

MONMOUTHSHIRE COUNTY COUNCIL

COMMUNITY PROVISION POLICY

1. Introduction

1.1 Community supported activities form part of a vibrant street scene. This policy aims to help coordinate, reduce the risks involved and provide a system that can be managed and readily understood. Unfortunately in drawing in the Commercial activities to a robust policy means that in order to prevent misuse then all activity needs to be managed fairly. The policy makes no provision for an annual licencing fee, but a one off licence charge will be made to cover the administration costs.

1.2. What is a Community Provision?

Community Provisions' are defined as, not for profit or fund raising activities provided to improve the Highway Street scene. They can include the following activities, or activities of a similar nature:-

- (i) Community Council notice boards
- (ii) Memorial benches, trees, planting areas
- (iii) Community sponsored planting areas, street furniture and permanent features

This Policy will not cover those events covered by the Temporary Entertainments Notices (TEN's) or the Safety Advisory Group (SAG) process, which are by nature not permanent features in the highway. These will continue to be coordinated under the New Roads and Street Works Act 1991 and administered by the Highway Network Management Section.

The provision and licensing of street markets will remain with Area Services Officers who currently organise and charge market stall holders for their events

1.3 The problems of Community provision

These provisions, because they are unmanaged, often lead to confusion about ownership and long term maintenance regimes, or create unnecessary risks and hazards to highway users. A single system aimed at approving and registering these provisions will allow Monmouthshire County Council to ensure its duty to 'assert and protect the rights of the public to the use and enjoyment of any highway'.

1.4 Legislation

- (i) Under section 130 of the Highway Act 1980 (1) it is the Duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of the it.
- (ii) Under section 149 of the Highway Act 1980 (1) if anything is so deposited on a highway as to constitute a nuisance, the highway authority for the highway may by notice require the person who deposited it there to remove it forthwith.....
- (iii) Under section 149 of the Highway Act 1980 (2) if the highway authority for any highway have reasonable grounds for considering –
 - a. That anything unlawfully deposited on the highway constitutes a danger.....to the users of the highway, and
 - b. That the thing in question ought to be removed without the delay involved in giving notice.....Under this section, the authority may remove the thing forthwith

2. Methods of Prevention

The Council aims to prevent illegal Community Provision at source. Applications are normally made to Monmouthshire County Council at an early stage and by guiding applicants through this process will provide the prevention method. By circulating the new policy to all Community Councils, either at consultation or implementation stage it will again provide a degree of prevention.

2.1 Highway activity

The Highway Operations Department have a limited activity in this area, most are trying to resolve historical provision or dealing with applications made through the Community Councils.

2.2 General

This Authority is committed to helping and engaging the community when requested. No formal approach exists and applications are treated personal experience and not through official guidance.

3. Our Approach

3.1 This Authority recognises the need, and the desire, for Local Community provision. It does not therefore seek a 'zero tolerance' approach, recognising the difficulties this would present to charitable and community groups, statutory bodies and others.

3.2 enforcement action is likely to be minimal. Someone wishing to place a permanent structure, such as a seat, will normally contact the council to seek advice. A process is outlined in attachment 2 in order to provide consistency and clarity.

3.2 Any complaints regarding community provision will in the first instance be recorded at our Customer Service Centre (CCC). A 'process map' outlining the procedure for dealing with community provision is provided in Attachment 1. Staff at the CCC's will be updated to reflect recent changes in both legislation and personnel (notably in Highways). Highways would be the first point of reference for any community provision complaints, referring to colleagues in other teams where the situation demands – as outlined in Section 2 above. The 'one point of reference' will allow the Authority to measure numbers of complaints, any trends, and our effectiveness.

3.3 It is the view of Officers in Highways that they deal with their elements of existing legislation, because of their professional and competent approach. This policy will allow Highway Engineers to manage and determine compliance with the Highways Act provisions with more confidence. Better joint working, with improved communication, between those teams who maintain open spaces, will help ensure acceptance throughout the organisation. For example, a provision request made to the Highway Department on a Public Right of Way can be relayed to Countryside directly with an understanding that they will manage any provision.

3.4 Retrospective applications will not be pursued.

3.5 Highways staff, in the interests of clarity, will adopt the following prescribed approach:

Organisations are permitted to apply under this provision, provided they :-

- do not cause offence

- do not cause a traffic or pedestrian hazard or safety issue in any way
- do not damage hardware by their presence
- are of presentable and safe in quality
- are maintained, where stipulated in the agreement, by the organisations concerned

Approved Organisations

The list of approved organisations, determined by the Highways Section, will be strictly limited. Initially it will include:

- Community Councils
- Community groups supported by the Community Council
- Statutory organisations, such as the NHS, Fire or Ambulance
- Registered Charities, such as the guide dog association
- Legitimate not-for-profit advertisers approved from time to time to provide public information. The local Church notice board or a Scouts group wishing to plant an apple orchard.

The Head of Highways may extend the list of approved organisations, by written permit in exceptional circumstances. Applicants will be expected to demonstrate support from the local community is real.

The following organisations are expressly not permitted to erect signs:

- Commercial businesses or members of the Public who cannot demonstrate the support of the Community, either the Community County Council or the County Council elected member for the locality of the application.
- Party political organisations

3.6 Approved organisations who fail to observe the Council's conditions may have their permit withdrawn and may risk prosecution.

4. Outcomes

4.1 The outcome sought is to ensure a quick and effective response to requests. By consistent recording of requests and successful applications, working together better with early intervention, resolution and enforcement of problems will limit the current confusion.

4.2 Officers involved with the policy will ensure all relevant Officers, including Customer Contact Centre staff, are aware of the content of this policy and monitor compliances, to update their procedures and provide some training.

4.3 The policy will be reviewed every 12 months to determine whether it assists in reducing fly posting in Monmouthshire.

5. Report Contributors

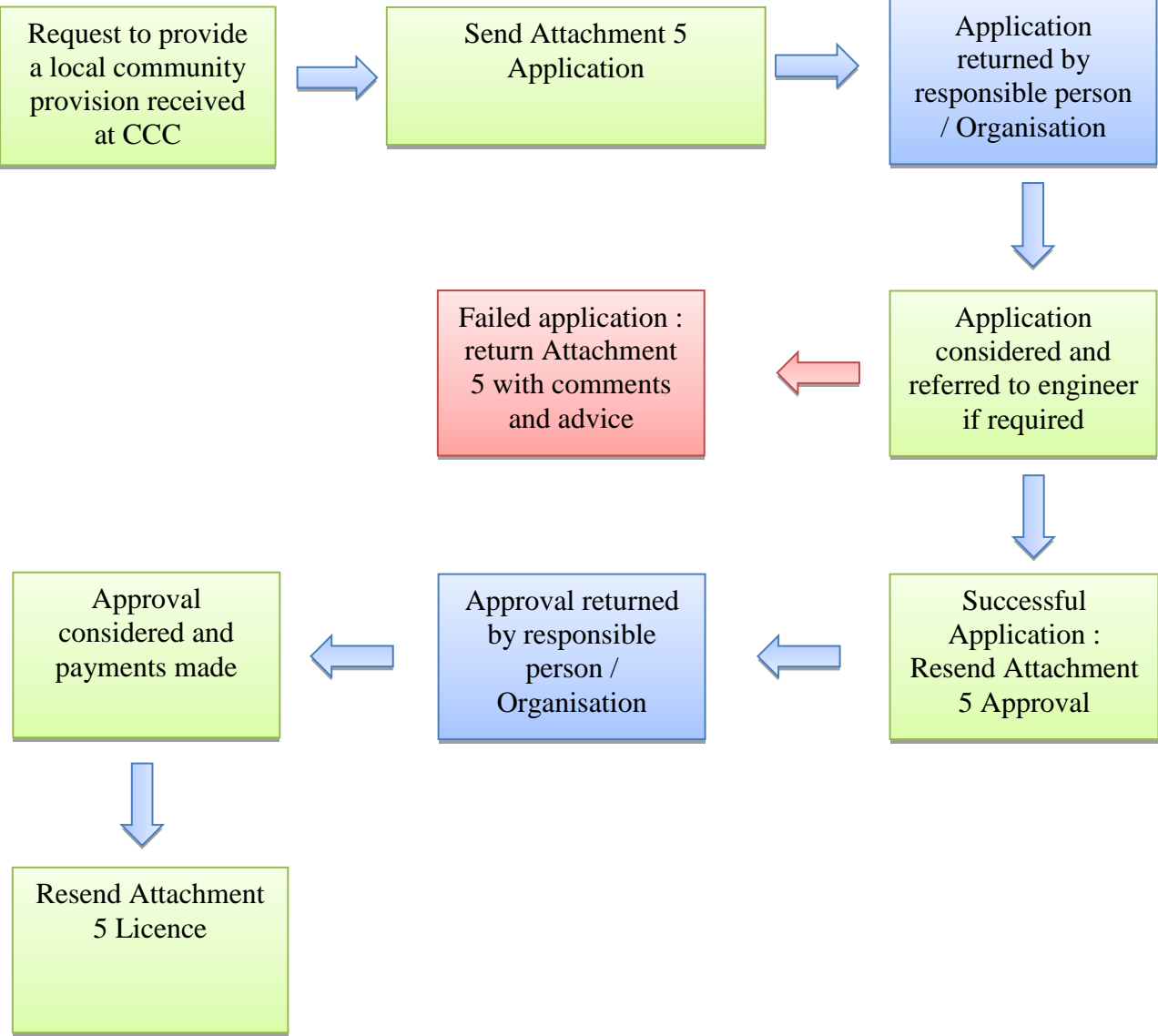
6. Report Authors –

Monmouthshire County Council, Highways Operations

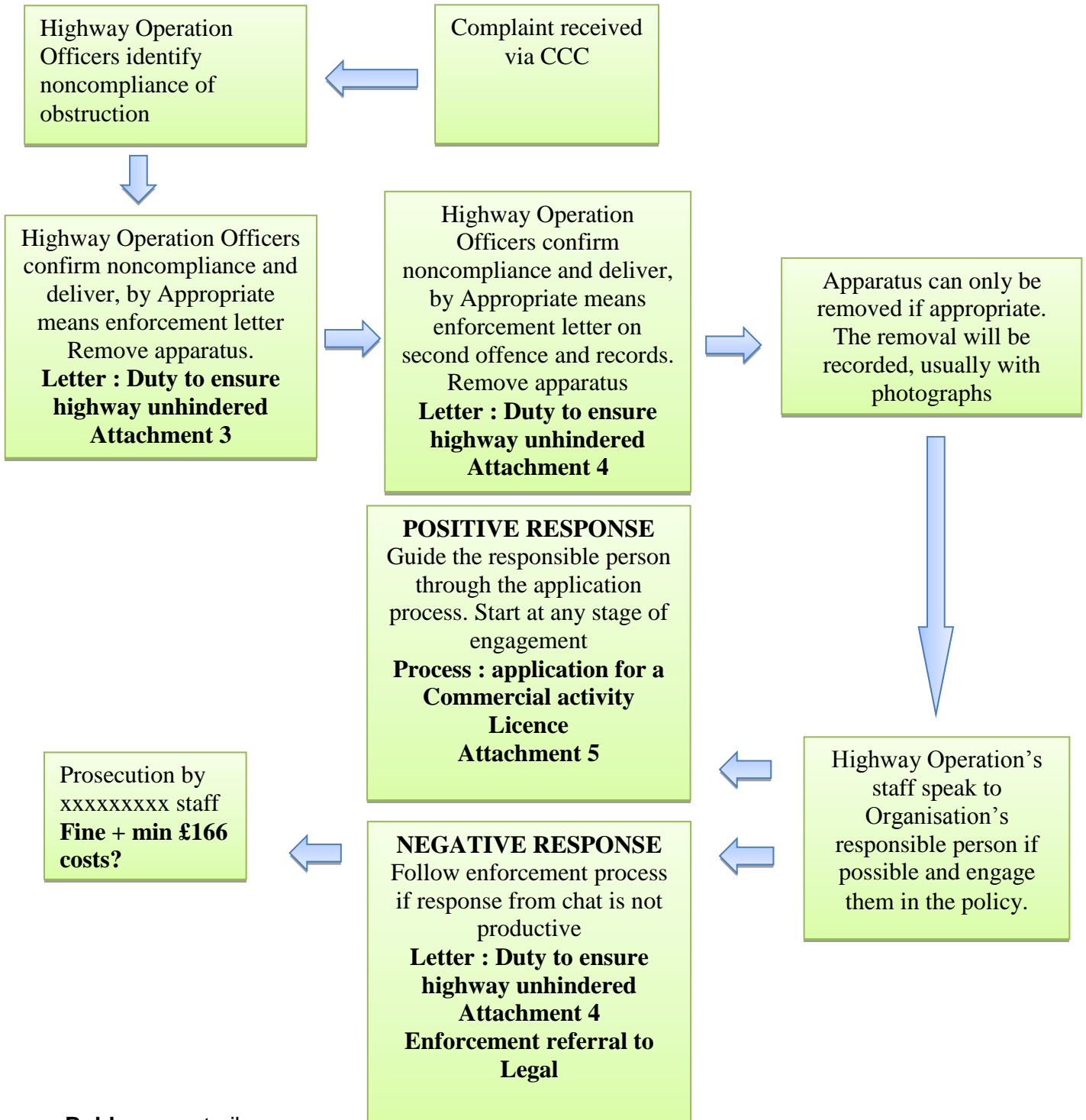
Attachment 1

Attachment 1

LICENCE FLOW



ENFORCEMENT FLOW



Bold = paper trail
 CCC = Customer Contact Centre / call centre

The person dealing with this matter is:

Highway Enquiry Desk

Tel.No./Ffôn: 01633 644725

Fax/Ffacs: 01633 644725

Email/Ebost:

Our Ref:/Ein Cyf: HED/ **T21**

Your Ref: *Eich Cyf*:

Date/Dyddiad :

Dear Sir/Madam

Highway Act 1980 Section 130 : Duty to ensure Highway is unhindered

I am writing to advise you that apparatus, we believe belongs to you or bears your identity has been found illegally placed on Highway in Monmouthshire. I must remind you that it is an offence under section 149 of the Highways Act 1980 to erect such an object on the highway without consent. No permission has been given for this apparatus to be erected, so it is therefore being removed again by the Council.

Monmouthshire County Council have a policy that allows organisations, who meet the local needs, to install apparatus in the Highway. Some fees are required to do so but should you wish to make an application please do so by contacting your local Customer Contact Centre or calling 01633 644725.

Yours faithfully

Steve Lane
Highway Operations Manager
Operations Directorate

The person dealing with this matter is:

Highway Enquiry Desk

Tel.No./Ffôn: 01633 644725

Fax/Ffacs: 01633 644725

Email/Ebost:

Our Ref:/Ein Cyf: HED/**T22**

Your Ref: Eich Cyf:

Date/Dyddiad : 29 June 2016

Dear Sir/Madam

Highway Act 1980 Section 130 : Duty to ensure Highway is unhindered

I am writing to advise you that apparatus, we believe belongs to you or bears your identity has been found illegally placed on Highway in Monmouthshire. I must remind you that it is an offence under section 149 of the Highways Act 1980 to erect such an object on the highway without consent. No permission has been given for this apparatus to be erected, so it is therefore being removed again by the Council.

Your co-operation in refraining from the activity will be appreciated, as we prefer such matters not to escalate to a prosecution. Court action is not in the interests of either party, and the courts generally favour the local authority in such cases.

You should be aware that it is the policy of the Council to prosecute people who repeatedly obstruct the highway. No further warnings will be issued to you on this matter.

Monmouthshire County Council have a policy that allows organisations, who meet the local needs, to install apparatus in the Highway. Some fees are required to do so. You should ensure, if you wish to persist with these obstructions, to make an application please do so by contacting your local Customer Contact Centre or calling 01633 644725.

Yours faithfully

Steve Lane
Highway Operations Manager
Operations Directorate

The person dealing with this matter is:

Highway Enquiry Desk

Tel.No./Ffôn: 01633 644725

Fax/Ffacs: 01633 644725

Email/Ebost:

Our Ref:/Ein Cyf: HED/**T23**

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I am passing the matter to the Council's solicitors, who will now instigate legal proceedings. Our costs will be recovered through the courts.

Yours faithfully

Steve Lane
Highway Operation's Manager
Operations Directorate



**APPLICATION : COMMERCIAL OBSTRUCTION IN THE HIGHWAY LICENCE
TYPE D : COMMUNITY ACTIVITY PROVISION IN HIGHWAY**
Subject to section 50 of the New Roads and Street Works Act 1991

Agreement by both parties, to this arrangement, will require the payment of a single approval fee, but may include an appropriate maintenance agreement, by the applicant, to Monmouthshire County Council
These fees are : on successful application a £0 administration

Organisations are reminded that permission granted is subject to the full policy of Monmouthshire County Council. (copies available on request.) In particular, all proposed activity must not a) cause offence, b) cause a traffic hazard or safety issue, c) damage street furniture by their presence, d) compromise safety if a permanent feature., or e) may be subject to a maintenance agreement. A project must be of accepted quality and appropriate .

I wish to apply for permission to erect a 'Feature' on the highway in Monmouthshire

My organisation.....

Responsible representative :.....Signature :.....

Email Address :.....Tel No. :.....

Postal Address :.....

Seek support of Community Council or permission refused.

Confirm support of Community Council and attach

Proposal : Supply detail drawings / plans / specification as required

.....
.....
.....
.....

Public liability insurers :.....Policy expiry date :.....

Is this a permanent feature :.....

Location : Please supply detail plan and design as required for clarity.....

.....
.....
.....
.....



Reference :

Official use : Permission :

Given : please refer to Attachment 6 detailing criteria :

Yes

send attachment 6 with comments

Refused : please give reasons in comments :

Yes

send attachment 6 with comments

Referred to Area Engineer for comments :

Yes

No

Comments / Stipulations to licence :..include drawings and specifications that will form agreement.....

.....

.....

.....

Signed : Date :

Completed by Applicant: To be completed by the responsible Person, of the business, on successful agreement to undertake the Community Provision.

Please return, with payments, to allow the issue of a Licence.. Please note that the comment / stipulations made above will form part of the licence. Failure to comply with the Licence will require the removal of the provision.

Please find enclosed Payments as prescribed below. I understand that (a) I will need to ensure that I comply with the Guidance and in particular (b) I will ensure that my Public Liability Insurance is maintained and my Organisation will remain covered, and Monmouthshire County Council will be indemnified for the whole duration of the Licence, (c) I will ensure the Provision does not cause a hazard or safety issue. Please call 01633 644725 to arrange payment, (d) I will ensure the 'Feature' is maintained and kept safe, as stipulated in the licence, and or removed, at the cost of the Licensee

£0 application and approval fee, one off payment per application as below, e.g. :-

- a) A permanent feature, such as memorial bench.
b) A permanent feature, such as a Community planting area or notice board

Date Licence to commence :.....

I understand that this document will form the Licence only when signed and dated below by Officer of Monmouthshire County Council.

Signed : Responsible representative : (As application above).....

Signature :.....Date :.....

