

COMMUNITY LIAISON (PUBLIC ACCESS) PARTNERSHIP

Memorandum of Agreement

The **Memorandum of Agreement' (MOA)** is a cooperative Agreement between two or more parties, documenting the details of the collaboration. The **MOA** sets out the working arrangements between Powys County Council's Countryside Services and Outdoor Recreation (CS&ODR) and **Vale of Montgomery Rural Cluster (VMRC)** in repairing, maintaining & improving the public rights of way network and public green space within the community of **VMRC** as interpreted in Appendix 1

PURPOSE & SCOPE

The purpose of the **MOA** is to set forth the terms and conditions, scope of work and responsibilities of the parties associated with their collaboration with CS&ODR (hence known as "The Partnership"). This Agreement imposes certain obligations on the Parties. The obligations cover legal and health and safety aspects whilst working on public rights of way network and public green space.

"The Partnership" is to enable communities to become sustained custodians of their public rights of way network or other public green space using volunteers recruited from the community.

Specifically, both parties will cooperate to develop a community volunteer work team to look after, work on and maintain the public rights of way network and public green space in their area. The objectives of the project are:

- **To recruit and train a volunteer work force**
- **Enable the community to look after their public rights of way (PRoW) network and public green space including landowner negotiation and practical works**
- **Identify routes using the PRoW network of benefit to the community**
- **Work to resolve issues on identified PRoW network**
- **Create and sustain good communication between the council and the community.**
- **To ensure long term viability of community work teams through advice, support and good work practice.**

BACKGROUND

Both parties see the benefits of this partnership, have a desire to pursue the project and have determined that each brings unique expertise and experience necessary to accomplish the objectives outlined above.

CS&ODR has unique expertise and experience in the following areas:

- As the Highways Authority Powys County Council's CS&ODR manages all aspects of the public rights of way network in Powys and Open Access land. In particular, CS&ODR has had much experience in managing volunteers and enabling them to work in a more independent manner.

VMRC has expertise and experience in the following areas:

- **VMRC** is in a better position to both look after its local PRoW network and public green space to organise and manage the team leaders who will in turn manage the local volunteers to maintain the PRoW for their own needs.

RESPONSIBILITIES

Powys County Council's CS&ODR and **VMRC** shall undertake the following activities under this proposal:

Volunteers

- Recruitment

PCC Countryside Services with the assistance of **VMRC** to organise recruitment of volunteers through word of mouth, posters and presentations.

- Training

CS&ODR to train volunteers including site safety and ensuring high standard of work. To train Volunteer Team Leaders (VTL's) in Site Safety, Risk Assessments and the use of a CAT Scanner to be able to work without supervision from a PCC officer.

- Management of Volunteers

Organisation of volunteers and their workdays will be undertaken by the volunteer team leaders. The team leaders are managed by **VMRC**. This may include day-to-day landowner liaison organising materials and their delivery to site.

Tools, Materials & Storage

- Tools

Tools are procured by PCC directly or through funding therefore, CS&ODR shall remain overall guardians of the tools and will be responsible for the maintenance or replacement. The **VMRC** shall be responsible for the arranging of the day-to-day maintenance and security. The tools shall not be used for anything other than what was intended. If the tools are no longer needed, they are to be returned to CS&ODR to be redistributed elsewhere.

- Materials

To be provided by CS&ODR, unless **VMRC** agree to purchase materials either by existing funds, or via external funding.

- **Storage**

A secure storage place for tools and materials shall be provided by **VMRC** and be able to be accessed easily by both volunteers and CS&ODR.

MANAGEMENT OF LOCAL PUBLIC RIGHTS OF WAY NETWORK & PUBLIC GREEN SPACE

Legal Responsibility

- Powys County Council will always be the 'Highways Authority' and will remain the principal body managing the network. Difficult cases, enforcement, planning matters and legal matters such as diversions and applications under Highways Act 1980 S147 will be dealt with by CS&ODR in consultation with the **VMRC**.
- **VMRC** will manage the volunteer team leaders who will look after the 'local' PRoW network and public green space through maintaining, repairing and improvement using the local volunteer work team. The work will typically be repairing, replacing and improving structures such as gates and stiles, clearance work and waymarking in consultation with local landowners and CS&ODR. In collaboration with CS&ODR, volunteers may carry out project work on structures that are the responsibility of CS&ODR such as bridges and steps.
- The **VMRC** will always work within the law, PCC policy and follow best work practice. All works will always be discussed and agreed with landowners before commencement.
- CS&ODR will take responsibility and liability for the work undertaken by the community volunteers, and will provide a robust process to ensure the safety of the volunteers and that the liabilities of CS&ODR are protected.
- CS&ODR will provide training, processes and a charter to ensure that volunteers comply with necessary minimum obligations.

Landowner Liaison

- Standard Operating Procedure is that only CS&ODR officers negotiate on behalf of the Highway Authority (PCC). However, it is now accepted that in order for **VMRC** to fulfil its role and be more autonomous this needs to be adapted. It is therefore agreed that volunteer team leaders may undertake landowner liaison, but only those named and approved by the **VMRC** and CS&ODR.
- **VMRC** & CS&ODR shall nominate two named volunteers to liaise on their behalf. The nominated volunteers must have a basic understanding of PRoW law and the policies and working practices of CS&ODR. Training will be provided by CS&ODR to ensure the nominated volunteers have a base knowledge. In the event of difficulties, they should seek advice from

PCC at the earliest opportunity and CS&ODR will provide the final decision as the Highway Authority.

Practical Works on Public Rights of Way

Maintaining, repairing and improving small structures

- **VMRC** and CS&ODR will have joint responsibility for organising the maintenance, repair and improvement of structures as issues arise. This includes landowner negotiation, organising materials to site, and the organisation of volunteers and management of the working day. CS&ODR will undertake utility searches before practical works commence.

Vegetation Clearance (seasonal)

- **VMRC** and CS & ODR will be responsible for seasonal surface vegetation clearance as it arises and within wildlife and habitat regulations. Side and overhead vegetation clearance should only be done after landholder Agreement.

Large scale Projects

- Projects such as bridge replacements will be discussed and taken forward with CS&ODR as the lead unless otherwise agreed with CS&ODR. Volunteers will be under the supervision of CS&ODR in these circumstances.

Communication between CS & ODR and VMRC

Countryside Services and Outdoor Recreation

- An Area/project officer will always be available to advise and support **VMRC** and the volunteers about Definitive Map advice, landowner negotiation and practical works.
- A representative of CS&ODR will attend a minimum of one meeting with the **VMRC** and VTL's to decide on priorities and any special projects for the coming year.
- CS&ODR will provide enforcement where needed.
- CS&ODR will provide reports on issues on the **VMRC** public rights of way network to **VMRC**. The reports will be those that **VMRC** can resolve themselves under this agreement.
- **VMRC** to always seek advice from CS&ODR when needed about the Definitive Map, landowner negotiation and practical works.
- **XXXXX** to provide information to CS&ODR area officer on works carried out by the volunteers during the course of the year. To liaise and organise the volunteer team leaders to carry out works on public rights of way and public green spaces in their area.
- **VMRC** will identify and agree with CS&ODR and the volunteers a work programme for the forthcoming year to plan liaison and materials.

- It is vital that the prioritisation and discharge of works is done so fairly.

Data Processing Agreement and Mapping

- Under a Data Processing Agreement CS&ODR and **VMRC** will share information about landownership and utilities where appropriate as and when required. Under this agreement, CS&ODR will also provide redacted reports about issues on public rights of way network and public green spaces within the community of **VMRC** where appropriate.
- Under the Public Sector Mapping Agreement Licence, CS&ODR will share paper and digital mapping information including the Definitive Map and Statement.
- CS&ODR's Privacy Policy can be found here: <https://en.powys.gov.uk/article/3792/Countryside-Services-Privacy-Notice>

Funding & Contributions

- Any financial contributions in the form of materials (gate kits, fingerposts etc...) by PCC shall be discussed at **VMRC** at the start of each year.
- CS&ODR and **VMRC** to seek funding for improvement works. CS&ODR will share information on known grants and will secure additional funds through assistance with completing grant applications, forms, letters of support. The lead partner would take on responsibility for reports, grant claims and financial accounting. This can be agreed on a case by case basis.

AMENDMENT AND TERMINATION

The agreed **MOA** may be amended from time to time by mutual Agreement of the parties in a written modification signed by both parties.

This Agreement is binding in honour only, is not intended to be a legally binding contract between us and may be cancelled at any time at the discretion of either party. Neither of us intends any employment relationship to be created either now or at any time in the future.

Appendix 1: Definitions & Interpretations

“Public Rights of Way Network”: those public rights of way recorded and set out on the definitive map and definitive statement held by the Powys County Council

“Public Green Space”: any vegetated areas of land or water to which the public have access as of right or by general permission available to all

“Public”: members of the general public

“Green”: predominantly natural environment and usually excluding predominantly man-made structures or surfaces; it also includes some aspects of the marine and water environment – or ‘blue infrastructure’ - such as rivers, ponds and sustainable urban drainage systems

“Space”: areas to which access is as of right without secrecy or force or is by general permission available to all for the purposes of outdoor recreation or enjoyment; examples may include

- Parks and gardens
- Natural and semi-natural urban green spaces
- Green corridors
- Outdoor sports facilities
- Amenity green space
- Allotments, community gardens and city farms
- Cemeteries and churchyards
- Accessible countryside in urban fringe areas
- Civic spaces.

1. **Highways Authority’s Right to Access:**

Under the Highways Act 1980, the Highways Authority has statutory powers to enter private land to maintain or improve public roads, footpaths, and bridleways. This ensures safe and effective highway infrastructure management. While formal notices are issued in certain situations, in practice, we generally consult informally with landowners to coordinate access and avoid disruption. Exceptions apply during emergencies, when immediate action may be required.

2. **Landowner Liabilities During Highway Works:**

Landowners may be concerned about liability, especially given updates from bodies like the

Farmers Unions. However, the Highways Authority is responsible for repairing or compensating for any damage to private land caused during authorised works. This responsibility is outlined in the Occupiers' Liability Act 1957 and common law. These laws ensure that any disruptions or damage, whether to property, boundaries, or access routes, fall under the authority's responsibility, not the landowner's.

3. Duty of Care and Negligence:

When working on private land, the Highways Authority assumes the role of an occupier under the Occupiers' Liability Act 1957. This places a duty of care on the authority to ensure that lawful visitors, including the landowner and any other users of the land, are safe. This may include providing adequate warnings, signage, or barriers to prevent harm from known hazards. If the authority fails to meet this duty and an accident occurs, it could be held liable for negligence.

4. Public and Employer's Liability:

It is vital that the authority has public liability insurance, which protects both the authority and landowners from potential claims arising from accidents during highway works. This provides added reassurance, as it ensures landowners are not financially exposed to risks related to the works. Likewise, employer's liability insurance should cover workers involved in the operations. It is worth noting that landowners should also maintain their own public liability insurance to ensure they are covered for any incidents on their property, particularly if visitors, contractors, or the public are affected. Insurance policies typically require that both parties comply with relevant laws, meaning any unauthorised or reckless actions that contravene highways legislation could invalidate coverage.

5. Landowner Responsibilities for Public Rights of Way:

Landowners have legal obligations under highways and public rights of way legislation to maintain paths, ensuring they are free from obstructions and safe for public use. This includes keeping paths clear of overgrowth, ensuring gates are operational, and avoiding placing structures that may block access. Failing to uphold these duties could result in enforcement actions by the council or claims for damages from users injured as a result of neglected pathways. Additionally, any unauthorised alterations to rights of way—such as surfacing or construction—could expose the landowner to liability - see point 4.