

# Public Document Pack

## NOTICE OF MEETING



# RURAL FORUM

will meet on

**WEDNESDAY, 30TH NOVEMBER, 2016**

**At 5.30 pm**

in the

**COUNCIL CHAMBER - GUILDHALL,**

TO: MEMBERS OF THE RURAL FORUM

COUNCILLORS CHRISTINE BATESON (CHAIRMAN), DAVID EVANS (VICE-CHAIRMAN), DAVID COPPINGER, DAVID HILTON, RICHARD KELLAWAY AND COLIN RAYNER

SUBSTITUTE MEMBERS

COUNCILLORS GERRY CLARK, DR LILLY EVANS, JESSE GREY, MAUREEN HUNT, JOHN LENTON AND SAYONARA LUXTON

Karen Shepherd - Democratic Services Manager - Issued: Date Not Specified

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at [www.rbwm.gov.uk](http://www.rbwm.gov.uk) or contact the Panel Administrator

**Fire Alarm** - In the event of the fire alarm sounding or other emergency, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Congregate in the Town Hall Car Park, Park Street, Maidenhead (immediately adjacent to the Town Hall) and do not re-enter the building until told to do so by a member of staff.

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**AGENDA**

**PART I**

| <u>ITEM</u> | <u>SUBJECT</u>   | <u>PAGE<br/>NO</u> |
|-------------|--|--------------------|
| 6.          | <u>PROCEDURE FOR DEALING WITH PLOUGHING AND CROPPING ISSUES</u><br><br>Andrew Fletcher, Public Rights of Way Officer will present report to Members. | 5 - 8              |



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## CROSS COMPLIANCE REPORTING

### 1. **PURPOSE OF REPORT**

To inform the Rural Forum on the current procedures for reporting obstructions caused by ploughing and cropping to the Rural Payments Agency, and consult the Forum on proposed changes to the procedures recommended by the RBWM Local Access Forum (LAF)

### 2. **SUPPORTING INFORMATION**

- 2.1 The Rights of Way Act 1990 allows a farmer to plough over a cross-field path where it is not reasonably convenient to avoid it. Where the surface of a public right of way is disturbed in this manner the farmer must make good the surface of the path to not less than its minimum width and indicate the line of the path on the ground so that it is apparent to members of the public wishing to use it.
- 2.2 If the disturbance is for the purposes of sowing a particular agricultural crop a farmer must do this within 14 days from the day the surface was first disturbed. For any other case the farmer must reinstate the path within 24 hours. A farmer is able to apply to the Council before or during this period for an extension of this period not exceeding 28 days.
- 2.3 Compliance to these rules form part of the requirements farmers must meet in order to receive payments under the Common Agricultural Policy (CAP) or under the Rural Development Programme for England (RDPE). These are known as 'Cross Compliance' rules and are administered by the Rural Payments Agency (RPA)
- 2.4 As part of the duty to keep paths clear and open, the Council undertakes inspections and initiatives enforcement action against farmers where a breach of these rules has occurred. The stages in an investigation are as follows:
- (a) Initial report received, site inspection made if necessary. To avoid any doubt as to when a disturbance was made for the purposes of sowing a crop the Council takes the initial 14-day deadline from the first point of the issue being reported.
  - (b) The farmer is contacted (usually by telephone) to remind them to reinstate the paths. A date for this to be completed is agreed with the farmer, and the farmer is informed of the timeframes allowed within the Rights of Way Act 1990, and that the Council reports all breaches to the RPA.
  - (c) A site visit made on date agreed with the farmer. If the path has been cleared the issue is closed.
  - (d) If the path has not been cleared a formal enforcement notice is prepared and sent to the farmer giving between a week and 14 days to clear the path.
  - (e) If the path has not been cleared by this time the Council arranges for a contractor to clear the path and the costs for the clearance is re-charged to the farmer. This issue is then closed
- 2.5 At the end of the case the issue is reported to the RPA if there has been a breach of the timeframe permitted. This consists of a short description of the issue and a

copy of the issue report from the Council's Countryside Access Management database.

2.6 The Council has submitted the following numbers of reports to the RPA since 2013:

2013: 2 reports  
2014: 1 report  
2015: 6 reports  
2016: 2 reports

2.7 A copy of the "Ploughing, crops and paths" guide produced by the Council for farmers is attached to this report.

2.8 At the last meeting on 8<sup>th</sup> November 2016, the Royal Borough of Windsor and Maidenhead LAF received a presentation from William Emmett regarding the current procedures and how it has affected farmers. Following discussion the LAF recommended to the Council that the procedure for dealing with ploughing and cropping issues be changed to the following:

1. Make first contact with farmers via telephone to explain the report or issue. This telephone call should agree the date with the farmer for the resolution of the issue based upon the 14 day deadline. Explain that if the works are not done by this deadline the issue will be reported to the RPA.
2. Take the 14 day deadline from the date that the farmer is contacted. Where necessary agree extension of this deadline up to 28 days, for example where ground conditions do not allow proper reinstatement.
3. Request farmer to contact RBWM when the works have been done, providing photographic evidence.
4. If the agreed deadline has not been met this should then be reported to the RPA.

2.9 The Rural Forum's opinion is sought on the proposed changes. The proposal will then be considered by the Rights of Way and Highways Licensing Panel in March 2017.

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## What happens if a path is not reinstated?

Landowners and farm managers have a responsibility to ensure that when a field is cropped or ploughed, any public path across it is reinstated. This should be done to a minimum, legally prescribed width and time scale.



The Royal Borough of Windsor & Maidenhead seeks to work with farmers, the National Farmers' Union and the Country Land and Business Association to ensure that the legal requirements are met.

The Highways Act 1980 places a duty on The Royal Borough of Windsor & Maidenhead as the Highway Authority to ensure that the law is complied with. The Royal Borough of Windsor & Maidenhead is committed to ensuring paths remain available to the public and may use those powers given to it by the Act, should they be necessary.

Landowners are reminded that the requirements as outlined in this leaflet represent good agricultural practice. Failure to reinstate public paths could result in prosecution with offenders being reported to the Rural Payments Agency for non compliance with GAEC (Good Agricultural & Environmental Conditions) 8.

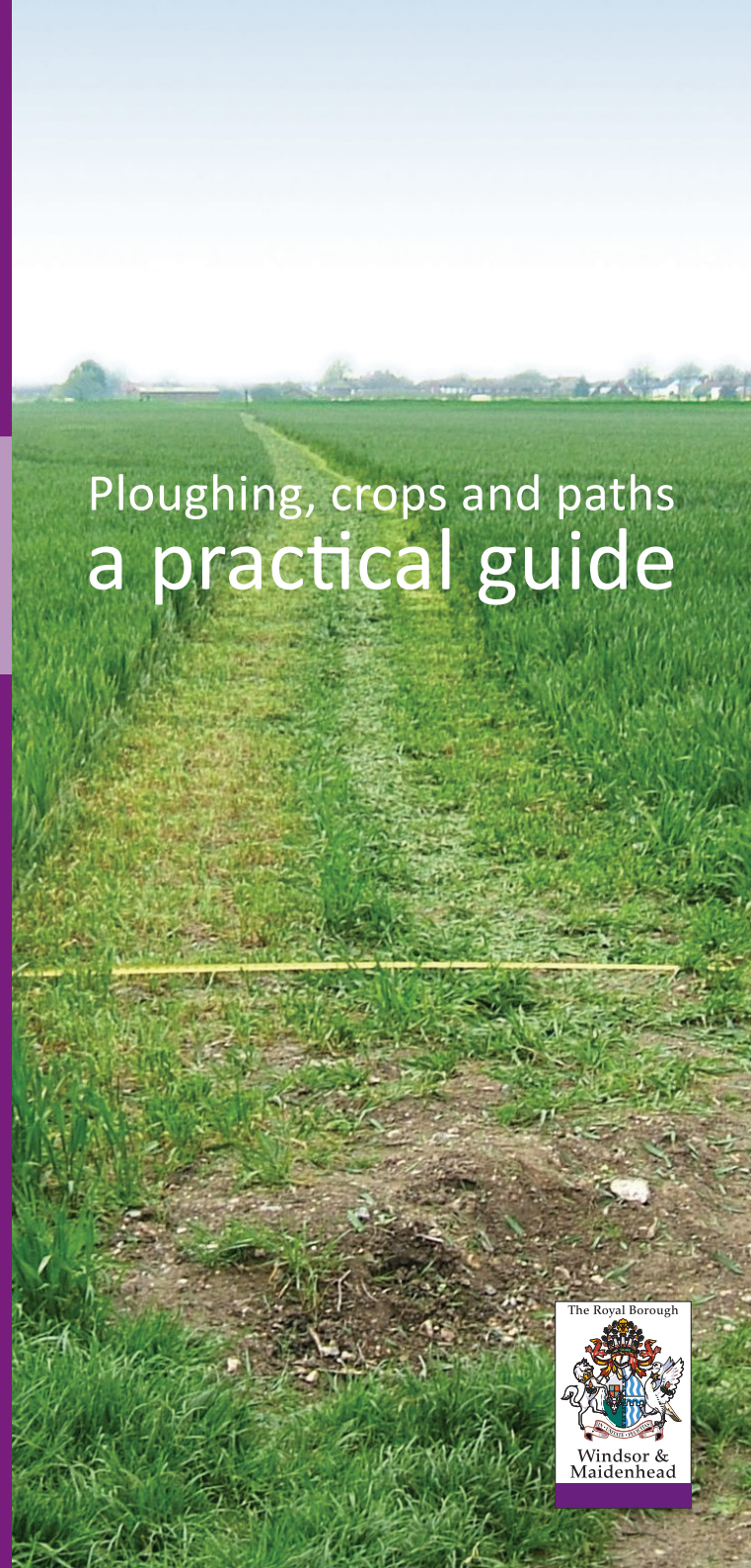
## Ploughing, crops and paths a practical guide

For further technical advice, or if you require information in an alternative format, please contact the Public Rights of Way Team:

Email: [prow@rbwm.gov.uk](mailto:prow@rbwm.gov.uk)

Call: 01628 683800

Write to:  
Public Rights of Way  
Royal Borough of Windsor and Maidenhead  
Town Hall  
St. Ives Road  
Maidenhead  
SL6 1RF



## Ploughing, crops and paths a practical guide

This leaflet is designed to assist landowners, farm managers and agricultural contractors. It explains the legal requirement to keep public rights of way open and available after ploughing and cropping.

If followed, these guidelines will help prevent damage to crops and help create a good impression of the agricultural community with the public.

### Before ploughing

- Ensure your tractor driver or agricultural contractors know where paths are and how to deal with them.
- Field edge paths, byways open to all traffic or restricted byways must not be ploughed.
- Avoid ploughing cross field paths if you can reasonably do so.

### Following ploughing

- Within 14 days of ploughing, the path must again have a firm level surface and be marked on the ground to at least the minimum width.
- It is good practice, and saves time, to re-establish the footpath before leaving the field, using two or more sets of wheelings.

### Further cultivation

- If further cultivation is necessary after the expiry of the 14 day period following ploughing, the path must be reinstated within 24 hours. Again this is best achieved before leaving the field by marking the path with two or more sets of wheelings.



### During the growing season (for crops other than grass)

- As the crop germinates, the path must remain evident on the ground.
- As soon as is practical and before the crop reaches a height of 150mm (6") remove the crop from the path.
- Continue to ensure that the path remains clear of the crop to its minimum width, including crop encroaching from the side.
- Any side growth from hedges or overhanging trees should be kept clear of a field edge path.

### Tall crops

- To prevent obstruction to the minimum width, tall crops such as oil seed rape or maize may need additional clearance during the growing season. A more practical solution is to cut back an extra width, equal to the anticipated height of the crop.

| Your questions answered  |  |                                 |                                 |
|--|--|---------------------------------|---------------------------------|
| CROSS FIELD PATHS  |  |                                 |                                 |
|  | Footpath   | Bridleway                       | Byway/Restricted Byway          |
| What is the minimum width required?  | 1m<br>(unless stated otherwise)  | 2m<br>(unless stated otherwise) | 3m<br>(unless stated otherwise) |
| Can I plough a cross field path?   | Yes, where it is not reasonably convenient to avoid it.  |                                 | No                              |
| What do I have to do after I have ploughed?                                      | Within 14 days ensure that the path has a firm and even surface that is easy to use and that the path is the minimum width or wider.   |                                 | N/A                             |
| FIELD EDGE PATHS   |  |                                 |                                 |
|  | Footpath   | Bridleway                       | Byway/Restricted Byway          |
| What is the minimum width of a field edge path?                                  | 1.5m<br>(unless stated otherwise)  | 3m<br>(unless stated otherwise) | 5m<br>(unless stated otherwise) |
| Can I plough a field edge path?  | No   |                                 |                                 |
| Must I do anything to a field edge path?   | You must ensure that the hedge is cut back and any boundaries are well maintained so that the path is easy to use.   |                                 |                                 |
| CROPS  |  |                                 |                                 |
| Crops have started to grow on the path which crosses my field, what should I do? | You must keep the minimum width of the path clear from any crops and ensure the route is clearly marked. This will also help to stop people wandering away from the path and onto your land. |                                 |                                 |