

CALDERDALE METROPOLITAN BOROUGH COUNCIL

PUBLIC RIGHTS OF WAY POLICY ON DIVERSIONS AND EXTINGUISHMENTS

This policy applies to footpaths and bridleways only and is in addition to the requirements of the legislation.

- 1 An application to extinguish a path will not be considered unless either a reasonable alternative path is to be provided or the path is no longer needed by the public. Paths disused only because of obstruction or intimidation will not be considered to be unnecessary.
- 2 Where a path has already been obstructed, a diversion or extinguishment application will not be considered until the obstruction has been removed. An exception may be made where the obstruction consists of a quarrying excavation or a building already or substantially complete.
- 3 Applicants should not assume a diversion or extinguishment order will be made simply because planning permission has been granted.
- 4 Where an application has been refused, a further application which is substantially the same will be refused without consultation.
- 5 A path will not be diverted simply because a previous landowner has obstructed it. The path's existence and route should have been revealed in property searches and reflected in the purchase price.
- 6 If an application is made to divert a path which is subject to an application to alter its classification, the classification will if possible be resolved, before the diversion is considered, by negotiation with the applicants, landowners and users. If this cannot be achieved within a reasonable timescale, a diversion order may still be made, but the evidence as to its alleged classification will be taken into account in determining the specification for the replacement path.
- 7 Diversion onto estate roads should be avoided. Preference will be given to made-up estate paths through landscaped or open space away from vehicular traffic.
- 8 Other than in exceptional circumstances, or for reasons of public safety, there will be a presumption against diverting paths out of enclosed lanes and onto fields or other open land.
- 9 A replacement path should accommodate all existing users to a standard at least as good as the old route and be of similar character. The replacement path

should not prejudice the potential for future use by people with physical disabilities, i.e. the new route should include no steps or stiles; there should be no overall increase in the number of obstacles such as gates; all gates should have a usable width of at least one metre and be easy to open and close; there should be no increase in the gradient of the path.

- 10 A diversion order under the Highways Act 1980 will not be made unless the diversion is expedient and the new route is substantially as convenient to the public as the old one. In determining this issue, the Council will take into account the following factors (which are not ranked):

any difference in length between the old and new routes
the gradient of the new route
the width of the new route
the surface and drainage of the new route
the number of stiles and/or gates on the new route
the safety of users of the route.

- 11 A diversion order under the Highways Act 1980 will not be confirmed unless it is expedient having regard to the effect on public enjoyment of the whole path. In determining this, the Council will take into account the factors in paragraph 10 above and also:

the landscape value of the route
the historical character of the route
the purpose for which the path is used.

- 12 If a path is diverted from an open route to a route alongside a wall or other physical boundary, the width will be either the existing width or the minimum width given below, whichever is the greater:

footpath along boundary	minimum width	1.5 metres
bridleway along boundary	minimum width	3.0 metres

- 13 If a diverted path is to be enclosed on both sides, the width will be either the existing width or the minimum width given below, whichever is the greater:

enclosed footpath	minimum width	2.0 metres
enclosed bridleway	minimum width	4.0 metres