presumed after public use for 20 years.

Where a public way over land, other than a way of such a character that use of it by the public could not give a rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption of a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during this period to dedicate it.

For Section 31 (1) Highways Act 1981 to operate and give rise to a presumption of dedication the following criteria must be satisfied:

- (i) The physical nature of the path must be such as is capable of being a public right of way
- (ii) The use must be 'brought into question' i.e. challenged or disputed in some way

- (iii) Use must have taken place without interruption over the period of 20 years before the date on which the right is brought into question
- (iv) Use must be *as of right* i.e. without force, without stealth or without permission and in the belief that the route was public
- (v) There must be sufficient evidence that the landowner did not intend to dedicate a right of type being claimed  
Use must be by the public at large

### **Appendix 3**

#### **Dedication under Common Law**

No minimum period of use is required, but the claimants must show that it can be inferred by the landowners conduct, that he or she had dedicated the route. User of right, is not of itself necessarily sufficient, nor mere acquiescence by the owner under statute, twenty years, if proved to have been uninterrupted will be sufficient to show presumed dedication.

Under common law it is still possible that use was due to the landowners tolerance rather than because that landowner had intended to dedicate. Consequently, there needs to be evidence that the landowner (or owners) for whatever period is being considered, not only acquiesced to that use but either directly or indirectly took measures to facilitate public use.

Obviously, this means the landowners have to be identified and evidence that they wished to have the route dedicated to the public.

For the right of way to be established, it needs to be shown that it has been used openly as a right and for so long a time that it must have come to the knowledge of the owners that the public were using it as of right. Public user is no more than evidence which has to be considered in the light of all available evidence.

As a matter of proof at common law, the greater the length of user that



can be demonstrated the stronger the inference of dedication will usually be.

#### **Appendix 4**

##### **The test under 53(b)(i) to the Wildlife and Countryside Act 1981.**

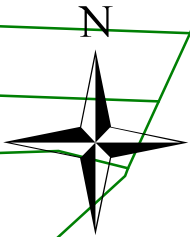
The second test under 53(b)(i) is whether it is **reasonable to allege a public path exists**. The Court of Appeal decision concerned R v Sec. of State for Wales ex parte emery of 1997, held this will depend on the circumstances. If the evidence from witnesses as to user conflicts with the evidence of the landowner/s on objections, but it would be reasonable to accept the evidence of uninterrupted use, and it would also be able to reject the evidence against the allegations, then it would be reasonable to allege such a right. So unless the objector can provide convincing evidence that it was not possible to conclude the paths had become dedicated then a modification order should be made and the evidence tested at a public inquiry.

However, in this example the landowners have not provided any evidence to challenge the claim.

This page is intentionally left blank

Cysgodfa

**Plan No..1**



PARK FIELD

**C** - - - - **B** - - - - **A**

Grid Ref SS 775991

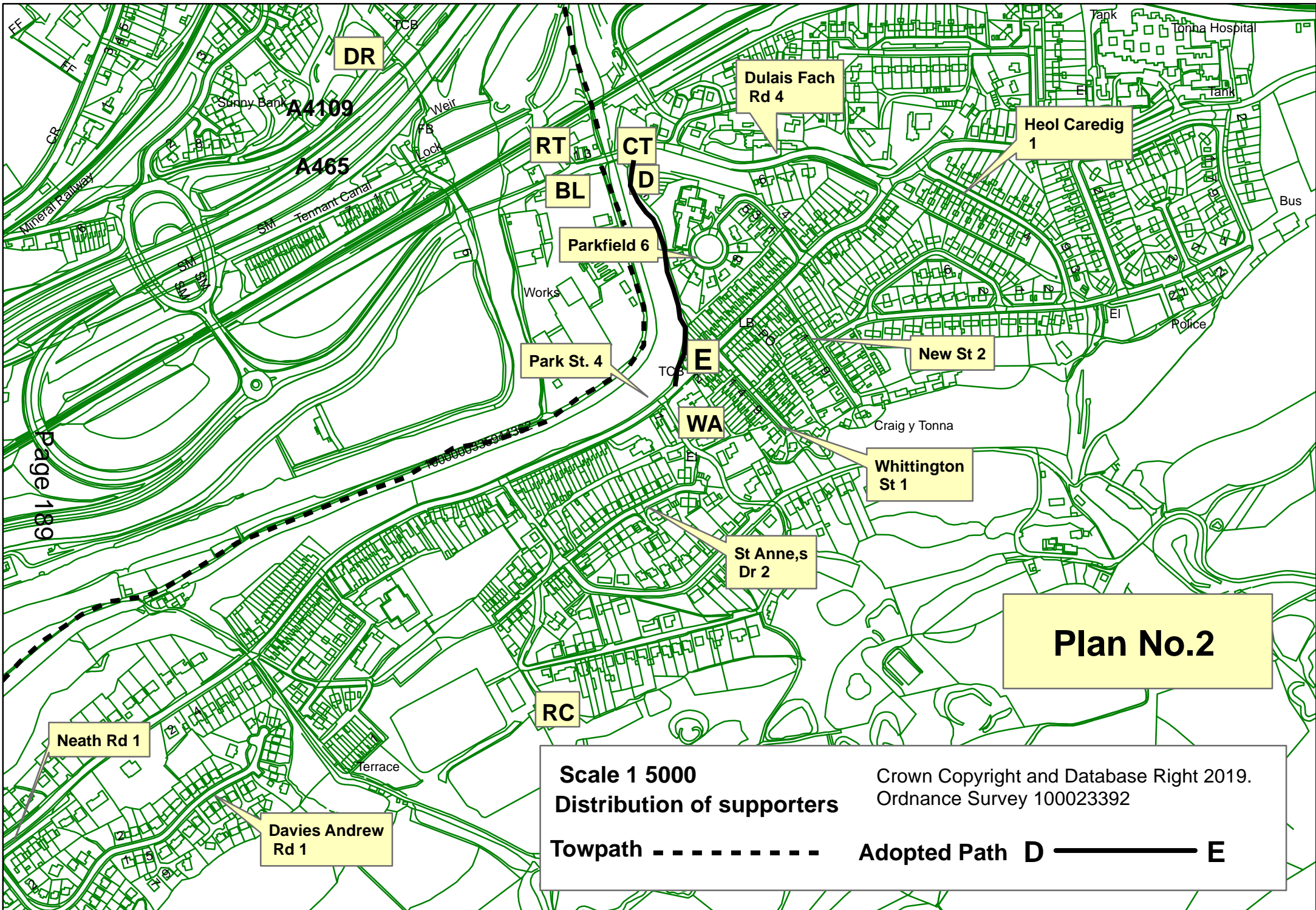
Crown Copyright and Database Right 2019.  
Ordnance Survey 100023392

Scale 1 :500

**Alleged Public Footpath**

**A - - - - B - - - - C**

This page is intentionally left blank



This page is intentionally left blank

## Impact Assessment - First Stage

It is essential that all initiatives undergo a first stage impact assessment to identify relevance to equalities and the Welsh language as well as an evaluation of how the proposal has taken into account the sustainable development principle (the five ways of working); an incorrect assessment could ultimately be open to legal challenge.

The first stage is to carry out a short assessment to help determine the need to undertake a more in-depth analysis (the second stage).

Relevance will depend not only on the number of people/service users affected, but also the significance of the effect on them.

When completing the first step you must have regard to the following:

- Does the initiative relate to an area where important equality issues have been, or are likely to be, raised? (For example, funding for services to assist people who are victims of rape/sexual violence or individuals with particular care need; disabled people's access to public transport; the gender pay gap; racist or homophobic bullying in schools)
- Is there a significant potential for reducing inequalities, or improving outcomes? (For example, increasing recruitment opportunities for disabled people).
- Does the initiative relate to instances where opportunities to use the Welsh language are likely to be affected or where the language is likely to be treated less favourably? (For example, increase the number of Welsh speakers moving from/to a certain area; closing specific Welsh language services or put those services at risk services;
- Does the initiative relate to the improvement of economic, social, environmental and cultural well-being? To what extent does the initiative prevent things getting worse? (For example, funding for services to assist in cultural well-being; changes in policies that promote independence and/or assist carers)

1. Provide a description and summary of the initiative.

Identify which service area and directorate has responsibility for the initiative.

2. Identify who will be affected by the initiative.

If you answer **Yes** to service users, staff or wider community continue with the first stage of the assessment

If you answer **No** to service users, staff or wider community or **Yes** to 'internal administrative process only', go to **Question 5 – sustainable development principle**.

3. Using relevant and appropriate information and data that is available to you think about what impact there could be on people who share protected characteristics; whether they are service users, staff or the wider community.

Some things to consider include:

- transport issues
- accessibility
- customer service
- cultural sensitivity
- financial implications
- loss of jobs

Definitions of impacts (either positive or negative):

- High – likely to be highly affected by the initiative
- Medium - likely to be affected in some way
- Low - likely to be affected by the initiative in a small way
- Don't know - the potential impact is unknown

You **must** provide reasons, and indicate what evidence you used, in coming to your decision.

4. Using relevant and appropriate information and data that is available, think about what impact there could be on opportunities to use the Welsh language and in treating the language no less favourably than English.

Definitions of impacts are the same as in **Question 3**.

The classification 'Don't Know' should be categorised as 'High Impact' in both questions 3 & 4.

5. Consider how the initiative has embraced the sustainable development principle in accordance with the Section 7c of the Well-being of Future Generations Act 2015.

Give details of the initiative in relation to the 5 ways of working:

- **Long term** - how the initiative supports the long term well-being of people
- **Integration** - how the initiative impacts upon our wellbeing objectives
- **Involvement** - how people have been involved in developing the initiative
- **Collaboration** - how we have worked with other services/organisations to find shared sustainable solutions;
- **Prevention** - how the initiative will prevent problems occurring or getting worse



6. The most appropriate statement must be selected (and the relevant box ticked) based on the first stage of the assessment and an explanation of how you have arrived at this decision must be given.
  - In addition a summary of the how the initiative has embraced the sustainable development principle must also be included.
  - Where the first stage of the assessment indicates that a more in-depth analysis is required the second stage of the assessment will need to be completed and this will need to be started immediately.
  - A first stage assessment must be included as a background paper for all Cabinet/Cabinet Board/ Scrutiny Committee Reports.
  - Where the first stage assessment is completed by an accountable manager it must be signed off by a Head of Service/Director.

## Impact Assessment - First Stage

### 1. Details of the initiative

|   |
|---|
| <b>Initiative description and summary:</b> To assess and evaluate an application to register a path at Parkfield Avenue, Tonna as a public right of way |
| <b>Service Area:</b> Legal Services   |
| <b>Directorate:</b> Finance and Corporate Services  |

### 2. Does the initiative affect:

|                                      | Yes | No |
|--------------------------------------|-----|----|
| Service users                        | x   |    |
| Staff                                |     | x  |
| Wider community                      | x   |    |
| Internal administrative process only | x   |    |

### 3. Does the initiative impact on people because of their:

|                     | Yes | No | None/<br>Negligible | Don't<br>Know | Impact<br>H/M/L | Reasons for your decision (including evidence)/How<br>might it impact?   |
|---------------------|-----|----|---------------------|---------------|-----------------|--|
| Age                 | x   |    |                     |               | L               | The effect of the proposed registration of the footpath would be to re-open a path which is presently closed. If the path was registered it would provide a short cut and convenient means of access for those who are supporting the application. |
| Disability          |     | x  |                     |               |                 | The proposed registration of the footpath would be to re-open a path which is presently closed and has no impact on this protected characteristic  |
| Gender Reassignment |     | x  |                     |               |                 | The proposed registration of the footpath would be to re-open a path which is presently closed and has no  |

|                            |  |   |  |  |  |  |   |
|----------------------------|--|---|--|--|--|--|---|
|                            |  |   |  |  |  |  | impact on this protected characteristic   |
| Marriage/Civil Partnership |  | x |  |  |  |  | The proposed registration of the footpath would be to re-open a path which is presently closed and has no impact on this protected characteristic |
| Pregnancy/Maternity        |  | x |  |  |  |  | The proposed registration of the footpath would be to re-open a path which is presently closed and has no impact on this protected characteristic |
| Race                       |  | x |  |  |  |  | The proposed registration of the footpath would be to re-open a path which is presently closed and has no impact on this protected characteristic |
| Religion/Belief            |  | x |  |  |  |  | The proposed registration of the footpath would be to re-open a path which is presently closed and has no impact on this protected characteristic |
| Sex                        |  | x |  |  |  |  | The proposed registration of the footpath would be to re-open a path which is presently closed and has no impact on this protected characteristic |
| Sexual orientation         |  | x |  |  |  |  | The proposed registration of the footpath would be to re-open a path which is presently closed and has no impact on this protected characteristic |

**4. Does the initiative impact on:**

|  | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence used) /<br>How might it impact?                        |
|--|-----|----|---------------------|---------------|-----------------|--|
| People's opportunities to use the Welsh language |     | x  |                     |               |                 | The proposal does not affect the ability for using the Welsh Language as it relates to access rights |
| Treating the Welsh                               |     | x  |                     |               |                 | The proposal does not affect the ability for using the   |

|  |  |  |  |  |  |  |   |
|--|--|--|--|--|--|--|---|
| language no less favourably than English |  |  |  |  |  |  | Welsh Language as it relates to access rights |
|--|--|--|--|--|--|--|---|

**5. Does the initiative impact on biodiversity:**

|  | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence) /<br>How might it impact?                                  |
|--|-----|----|---------------------|---------------|-----------------|---|
| To maintain and enhance biodiversity   |     | x  |                     |               |                 | The proposal has no affect on biodiversity given it is concerned with re instating existing access rights |
| To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc. |     | x  |                     |               |                 | The proposal has no affect on biodiversity given it is concerned with reinstating existing access rights  |

**6. Does the initiative embrace the sustainable development principle (5 ways of working):**



|   | Yes | No | Details   |
|---|-----|----|---|
| <b>Long term</b> - how the initiative supports the long term well-being of people | x   |    | The initiative supports the long term wellbeing of people by ensuring that modification orders are correctly introduced and implemented only when they can be justified and that resources are appropriately used in the provision of legal services to the Council and therefore the wider community |

|  |   |  |   |
|--|---|--|---|
| <b>Integration</b> - how the initiative impacts upon our wellbeing objectives                                    | x |  | The initiative will further allow the focusing of existing human and financial resources upon the 3 wellbeing objectives by ensuring that modification orders are correctly introduced and implemented only when they can be justified and that resources are appropriately used in assessing and evaluating them |
| <b>Involvement</b> - how people have been involved in developing the initiative                                  | x |  | The initiative builds upon the consultation and evidence gathering with all the stakeholders concerned, before coming to a recommendation.  |
| <b>Collaboration</b> - how we have worked with other services/organisations to find shared sustainable solutions | x |  | This Authority has ensured all those who have an interest in this initiative have been given an opportunity to provide their views and any evidence they considered relevant  |
| <b>Prevention</b> - how the initiative will prevent problems occurring or getting worse                          | x |  | This initiative will reconcile the problem that has occurred since access was blocked.  |

**7. Declaration - based on above assessment (tick as appropriate):**

|  |   |
|--|---|
| A full impact assessment (second stage) is not required  | x |
| Reasons for this conclusion  |   |
| Based upon the above assessment a second stage impact assessment is not required as the initiative does not negatively impact on any of the protected characteristics, or the Welsh Language, or biodiversity and embraces the sustainable development principle |   |

|   |  |
|---|--|
| A full impact assessment (second stage) is required |  |
| Reasons for this conclusion                         |  |

|               | Name            | Position                       | Signature   | Date           |
|---------------|-----------------|--------------------------------|---|----------------|
| Completed by  | Mike Shaw       | Principal Solicitor Litigation |  | 28 August 2019 |
| Signed off by | Craig Griffiths | Head of Legal Services         |  | 28 August 2019 |



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

### Regeneration and Sustainable Development Cabinet Board

6<sup>th</sup> September 2019

#### Report of the Head of Legal Services : Craig Griffiths

#### Matter for Decision

#### Wards Affected:

Bryn and Cwmavon

#### Report Title Alleged public Bridleway from Dan-Y-Bont (Pontrhydyfen) to Main Road, (Efail Fach) Communities of Pelenna and Cwmavon.

#### 1.1 Purpose of the Report:

This Council is required to determine this application that has been made to recognise and thereby register a public Bridleway in its Definitive Map and Statement.

#### 2.1 Executive Summary:

The Board is under an obligation to make a quasi-judicial decision on the application and by definition come to an impartial decision. The report initially considers the legal tests that have to be applied, the user evidence in support of the claim and the evidence against the application.

#### 3.1 Background

- 3.1.1 An application was made in 2017 to register a public bridleway along the disused railway cutting shown between points A and D on the attached plan. Towards

---

[www.npt.gov.uk](http://www.npt.gov.uk)

Pennaeth Gwasanaethau Cyfreithiol  
Y Ganolfan Ddinesig, Port Talbot SA13 1PJ  
DX 135226 Port Talbot 2

Head of Legal Services  
Civic Centre, Port Talbot, SA13 1PJ  
DX 135226 Port Talbot 2

its southern end at point A1, some 75 metres north of the B4286 in Pontrhydyfen at point A, access is via a kissing gate, field gate and motorcycle barrier. The path varies in width along its length between 3 and 7 metres. At the northern end of this path access to point D is obstructed by a pig wire fence and one strand of barbed wire at point C, although an alternative entry and exit point has been provided from E-F. There is also a motorcycle barrier and kissing gate at point F.

- 3.1.2 The majority of the land containing the route is under the management of Natural Resources Wales.(NRW) The National Assembly for Wales (NAW) hold a lease of the land between points A and B which they acquired on the 30<sup>th</sup> March 1960. In addition the NAW obtained the freehold between points B and C on the 15<sup>th</sup> September 1970 The section between points C and D is under the ownership of the owners of a nearby property which was purchased by them in 2008.
- 3.1.3 The claim has been supported by 21 people, 10 of whom stated they have each ridden horses for at least 20 years. 18 claim to have also walked the route as well as ride and 9 who state they have only walked the route.
- 3.1.4 The application is therefore based on there having been a sufficiently long period of uninterrupted use which would imply the route has been dedicated to the public. Usually with such applications it is necessary to determine whether a minimum period of 20 years uninterrupted use has been enjoyed by the public to satisfy the provisions of Section 31 of the Highways Act 1980. (The relevant extract is contained in Appendix 1 of this report)

#### **4.1 The Legal Tests**

- 4.1.1 The provisions of the Wildlife and countryside Act 1981 places an obligation on this Council to keep its record of public rights of way up to date. (Appendix 2). This requires the Council to investigate any evidence that is submitted which shows the status claimed is reasonable as well as any other rights that may exist from the evidence that has been submitted. There are two tests to consider in relation to a possible bridleway in the first instance and additionally a possible footpath.



- (a) Is it reasonable to allege such a public right exists or
- (b) Whether on the balance of probabilities such a public path exists

The distinction between (a) and (b) above is set out in Appendix 3

## **5.1 The Relevant Twenty Year Period**

5.1.1 Given the application is based on long term use the provisions of section 31 of the Highways Act 1980 would usually apply. The applicant must be able to show there had been a minimum period of 20 years which has been continuous and uninterrupted. That 20 year period is calculated by determining the first occasion the alleged right of the public's use of the path was called into question. That occasion could be identified for example by:-

- (a) The placing of an obstruction such as a locked gate or fence across the way.
- (b) A notice clearly stating that the landowner has no intention to dedicate the path as a public one.
- (c) The date of the application unless one of the above two examples can be shown to have arisen prior to the application date.

5.1.2 Section 31 of the Highways Act 1980 does not apply to Crown Land and NRW object on the basis that this is the case here. Section 57(2) to the provisions of the Government of Wales Act 2006 states that the Welsh Ministers functions are exercisable on behalf of Her Majesty. Furthermore, that under Section 293 to the Town and Country Planning Act 1990, the Crown's interest is defined as belonging to Her Majesty. Consequently, the freehold and leasehold interest is held under the Welsh Ministers and so the provisions of Section 31 of the Highways Act 1980 cannot apply to this particular application from 1960. Therefore any use that can be claimed under section 31 of the Highways Act

1980 would have to be able to show uninterrupted use from 1940-1960, this being defined as the relevant period.

5.1.3 With regard to the land that is under a lease, the previous Forestry Commission was an example of a Crown Body responsible for the management of the Estate. In 2013 N R W was formed from what was the Forestry Commission for Wales, the Countryside Council for Wales and the Environment Agency for Wales, so that even the land under a lease to NRW on behalf of the Welsh Ministers would be exempt from the provisions of Section 31 of the Highways Act 1980.

5.1.4 In addition the land under the ownership of the Welsh Ministers B-C, was also dedicated in 2005 as Access Land under the provisions of the Countryside and Rights of Way Act 2000. This also prohibits the application of Section 31 of the Highways Act 1980.

## **6.1 The user Evidence**

6.1.2 Of the 6 people interviewed none can claim to have ridden this route throughout the relevant period. In addition two stated that they used a key to open an earlier gate at the southern end up until approximately 2010. A third person estimated this earlier locked gate was removed sometime between 1993 and 1998 and the fourth could not provide an estimate as to when this earlier gate was replaced by the current set of barriers. He stated that it was many years ago. N R W have not been able to make any comment on this earlier gate as to when it was installed or removed.

6.1.3 The only other means by which this application can be considered valid is to consider whether under common law there would be sufficient evidence to show that the land has been dedicated to the public as a bridleway. Appendix 4 provides a summary of the relevant tests to be considered. The period of use can be greater or less than 20 years and whilst there is no minimum period required, there should be a reasonable period of use to be able to conclude that the way has been dedicated. There should also be evidence that the landowners concerned have taken specific measures to encourage and facilitate use so it is not sufficient to simply infer the owners have acquiesced to that use.

## **7.1 Possible dedication of a public bridleway under Common Law**

- 7.1.2 The land is managed and under the ownership of two bodies. NRW being one, who provide structures to enable horse riders, pedestrians and cyclists access to access the southern end of the route. After the route became obstructed by a fence at point C, they also provided an alternative exit via point F using the similar arrangement of structures.
- 7.1.3 One person claimed that the NRW made provision for riding and walking according in 1995. According to another person the structures at point A1 were installed after the gate at Dan y Bont was removed in about 1993.
- 7.1.4 After 2005 the continued provision of these structures would have been in compliance with the Access Agreement, and so from this date it cannot be interpreted as evidence of a dedication under common law.
- 7.1.5 The owners of the land between the fence at point C and the road at point D, landscaped the site along with demolishing the former railway bridge. As a result access was blocked to the public highway from point C/D. According to the owners of the land immediately north of point C, the fence at this point was placed there by N R W However these two owners of the land wished to point out that they replaced the fence numerous times as it was being vandalised . It is evident therefore the current owners of this parcel of land had no wish to dedicate the route as a public bridleway.
- 7.1.6 In addition these two owners have submitted documents showing the conditions of the sale of the land in 1980 to their predecessors which required a fence be installed at point C. The previous owner confirmed that her husband (deceased) maintained this fence from their ownership of the land in 1980 until it was sold to the current owners. The previous owner also confirmed that the fence was periodically vandalised but that her husband repaired the fence as and when necessary. She stressed that they never allowed or gave permission to anyone to pass over their land. .
- 7.1.7 NRW evidently wish to ensure an alternative means of access and egress was made available for the public at the northern end of the path. Once this alternative was completed it appears this was used by the public, given the complaints over the loss of access from point C-D ceased.

- 7.1.8 Whilst the structures at either end of the path may imply NRW were willing to dedicate the route, the land under their management has also been the subject of a permissive access agreement between themselves and the British Horse Society, initially reviewed in 2006 and subsequently in 2013 with their predecessors the Forestry Commission Wales. This agreement has permitted access into their woodlands for non-commercial horse riders conditional upon there being no requirement to regulate access or restrictions as a result of title constraints, forest operations, environmental or any other issues. The concordat, as it is titled, requires the British Horse Society to publicise their open access schemes to its members through their newsletter, web sites and any other means that are available with links to the Forestry web site. It also provides a code of practice for horse riders using Welsh Government Woodland.
- 7.1.9 NRW has a web site which informs the public that horse riding is permitted in some of the woodlands managed by them. Certain woodlands are specified but do not include this particular route. Neither the British Horse Society Cymru nor the British Horse Society have anything on their current web notes regarding this concordat.
- 7.1.10 Use of a way can be “by right” on account of the public having been given permission to use the route or alternatively that use could be “as of right” if that use is deemed to have been dedicated by the owners of the land. Consequently much depends on whether those users were aware they were riding as a result of the existence of this concordat, even though there is no specific reference to this area of woodland in the web sites referred to above.
- 7.1.11 Two of the six people interviewed said they were aware of this concordat but five said they were not. However five had permits to ride in other areas of forestry land one of whom thought her permit also included the route being claimed. One of these five said he did not consider he needed permission to ride this path.
- 7.1.12 As indicated in paragraph 6.1.2, two people stated that up until 2010 there was a locked gate at point A1 for which they were given a key. Another person however estimated the locked gate was replaced by the current set of barriers and gates around 1993. Whilst a fourth person agreed there had been a locked

gate at this point many years ago, they could not provide an estimate of when it was replaced.

- 7.1.13 This highlights that access was only possible by permission if keys were needed to pass through this earlier gate. Secondly the issuing of permits and the existence of the concordat would throw some doubt as to whether it is possible to conclude there has been a dedication under common law.

#### **Possible dedication of a public footpath only under Section 31 of the Highways Act 1980**

- 8.1 There are 9 people who have also claimed to have walked this route as pedestrians for an average of 33 years two from as early as 1976.
- 8.2 As indicated above, due to the acquisition of the land in 1960 and becoming Crown land, irrespective of the access agreement also made of 2005, would result in the relevant period terminating in 1960. This means that any statutory claim under section 31 of the Highways Act 1980 would require continuous use from 1940-1960. There is no user evidence for this earlier period.

#### **Possible dedication of a public footpath under common law**

- 9.1 Finally there is the question of whether a dedication can be inferred under common law for a public footpath.
- 9.2 Whilst section 31 of the Highways Act 1980 does not apply to Crown Land it is still possible to consider a dedication under common law.
- 9.3 The issues concerning permits to ride would not preclude a dedication under common law of a public footpath, but the designation of Access Land would, as a result of S12 of the Countryside and Rights of Way Act 2000. That section stipulates that no claim under section 31 nor under common law will apply to designated Access Land.
- 9.4 Therefore any claim under common law for a public footpath would have to include a period after the locked gate at Dan Y Bont road was removed up until the designation of Access land in 2005.

- 9.5 Regarding this “window” of use there are conflicting accounts, two who stated the gate was there until 2010, another who estimated it was 1993 when it was removed and another who could not be specific.
- 9.6 Six people who claim to have walked this path were sent letters on two occasions and a seventh on four occasions in the hope that they would be able to clarify some of these details as part of the investigative process, but none responded.
- 9.7 Given the potentially limited period or “window” of use that could reflect such a dedication and the lack of response it is difficult to conclude that such a dedication under common law has taken place during this earlier period and therefore it should be concluded that any recognition of such a public footpath must be rejected.

## **Financial Impacts**

### **10.1 “No implications”**

### **11.1 Integrated Impact Assessment**

A First stage impact assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and Environment (Wales) Act 2016.

### **12.1 Valley Communities Impact**

No Implications

### **13.1 Workforce Impacts**

No Implications

### **14.1 Legal Impacts**

Any appeal lodged against a refusal to make a modification order would entitle the applicant to appeal to the Welsh Ministers. A decision to make a modification order would entitle any member of the public, including landowners to object, which would result in the order being referred to the Welsh Ministers for determination.

#### **14.1 Risk Management Impacts**

There are no risks associated with determining the application. There are however, risks if the matter is not determined as the applicant could either refer the application to the Welsh Ministers to seek a decision from them, or make a complaint to the Ombudsman.

#### **15.1 Consultation**

This item has been subject to external consultation.

#### **16.1 Recommendation**

That the application be rejected.

#### **17.1 Reasons for the Proposed Decision**

1. No claim can be made out for a public bridleway under section 31 of the Highways Act 1980 given the route has been on Crown land since 1960. There is no user evidence throughout the relevant period from 1940-1960.
2. No claim can be made out for a public bridleway under common law, due to the presence of a locked gate at the southern end of the route, the provision of keys for that gate to certain individuals and that permissive access has been granted since the removal of this locked gate.
3. Equally to point 1 above, no claim can succeed for a public footpath on the user evidence presented under section 31 of the Highways Act 1980 due to that use taking place on Crown land.
4. Lastly, for the reasons given in point 2 above, claims to establish the existence of a public footpath under common law would also have to show

the owner of the land took specific measures to expressly dedicate the path to the public. The existence of a locked gate and granting consent to users on foot does not establish such a presumption.

## **18.1 Implementation of Decision**

The decision is proposed for implementation after the three days call in period.

### **Appendices**

- Appendix 1:** Highways Act 1980  
**Appendix 2:** Wildlife and Countryside Act 1981  
**Appendix 3:** section 53 (b)(i) of the Wildlife and Countryside Act 1981  
**Appendix 4:** Dedication under Common Law

### **List of background papers**

File M08/69

### **Officer Contact:**

Mr. Michael Shaw – Principal Solicitor – Litigation  
Tel: 01639 763260  
Email: [m.shaw@npt.gov.uk](mailto:m.shaw@npt.gov.uk)



**APPENDIX 1**  
**HIGHWAYS ACT, 1980**

Section 31. Dedication of way as a highway presumed after public use for 20 years.

Where a public way over land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption of a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during this period to dedicate it.

For Section 31(1) Highways Act, 1981 to operate and give rise to a presumption of dedication the following criteria must be satisfied:

- the physical nature of the path must be such as is capable of being a public right of way
- the use must be 'brought into question', i.e. challenged or disputed in some way
- use must have taken place without interruption over the period of twenty years before the date on which the right is brought into question
- use must be *as of right* i.e. without force, without stealth or without permission and in the belief that the route was public
- there must be insufficient evidence that the landowner did not intend to dedicate a right of type being claimed
- use must be by the public at large

## APPENDIX 2

### WILDLIFE AND COUNTRYSIDE ACT, 1981

Section 53 Duty to keep the Definitive Map and Statement under continuous review.

- (2) As regards every definitive map and statement, the surveying authority shall:
  - (a) as soon as reasonably practical after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in sub-section 3; and
  - (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.
- (3) The events referred to in sub section (2) are as follows:-
  - (b) the expiration, in relation to any way in the area to which the map relates of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or restricted byway;
  - (c) the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows:
    - (i) that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A a byway open to all traffic;

- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description ,or any other particulars contained in the map and statement require modification.

### **APPENDIX 3**

The second test under (b) is whether it can be concluded the allegation of a P.R.O.W is reasonable.

The Court of Appeal decision concerning R v Sec of State for Wales ex parte Emery 1996, held this will depend on the circumstances. So that if the evidence from witnesses as to user conflicts with the objector's evidence, but it could be reasonable to accept evidence of uninterrupted use and also be able to reject the evidence against the allegation, then it would seem reasonable to allege such a right. In other words unless the objector can provide evidence that it was not possible to conclude the way had become dedicated, then an order should be made and the evidence tested at a public inquiry.

In example, in addition to the existence of the Access Agreement and Crown Land from 2005, the evidence from even those who interviewed indicated the route was obstructed by a locked gate for much of the time before 2005. Therefore it cannot be reasonable to allege a public bridleway or public footpath exists.

## **APPENDIX 4**

### **DEDICATION UNDER COMMON LAW**

No minimum period of use is required, but the claimants must show that it can be inferred by the landowners conduct, that he or she had dedicated the route. User of right, is not of itself necessarily sufficient, nor mere acquiescence by the owner. Under statute, twenty years, if proved to have been uninterrupted will be sufficient to show presumed dedication.

Under common law it is still possible that use was due to the landowners tolerance rather than because that landowner had intended to dedicate. Consequently there needs to be evidence that the landowner (or owners) for whatever period is being considered, not only acquiesced to that use but either directly or indirectly took measures to facilitate public use.

Obviously this means the landowners have to be identified and evidence that they wished to have the route dedicated to the public.

For the right of way to be established, it needs to be shown that it has been used openly as of right and for so long a time that it must have come to the knowledge of the owners that the public were so using it as of right. Public user is no more than evidence which has to be considered in the light of all available evidence.

As a matter of proof at common law, the greater the length of user that can be demonstrated the stronger the inference of dedication will usually be.

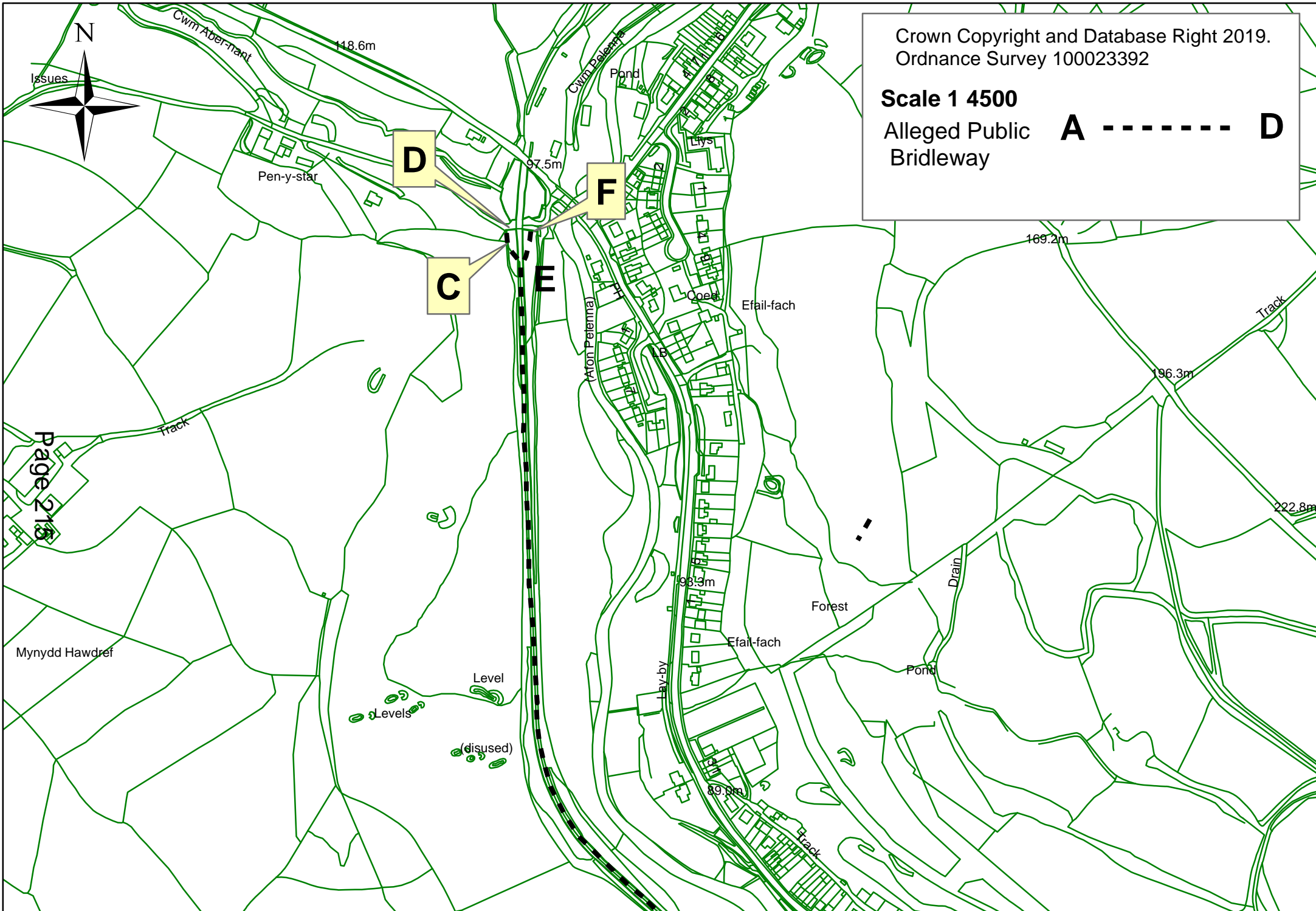
This page is intentionally left blank

Crown Copyright and Database Right 2019.  
Ordnance Survey 100023392

Scale 1 4500

Alleged Public  
Bridleway

A - - - - - D



This page is intentionally left blank

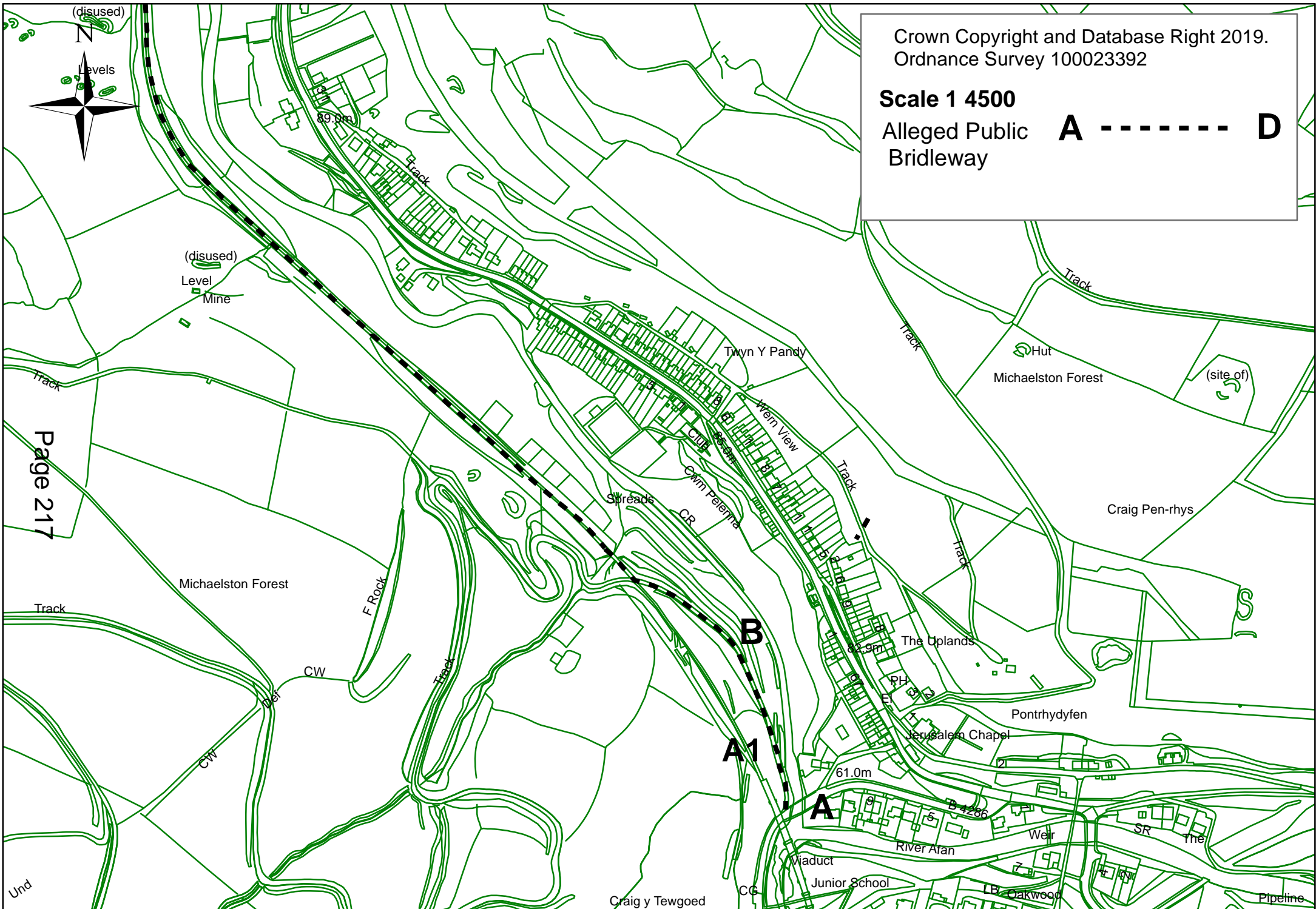


Crown Copyright and Database Right 2019.  
Ordnance Survey 100023392

Scale 1 4500

Alleged Public  
Bridleway

**A** - - - - - **D**



(disused)

N

Levels

89.0m

(disused)

Level

Mine

Page 217

Michaelston Forest

F Rock

Twyn Y Pandy

Wern View

Spreade

Cwm Penma

Hut

Michaelston Forest

(site of)

Craig Pen-rhys

Track

CW

CW

**B**

**A1**

**A**

82.9m

The Uplands

Ponrthydyfen

Jerusalem Chapel

61.0m

B 4286

River Afan

Weir

SR

The

Wia duct

Junior School

LB Oakwood

Craig y Tewgoed

CG

Pipeline

Und

This page is intentionally left blank

## Impact Assessment - First Stage

It is essential that all initiatives undergo a first stage impact assessment to identify relevance to equalities and the Welsh language as well as an evaluation of how the proposal has taken into account the sustainable development principle (the five ways of working); an incorrect assessment could ultimately be open to legal challenge.

The first stage is to carry out a short assessment to help determine the need to undertake a more in-depth analysis (the second stage).

Relevance will depend not only on the number of people/service users affected, but also the significance of the effect on them.

When completing the first step you must have regard to the following:

- Does the initiative relate to an area where important equality issues have been, or are likely to be, raised? (For example, funding for services to assist people who are victims of rape/sexual violence or individuals with particular care need; disabled people's access to public transport; the gender pay gap; racist or homophobic bullying in schools)
- Is there a significant potential for reducing inequalities, or improving outcomes? (For example, increasing recruitment opportunities for disabled people).
- Does the initiative relate to instances where opportunities to use the Welsh language are likely to be affected or where the language is likely to be treated less favourably? (For example, increase the number of Welsh speakers moving from/to a certain area; closing specific Welsh language services or put those services at risk services;
- Does the initiative relate to the improvement of economic, social, environmental and cultural well-being? To what extent does the initiative prevent things getting worse? (For example, funding for services to assist in cultural well-being; changes in policies that promote independence and/or assist carers)

1. Provide a description and summary of the initiative.

Identify which service area and directorate has responsibility for the initiative.

2. Identify who will be affected by the initiative.

If you answer **Yes** to service users, staff or wider community continue with the first stage of the assessment

If you answer **No** to service users, staff or wider community or **Yes** to 'Internal administrative process only', go to **Question 5 – sustainable development principle**.

3. Using relevant and appropriate information and data that is available to you think about what impact there could be on people who share protected characteristics; whether they are service users, staff or the wider community.

Some things to consider include:

- transport issues
- accessibility
- customer service
- cultural sensitivity
- financial implications
- loss of jobs

Definitions of impacts (either positive or negative):

- High – likely to be highly affected by the initiative
- Medium - likely to be affected in some way
- Low - likely to be affected by the initiative in a small way
- Don't know - the potential impact is unknown

You **must** provide reasons, and indicate what evidence you used, in coming to your decision.

4. Using relevant and appropriate information and data that is available, think about what impact there could be on opportunities to use the Welsh language and in treating the language no less favourably than English.

Definitions of impacts are the same as in **Question 3**.

The classification 'Don't Know' should be categorised as 'High Impact' in both questions 3 & 4.

5. Consider how the initiative has embraced the sustainable development principle in accordance with the Section 7c of the Well-being of Future Generations Act 2015.

Give details of the initiative in relation to the 5 ways of working:

- **Long term** - how the initiative supports the long term well-being of people
- **Integration** - how the initiative impacts upon our wellbeing objectives
- **Involvement** - how people have been involved in developing the initiative
- **Collaboration** - how we have worked with other services/organisations to find shared sustainable solutions;
- **Prevention** - how the initiative will prevent problems occurring or getting worse

6. The most appropriate statement must be selected (and the relevant box ticked) based on the first stage of the assessment and an explanation of how you have arrived at this decision must be given.
  - In addition a summary of the how the initiative has embraced the sustainable development principle must also be included.
  - Where the first stage of the assessment indicates that a more in-depth analysis is required the second stage of the assessment will need to be completed and this will need to be started immediately.
  - A first stage assessment must be included as a background paper for all Cabinet/Cabinet Board/ Scrutiny Committee Reports.
  - Where the first stage assessment is completed by an accountable manager it must be signed off by a Head of Service/Director.

## Impact Assessment - First Stage

### 1. Details of the initiative

|   |
|---|
| <b>Initiative description and summary:</b> To assess and evaluate an application to register a bridleway on the former railway cutting between Pontrhydyfen and Efail fach as a public right of way |
| <b>Service Area:</b> Legal Services   |
| <b>Directorate:</b> Finance and Corporate Services  |

### 2. Does the initiative affect:

|                                      | Yes | No |
|--------------------------------------|-----|----|
| Service users                        | x   |    |
| Staff                                |     | x  |
| Wider community                      | x   |    |
| Internal administrative process only | x   |    |

### 3. Does the initiative impact on people because of their:

|            | Yes | No | None/<br>Negligible | Don't<br>Know | Impact<br>H/M/L | Reasons for your decision (including evidence)/How<br>might it impact?   |
|------------|-----|----|---------------------|---------------|-----------------|--|
| Age        |     | x  |                     |               |                 | The proposal has no impact upon this protected characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and the registration of a path would have no effect upon the permissive access already in existence, |
| Disability |     | x  |                     |               |                 | The proposal has no impact upon this protected characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and  |

|                            |   |  |  |  |  |  |  |
|----------------------------|---|--|--|--|--|--|--|
|                            |   |  |  |  |  |  | the registration of a path would have no effect upon the permissive access already in existence,   |
| Gender Reassignment        | x |  |  |  |  |  | The proposal has no impact upon this protected characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and the registration of a path would have no effect upon the permissive access already in existence, |
| Marriage/Civil Partnership | x |  |  |  |  |  | The proposal has no impact upon this protected characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and the registration of a path would have no effect upon the permissive access already in existence, |
| Pregnancy/Maternity        | x |  |  |  |  |  | The proposal has no impact upon this protected characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and the registration of a path would have no effect upon the permissive access already in existence, |
| Race                       | x |  |  |  |  |  | The proposal has no impact upon this protected characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and the registration of a path would have no effect upon the permissive access already in existence, |
| Religion/Belief            | x |  |  |  |  |  | The proposal has no impact upon this protected characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and the registration of a path would have no effect upon the permissive access already in existence, |
| Sex                        | x |  |  |  |  |  | The proposal has no impact upon this protected   |

|                    |  |   |  |  |  |  |  |
|--------------------|--|---|--|--|--|--|--|
|                    |  |   |  |  |  |  | characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and the registration of a path would have no effect upon the permissive access already in existence,  |
| Sexual orientation |  | x |  |  |  |  | The proposal has no impact upon this protected characteristic. The effect of the proposal would be to reject the application to register a path as the land in question already benefits from permissive access and the registration of a path would have no effect upon the permissive access already in existence, |

**4. Does the initiative impact on:**

|   | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence used) /<br>How might it impact?                        |
|---|-----|----|---------------------|---------------|-----------------|--|
| People's opportunities to use the Welsh language            |     | x  |                     |               |                 | The proposal does not affect the ability for using the Welsh Language as it relates to access rights |
| Treating the Welsh language no less favourably than English |     | x  |                     |               |                 | The proposal does not affect the ability for using the Welsh Language as it relates to access rights |

**5. Does the initiative impact on biodiversity:**

|  | Yes | No | None/<br>Negligible | Don't<br>know | Impact<br>H/M/L | Reasons for your decision (including evidence) /<br>How might it impact? |
|--|-----|----|---------------------|---------------|-----------------|--|
|  |     |    |                     |               |                 |  |



|  |   |  |  |  |   |
|--|---|--|--|--|---|
| To maintain and enhance biodiversity   | x |  |  |  | The proposal has no affect on biodiversity given it is concerned with assessing access rights |
| To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc. | x |  |  |  | The proposal has no affect on biodiversity given it is concerned with assessing access rights |

**6. Does the initiative embrace the sustainable development principle (5 ways of working):**



|   | Yes | No | Details   |
|---|-----|----|---|
| <b>Long term</b> - how the initiative supports the long term well-being of people | x   |    | The initiative supports the long term wellbeing of people by ensuring that modification orders are correctly introduced and implemented only when they can be justified and that resources are appropriately used in the provision of legal services to the Council and therefore the wider community             |
| <b>Integration</b> - how the initiative impacts upon our wellbeing objectives     | x   |    | The initiative will further allow the focusing of existing human and financial resources upon the 3 wellbeing objectives by ensuring that modification orders are correctly introduced and implemented only when they can be justified and that resources are appropriately used in assessing and evaluating them |
| <b>Involvement</b> - how people have been involved in developing the initiative   | x   |    | The initiative builds upon the consultation and evidence gathering with all the stakeholders concerned, before coming to a recommendation.  |

|   |          |   |
|---|----------|---|
| <p><b>Collaboration</b> - how we have worked with other services/organisations to find shared sustainable solutions</p> | <p>x</p> | <p>This Authority has ensured all those who have an interest in this initiative have been given an opportunity to provide their views and any evidence they considered relevant</p> |
| <p><b>Prevention</b> - how the initiative will prevent problems occurring or getting worse</p>                          | <p>x</p> | <p>This initiative will reconcile the problem that has occurred since access was blocked.</p>   |

**7. Declaration - based on above assessment (tick as appropriate):**

|   |          |
|---|----------|
| <p>A full impact assessment (second stage) is not required</p>  | <p>x</p> |
| <p>Reasons for this conclusion</p>  |          |
| <p>Based upon the above assessment a second stage impact assessment is not required as the initiative does not negatively impact any protected characteristics, or the Welsh Language, or biodiversity and embraces the sustainable development principle</p> |          |

|   |
|---|
| A full impact assessment (second stage) is required |
| Reasons for this conclusion                         |
|   |

|               | Name            | Position                         | Signature   | Date           |
|---------------|-----------------|----------------------------------|---|----------------|
| Completed by  | Michael Shaw    | Principal Solicitor - Litigation |  | 28 August 2019 |
| Signed off by | Craig Griffiths | Head of Legal Services           |  | 28 August 2019 |



By virtue of paragraph(s) 14 of Part 4 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14 of Part 4 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



By virtue of paragraph(s) 14 of Part 4 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank