

## Public Rights of Way & Access Service Delegations

This document sets out the delegations to the Public Rights of Way and Access Service and operational parameters for officers within the service.

7 February 2018

**CORPORATE DIRECTOR OF GROWTH, ENVIRONMENT and TRANSPORT**

I delegate to the following post holders (and through subsequent management levels to the level set out in column three of the tables of delegated functions and identified in the delegation structure chart):

**FUNCTIONS DELEGATED TO ME BY THE COUNCIL**

Those powers which have been delegated to me by the Council in Part D of the Schedule to Appendix 2 Part 3 of the Constitution (Functions relating to Public Paths) of the Kent County Council (adopted 15 September 2005 – latest revision 13 July 2017) together with identified powers from Parts A, C & H of that same Schedule:

Signed:



Date:

8/2/18

Barbara Cooper, Director of Growth, Environment and Transport.

Lodged with the Monitoring Officer:

Date: .....

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		Delegated to post holder/ post holders	Notes
<b>As delegated in the Constitution of Kent County Council: Appendix 2 Part 3 : A Functions Relating to Town &amp; Country Planning and Development Control</b>			
16. The obtaining of information as to interests in land.	Section 330 of the Town and Country Planning Act 1990	PROW and Access Area Managers	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the Head of Regulatory Services
<b>As delegated in the Constitution of Kent County Council: Appendix 2 Part 3: C Functions Relating to Highways</b>			
2. Powers to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980.	PROW Maintenance Protection & Community Delivery	
3. Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.	PROW and Access Area Managers	
4. Power to license works in relation to buildings etc. that obstruct the highway.	Section 169 of the Highways Act 1980.	PROW and Access Area Managers	
5. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.	PROW Maintenance Protection & Community Delivery	
7. Power to restrict the placing of rails, beams etc over highways.	Section 178 of the Highways Act 1980.	PROW and Access Area Managers	

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<b>As delegated in the Constitution of Kent County Council: Appendix 2 Part 3: D Functions relating to Public Paths</b>			
1. Power to create footpath, bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980(c.66) as amended.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee (including at the request of the local member).</i>
2. Power to create footpaths, bridleways and restricted byways.	Section 26 of the Highways Act 1980 as amended	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee (including at the request of the local member).</i>
3. Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980		PROWAS deliver function
4. Power to stop up footpaths, bridleways and restricted byways.	Section 118 of the Highways Act 1980 as amended.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee (including at the request of the local member).</i>
5. Power to determine application for public path extinguishment order.	Section 118ZA and 118C(2) of the Highways Act 1980 as amended.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee (including at the request of the local member).</i>
6. Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980 as amended.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee (including at the request of the local member).</i>
7. Power to make a special extinguishment order.	Section 118B of the Highways Act 1980 as amended.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee (including at the request of the local member).</i>
8. Power to divert footpaths, bridleways	Section 119 of the Highways Act 1980	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee (including at the request of the local member).</i>

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and restricted byways.	as amended.			
9. Power to make a public path diversion order.	Section 119Z and 119C(4) of the Highways Act 1980 as amended.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).</i>	
10. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980 as amended.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).</i>	
11. Power to make a special diversion order.	Section 119B of the Highways Act 1980 as amended.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).</i>	
12. Power to require applicant for order to enter into agreement.	Section 119C(3) of the Highways Act 1980.	PROW Officer- Definition CAIP Officer		
13. Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).</i>	
14. Duty to keep register with respect of applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.		<i>PROWAS Deliver function</i>	
15. Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).</i>	
16. Duty to assert and protect the rights of the public to use and enjoyment of	Section 130 of the Highways Act 1980.	PROW Maintenance Protection & Community		

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highways.		Delivery.	
17. Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.	PROW and Access Area Managers	Matter should be notified to PROW & Access Manager
18. Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.	PROW Maintenance Protection & Community Delivery	Delegated authority must be sought from the PROW and Access Manager.
19. Power to authorise temporary disturbance of surface of footpath or bridleway.	Section 135 of the Highways Act 1980.	PROW Maintenance Protection & Community Delivery	
20. Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980.	PROW Maintenance Protection & Community Delivery	
21. Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980.	PROW Maintenance Protection & Community Delivery	
22. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.	PROW Maintenance Protection & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager.
23. Power to extinguish certain	Section 32 of the Acquisition of Land	PROW and Access Manager	<i>Delegated powers report to Director Or report to Regulation Committee (including at the request of the local member).</i>

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public rights of way.	Act 1981(c.67).		
24. Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981(c.69).	PROW and Access Manager	<i>PROWAS deliver function. The constitution Appendix 2 part 2 Functions delegated by the Council to committees 5.c places with the Regulation Committee responsibility for the consideration of the reclassification of any public right of way to which substantive objection has been received. This was further clarified in a report to Regulation Committee from the Director of Highways Environment and Waste (18 May 2010) to refer to all applications to amend the Definitive Map and Statement. Referral to the committee is at the request of a political party or elected member – and prior to the making of any order. Applications may also be referred should the relevant officer feel that it is appropriate even in the absence of a political request. In other circumstances delegated authority may be sought.</i> <i>Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).</i>
25. Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.	PROW and Access Manager	
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Section 53B of the Wildlife and Countryside Act 1981.	PROW and Access Manager	PROWAS deliver function.
27. Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.	PROW and Access Manager	<i>Report on behalf of the Director for an Executive side decision</i>
28. Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984.	PROW and Access Manager	<i>Delegated powers report to Director or Executive side decision where opposed</i>
29. Power to	Section 294 of the	PROW and Access	<i>Delegated powers report to Director</i>

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extinguish public right of way over land acquired for clearance.	Housing Act 1981 (c.68).	Manager	<i>or report to Regulation Committee( including at the request of the local member).</i>
30. Power to authorise stopping-up or diversion of footpath or bridleway.	Section 257 of the Town and Country Planning Act 1990.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).</i>
31. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.	PROW and Access Manager	<i>Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).</i>
32. Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000(c.37)	PROW and Access Manager	<i>Delegated powers report to Director</i>
33. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000	PROW and Access Manager	<i>Delegated powers report to Director</i>
34. Duty to reclassify roads used as public paths.	Section 54 of the Wildlife and Countryside Act 1981.	PROW and Access Manager	Duty rendered redundant by CROW Act 2000 & NERC Act 2006
<b>As delegated in the Constitution of Kent County Council: Appendix 2 Part 3: H Other Functions</b>			
14. The obtaining of particulars of persons interested in land.	Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	PROW and Access Area Managers PROW Officer-Enforcement	Up to and including the service of notice beyond which delegated authority must be sought from the PROW and Access Manager.



**DIRECTOR OF GROWTH, ENVIRONMENT and TRANSPORT**

I delegate to the following post holders (and through subsequent management levels to the level set out in column three of the tables of delegated functions and identified in the delegation structure chart):

**FUNCTIONS DELEGATED TO ME BY THE EXECUTIVE**

Functions delegated to me by the Leader in Appendix 2 Part 4 of the Constitution of the County Council (adopted 15 September 2005 – latest revision 13 July 2017) paragraph 20 "Executive Scheme of Delegation" "3.4 To the Corporate Director, Growth, Environment & Transport"; and relating to the delivery by the Public Rights of Way and Access Service of the County Council's statutory duties relating to Public Rights of Way, access land, common land and village greens and the future strategic development of the PROW and access network as identified in the Countryside and Coast Access Improvement Plan; and ancillary highway management duties using the statutory powers available to Kent County Council as (but not limited to) Highway, Surveying, Access, Planning, Traffic and Commons Registration Authority; and utilising (but not limited to) those Acts and any orders, rules, regulations or other subordinate legislation made under, or by virtue of those Acts, including any amendment to such legislation

Signed: 

Date: 8/2/18

Barbara Cooper, Corporate Director of Growth, Environment and Transport.

Lodged with the Monitoring Officer:

Date: .....

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		<b>Delegated to post holder/ post holders</b>	<b>Notes</b>
Power to bring proceedings in respect of notices deterring public use.	Section 57 National Parks and Access to the Countryside Act 1949	PROW Maintenance Protection & Community Delivery	Up to and including the service of notice beyond which delegated authority must be sought from the PROW and Access Manager.
Power to apply for a harbour revision Order extinguishing or diverting public rights of way.	Section 14 Harbours Act 1964.	PROW and Access Manager	Delegated powers report to Director
Power to sign and waymark public rights of way.	Section 27 Countryside Act 1968 as amended	PROW Officer- Network Management & Enforcement. Volunteer Countryside Access Wardens	May be further delegated to volunteers.
Power of local authorities to institute or defend legal proceedings	Section 222 Local Government Act 1972	PROW and Access Manager	In consultation with PROW and Access Manager and the Director of Law and Governance or his Officers
Power of highway authorities to adopt by agreement	Highways Act 1980 Section 38	PROW and Access Manager	Delegated powers report to Director This provision is included specifically to facilitate the dedication of highways (eg Cycle tracks) by landowners under sec38 (3)a & b and to clarify obligations in respect of maintenance. In line with financial management policies.

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Defence of proceedings brought against the Highway Authority for non-repair of the highway.	Section 56 HA 1980	PROW & Access Area Managers	In consultation with PROW and Access Manager and the Director of Law and Governance or his Officers Counter notice( s56 (4)) may be served on behalf of Authority by PROW & Access Area Manager for routes depicted on the Definitive Map and in compliance with Highways Act 1980 Section 321(1a & b)
Power to carry out work for the improvement of the highway	Section 62 HA 1980	PROW Maintenance Protection & Community Delivery & Definition & CAIP	In line with financial management policies, priorities and business plan.
Power to install structures necessary for safeguarding persons using the highway.	Section 66 HA 1980	PROW Maintenance Protection & Community Delivery	In line with financial management policies, priorities and business plan.
Power to widen the highway.	Section 72 HA 1980	PROW & Access Area Managers	In line with financial management policies.
Power to execute work for levelling a highway.	Section 76 HA 1980	PROW & Access Area Managers	In line with financial management policies.
Power to construct a bridge to carry a highway maintainable at the public expense.	Section 91 HA 1980	PROW & Access Area Managers	In line with financial management policies.
Power to reconstruct a bridge maintainable	Section 92 HA 1980	PROW & Access Area Managers	In line with financial management policies.

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at the public expense.			
Power in respect of drainage of the highway	Section 100 HA 1980	PROW Area Manager	In line with financial management policies.
Power to provide structures necessary for affording the highway protection against hazards of nature.	Section 102 HA 1980	PROW Area Manager	In line with financial management policies.
Power to provide services or amenities in the highway.	Section 115 HA 1980 as amended.	PROW Area Manager	In line with financial management policies. Representations received to notice under sec 115G require consideration by the Council ie In the absence of a delegation an executive side decision.
Power to make an application to the Magistrates Court for the stopping up or diversion of the highway.	Section 116 HA 1980	PROW and Access Manager	Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).
Duty to serve notice & counter notice in response to Notice alleging a failure to enforce duty regarding public paths.	Section 130A(6)(a&b) Highways 1980	PROW & Access Area Mangers	Counter notice may be served on behalf of Authority by PROW & Access Area Managers for routes depicted on the Definitive Map; and in compliance with Highways Act 1980 Section 321(1a & b)
Defence of proceedings brought against the Highway Authority for failing to enforce the duty to protect public paths.	Section 130A-D Highways 1980	PROW & Access Area Mangers	In consultation with PROW and Access Manager and the Director of Law and Governance or his Officers

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Power to bring proceedings in respect of damage to the highway etc	Section 131 HA 1980	PROW Maintenance & Protection & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager.
Power to bring proceedings in respect of the disturbance of certain highways.	Section 131A HA 1980 as amended.	PROW Maintenance & Protection & Community Delivery	Up to and including the service of notice under schedule 12A of the Act and direct action to repair; beyond which delegated authority must be sought from the PROW and Access Manager.
Power to bring proceedings (or remove) unauthorised markings on the highway or signs etc erected on or affixed to structures within the highway.	Section 132 HA 1980	PROW Maintenance & Protection & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager.
Power to bring proceedings in respect of a failure to reinstate a highway following cultivation within the stipulated period and to the stated width	Section 134 HA 1980 as amended.	PROW Maintenance & Protection & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager.
Power to bring proceedings in respect of the wilful obstruction of the highway.	Section 137 Highways Act 1980	PROW Maintenance & Protection & Community	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager.

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		Delivery	
Power to bring proceedings in respect of interference with the highway by crops.	Section 137A Highways Act 1980.	PROW Maintenance Protection & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager.
Power to remove structures from highways.	Section 143 Highways Act 1980	PROW Maintenance Protection & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager.
Power to act in respect of a gate on the public highway of less than the minimum width.	Section 145 Highways Act 1980.	PROW Maintenance Protection & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager.
Power to act in respect of a failure to maintain a stile or gate on the public highway.	Section 146 Highways Act 1980	PROW Maintenance Protection & Community Delivery	Up to and including the service of notice and direct action.
Power to authorise stiles or gates on footpaths or bridleways.	Section 147 Highways Act 1980.	PROW Maintenance Protection & Community Delivery	
Power to enter agreements with landowners for the removal of, or	Section 147ZA Highways Act 1980 as amended.	PROW Maintenance Protection &	

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amendment of limitations on the highway.		Community Delivery	
Power to remove accumulations of snow or other material from the highway and to recover expenses.	Section 150 Highways Act 1980	PROW Maintenance & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager
Cutting or felling overhanging or dangerous trees on roads footpaths or bridleways.	Highways Act 1980 section 154 as amended.	PROW Maintenance & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager
Power to act in respect of certain kinds of danger or annoyance.	Section 161 Highways Act 1980.	PROW Maintenance & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager
Power to act in respect of a rope or other apparatus across a highway.	Section 162 Highways Act 1980.	PROW Maintenance & Community Delivery	Up to and including the service of notice and direct action; beyond which delegated authority must be sought from the PROW and Access Manager
Power to require the removal of barbed wire.	Section 164 Highways Act 1980.	PROW Maintenance & Community Delivery	Up to and including the service of notice; beyond which delegated authority must be sought from the PROW and Access Manager
Powers of entry onto	Section 293	PROW	

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land for purposes connected with certain orders.	Highways act 1980.	Maintenance Protection & Community Delivery	
Power of HA to require information as to the ownership of land.	Section 297 HA 1980	PROW Maintenance Protection & Community Delivery	Up to and including the service of notice beyond which delegated authority must be sought from the PROW and Access Manager. This is specific to the Highways act 1980 and to the landowner or occupier. The use of the LG(Miscellaneous Provisions)A 1976 may be more appropriate.
Further powers to enter land, carry out works and recover costs following notice.	Schedule 12A Highways Act 1980.	PROW Maintenance Protection & Community Delivery	
Power to act in respect of bulls on land crossed by public rights of way.	Section 59 Wildlife and Countryside Act 1980	PROW Maintenance Protection & Community Delivery	Up to and including conciliation; beyond which delegated authority must be sought from the PROW and Access Manager.
Power to appoint wardens for public rights of way.	Section 62 Wildlife and Countryside Act 1981.	PROW Maintenance Protection & Community Delivery	
Power to temporarily stop up highways for mineral workings	Section 261 Town and Country Planning Act 1990.	PROW and Access Manager	Delegated powers report to Director or report to Regulation Committee( including at the request of the local member).
Power to make traffic regulation orders	Section 1 Road Traffic Regulation Act 1984	PROW and Access Manager	The making of a RTRA Order in the face of substantive objections requires an executive side decision.



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Power to introduce an experimental scheme of traffic management	Sections 9 & 10 Road Traffic Regulation Act 1984	PROW and Access Manager	The making permanent of an experimental scheme of traffic management in the face of substantive objections requires an executive side decision
Power to temporarily prohibit/ restrict traffic on a highway.	Section 14 Road Traffic Regulation Act 1984 CLOSURE UNDER NOTICE (21 days)	PROW & Access Area Managers	
Power to temporarily prohibit/ restrict traffic on a highway.	Section 14 Road Traffic Regulation Act 1984 CLOSURE BY ORDER (6 Months)	PROW Maintenance, Protection and Community Delivery	(PROW ONLY) No provision is made within the Road traffic (Temporary Restrictions) Procedure Regulations 1992 for hearing objections or representations. Where there is substantial objection that can't be met this should be reported to the Portfolio Holder.
Power to prohibit or restrict traffic on a road in connection with special events, including filming on the highway.	Section 16A Road Traffic Regulation Act 1984 as amended.	PROW & Access Area Managers	No regulations as yet exist. Orders should be made in line with the policy and procedures as established through the Executive side decision 11/01734. Executive side decision should be sought where the exercise of this power is likely to prove contentious.
Power to regulate traffic in special areas of countryside	Section 22 Road Traffic Regulation Act 1984 as amended	PROW and Access Manager	The making of a RTRA Order in the face of substantive objections requires an executive side decision.
Power to regulate traffic on certain roads for the purposes of conserving natural beauty.	Section 22A Road Traffic Regulation Act 1984 as amended	PROW and Access Manager	The making of a RTRA Order in the face of substantive objections requires an executive side decision.
Power to authorise race or trial of speed	Section 31 Road Traffic Act 1988	PROW & Access Area Managers	PROW and Access Manager and Local Elected Member should be informed if consent is likely to prove contentious.

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between cycles on the public highway (other than bridleways)			
Power to control the use of footpaths, bridleways and restricted byways for motor vehicle trials.	Section 33 Road Traffic Act 1988	PROW & Access Area Managers	PROW and Access Manager and Local Elected Member should be informed if consent is likely to prove contentious.
Power to make complaint to the Magistrates' Court about a dangerous dog.	Section 1 Dangerous Dogs Act 1989. (and section 2 of the Dangerous Dogs Act of 1871)	PROW Officer- Network Management & Enforcement	Delegated authority must be sought from the PROW and Access Manager
Power to act in default of an agreement with respect to means of access and seek compensation.	Section 36 of the Countryside and Rights of Way Act 2000(c.37)	PROW Maintenance Protection & Community Delivery	Delegated authority must be sought from the PROW and Access Manager
33. Power to seek an order requiring the removal of an obstruction and to bring a complaint before the Magistrates for failure to comply with the order. (Including direct action to make available access in	Section 39 of the Countryside and Rights of Way Act 2000(c.37)	PROW and Access Manager	<i>Delegated powers report to Director</i>

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default)				
Duty to prepare , publish and review a Rights of Way Improvement Plan	Section 66 CROW Act 2000	PROW and Access Manager	Executive side decision is required for the adoption of the plan.	
Powers to appoint a Local Access Forum etc	Section 94 CROW Act 2000	PROW and Access Manager		
Power to seek planning consent where required to improve the highway enable the delivery of a service or enhance the amenity of the area.	Town & Country Planning Act 1990 – Town and Country Planning General Development Procedure 1995	PROW and Access Area Managers. Countryside Access Improvement Plan Officer	To be exercised in line with other delegated powers and in line with financial requirements.	
Authority to seek any necessary permission, licence or consent required in the delivery of a proposal or scheme of works.		PROW Maintenance Protection & Community Delivery	For example but not limited to: Environment Agency Consent Natural England Consent Planning Inspectorate dispensation (to post notice to unknown landowner) Department of Culture Media and Sport – Scheduled Ancient Monument Consent	
Requirement to seek authority to take a positive stance in respect of Orders that KCC has been directed to make by the SoS.	Act under which the Order is directed to be made.	Delegated powers report to PROW and Access Manager.	Regulation Committee resolution 18 May 2010	

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Provision of responses in respect to PROW and Town and Village Greens to local authority searches (CON29 & CON 290)	CON29 & 290	PROW Officer- Definition	
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**COMMONS AND VILLAGE GREENS**

By virtue of Appendix 2 Part 2 of the constitution, functions delegated by the Council to Committees

The County Council's functions in respect of common land and village greens are delegated to the Regulation Committee:  
 "(b) all Commons Registration functions under Part 1 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008

No further delegation exists and therefore those matters to which no objection or representation has been made must be reported to the Regulation Committee for decision. This function may be delegated to a sub-committee and in this instance may be delegated to a panel of the Regulation Committee.