



JLAF04: Agenda item 9

Members' Submissions – background information

a) Local Authority Resources

Bath & North East Somerset Council Public Rights of Way Team

Summary of resources 2004-05

Staff resources: 9 staff -7 full time, 1 x 0.5fte, 1 x 0.33fte (full time equivalent)
Approximate budgets: £100k revenue, £88k capital

This is to provide the Council's services with regards to all aspects of PROW management (maintenance, capital improvements, definitive map work ROWIP development, JLAF), management of Access Land, Common Land and issues of Town and Village Green registration.

These figures are not easily comparable with those from other authorities as they are calculated on a different basis. For instance, ancillary services such as legal advice and support, structural engineering advice, etc are provided at a certain level and cost which varies from authority to authority.

Bristol City Council Public Rights of Way Team

Summary of resources 2004-05

Capital Expenditure for this year £60,000. Of this £60k 17.5% is revenued to pay staff costs for delivering this work. The remainder is split £15k design only work for structural repair to existing steps £21 & 16k on improvements to two separate PROWs.

Revenue expenditure for this year is £15,000. This is focussed on physical clearance of approx 120 PROWs. This maintenance work is historical from Avon CC days.

There are currently 2 full time officers employed within the Public Rights of Way team in Bristol City Council, part of a larger team that is responsible for walking and cycling, safer routes to schools as well as public rights of way. There is a vacancy in the existing PROW team structure that will not be filled for the foreseeable future, as the Department of Environment, Transport and Leisure at Bristol City Council is currently running a vast overspend and recruitment to existing and new posts has been frozen. As stated above, this refers to existing staff structure and makes no allowance for filling new posts e.g. Rights of Way Improvement Plan officers etc.

South Gloucestershire Council Public Rights of Way Team

Summary of resources 2004-05

Interpreting expenditure is very difficult as some things are apparent whilst some things are not. For example: the majority of our legal advice is not paid for from our budgets, but some is; last year, training expenses were not paid for from our budget, this year they are etc.

We have this year (annual bid) £115K Capital to spend on Bridleway upgrades, surfaced routes to school, signposts, improvements to infrastructure etc. The source is the Local Transport Plan (LTP).

Our Revenue budget is £91K to cover all maintenance, JLAF secretariat contribution, Temp. inspectors wages, etc.

Staffing levels from 26/7 will be 7 fte plus two casual Inspectors approximately 0.25 fte each.

b) Signage

A JLAF member notes the use of white painted stile or gate posts as a means of highlighting the route of a public right of way across countryside, as used in the vicinity of the parish of Crowcombe in Somerset.

c) Disabled Access

The following information is to address a JLAF member's question on Disabled Access, for instance on what obligations there are on landowners, authorities and the Countryside Agency.

The following text has been quoted from "Local Signage Guidance for Open Access Land Disability Advice for the Countryside Agency" (2004), a report commissioned by the Countryside Agency on the implications of the Disability Discrimination Act 1995 (that takes effect in October 2004) for access authorities implementing Part 1 of the Countryside and Rights of Way Act 2000. The advice relates specifically to the provision of signs for the new right of access, so care must be taken not to take any advice from what follows.

A full presentation can be given by an Access Officer from one of the three authorities at the next JLAF meeting.

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Principles and Assumptions

Disability - an equality issue

Disability is an equal opportunity issue in the same way as, for instance, race and gender. It is policies, practices, procedures, physical features, and the attitudes of people, within society, that need to change. This will ensure people who have needs that are different from what is considered "normal", can be included in whatever is going on.

The Extent of Disability

Disabled people form a significant part of the population. Government statistics put the current percentage at approximately 14%. This percentage will increase as the overall population ages. When the average person thinks of a disabled person, they think of someone using a wheelchair, or perhaps someone who is blind. The fact is there are many more people who are now considered disabled in the eyes of the law under the DDA. Disabled people include many with hearing loss; with speech impairments; with learning difficulties (including dyslexia); who have been – and may still be – mentally ill; who have long-term health conditions – like diabetes and asthma; and people with issues of continence.

The Benefits of Good Access

It is important to recognize that the changes, made to ensure some disabled people are not excluded, can assist many others. For instance, greater communication through pictorial means, and simpler language, primarily designed to assist people with learning difficulties, is likely to assist many for whom English is not their first language – including tourists.

The Impact of the Disability Discrimination Act 1995

The advice we have provided takes into account how to respond to potential legal liability under the Disability Discrimination Act 1995 (DDA), as well as good practice and the need for many public sector organisations to meet best value requirements in their provision of services. All these result from greater access required by disabled people particularly as their awareness of their rights, and their expectations, are raised. The DDA comes fully into effect in October this year (2004).. We note the advice that the Countryside Agency commissioned in 2000 about the implication of the DDA for those managing the new right of open access.

Part III of the Disability Discrimination Act gives disabled people rights in relation to access to goods, facilities and services. The definition of who is a service provider is broad ranging. The Code of Practice states that (with a few exceptions not relevant here) "Part III of the Act applies to any person or any organisation or entity which is concerned with the provision in the United Kingdom of services (including goods and facilities) to the public or a section of the public. Similarly, the Act applies to disabled people who use, or seek to use, the services so provided, whether as customers, buyers, shoppers, consumers, clients, patrons or service users." A service does not have to be paid for for its provision to be covered by the DDA.

Simply allowing someone to exercise a right over one's property is unlikely to constitute the provision of a service. However, the moment something is provided for those using the right, there is likely to be service provision. This might include the provision of signage as well as of such things as stiles. The issue then is whether the right of access becomes a service, or whether the provision in relation to that right is the service. This is a "grey area" which will ultimately need to be tested in the Courts, but we would expect the latter to be the case.

Very many disabled people will be more than capable, and desirous, of enjoying the countryside. Some will wish to cycle, climb, and so on, whilst others will be content merely to walk. However, they may require adjustments to enable them to take part in whatever is on offer. The Act makes it clear that it is unlawful for a service provider to discriminate, in failing to comply with any duty imposed on it by section 21 (a duty to make reasonable adjustments), in circumstances in which the effect of that failure is to make it impossible or unreasonably difficult for the disabled person to make use of any such service.

An adjustment is something that needs to be done differently, from how it might normally be done, by someone providing a service. It may be structural (physical), in policies, procedures or practices. This will almost certainly include the creation, use and placement of signage. It must be stressed, however, that even if the DDA applies to a situation, only such steps as are reasonable are required. Our advice in this Report has been formed with this in mind and is a well researched view of what might be "reasonable". However, ultimately what is reasonable will, again, only be decided through the Courts.

The Draft Disability Discrimination Bill was published in December 2003 and the Joint Select Committee is due to report to both Houses of Parliament by 30 April 2004. It is expected that when it becomes law there will be a requirement on public authorities not to discriminate against disabled people in carrying out their functions, not just in providing a service, which is currently the case. The definition of public authority is likely to include those carrying out functions of a public nature, and we would expect the Countryside Agency and Access Authorities to be amongst these, along with some landowners, those who may, for instance, have a significant level of public funding to undertake their work. This positive duty in relation to functions is likely, for instance, to impact on the way the guidance for setting up Local Access Forums is carried through.

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d) Use of cycle paths by riders

This item follows the consultation on a draft Strategy for Horse Riders by Bath & North East Somerset Council, considered briefly at the last meeting of the JLAF (JLAF03) on the 12th March 2004, minuted thus:

“Will Steel of Bath & North East Somerset Council also introduced a draft Strategy for Horse Riders that will soon be made available for consultation. JLAF members would be consulted on this policy. The document is being prepared to tie into the Local Transport Plan.” (Draft minutes of JLAF meeting 12MAR04)

An issue raised within the draft strategy on the use of horses on some cycle paths has been highlighted by a member. An extract from the strategy appears below.

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D Permitting equestrian access to some sections of Cycle Paths

26: Bath & North East Somerset has been active in the creation of new routes for cycling and pedestrian use as part of the National Cycle Network. These new routes often utilise old railway lines, for instance the Bristol to Bath Railway Path and the Radstock Greenway and Frome link, but also brand new purpose built facilities such as the first stages of the Chew Valley Lake path.

27: The British Horse Society has been working with several Local Authorities asking them to sign up to the principal of investigating the suitability of allowing horse riding on any new cycle tracks.

28: This Council recognises that some cycle track sections may provide riders with valuable new routes and safely link sections of existing bridleway. Initial consultation has indicated that carriage drivers might also be interested in using sections of established cycle track in the area. The Council is therefore investigating how this might best be achieved. Your views would be welcomed. Please see Appendix 2 for more details.

[Appendix 2 gives an example of a risk assessment table for considering risks involved in multi-use paths]”

e) City of Bath Definitive Map Project

A question was asked at the last meeting of the JLAF (JLAF03) on the 12th March 2004 on the Bath Definitive Map Project. In response to this, the Bath Definitive Map Officer has provided copies of an information leaflet (attached*) and prepared the following briefing:

**alternatively, please see*

<http://www.bathnes.gov.uk/Tawm/PROW/definmap/default.htm>

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1. Addition of Paths to Bath DMS (Definitive Map and Statement)

A Legal Event Modification Order document has been drawn up to add 6 paths to the DMS. This was sent to the Legal Team on 25th June 2004 to be signed and sealed and will be the base for the City of Bath DMS. Another 14 public rights of way have had Modification Orders – these will be consolidated onto the DMS.

2. 29 Mar to 3 April – Exhibition in the Bath Central Library.

A map was displayed with information about the project. Members of the public were able to consult the map and provide information about public rights of way shown. Information was collected and put on file until research starts in the relevant ward.

3. Rolling out the project in Weston Ward

- 28 paths identified in Weston. They have all been visited.
- An exhibition is currently set up in Weston Library (22nd June – 10th July). The public can consult the map and provide any additional information they may have on the paths shown or not shown.
- The same map was sent to the Weston Ward Councillors and interested groups asking them to identify any omissions.
- Map, evidence form and letter will be sent to each property adjacent to each path, following return of info from the Councillors and interested parties.
- Any difficulties to be put to one side and researched at a later date.
- Publicise – roadshow etc.
- Send to Committee for approval.
- Make Modification Order.
- Serve notice to land owners.
- Post on site and serve notice on adjoining properties.

4. Rolling out the project in Lansdown

The process identified above will be started in Lansdown to overlap the Weston project.

5. Leaflet produced

A leaflet detailing the project has been produced. This will be available in Bath & North East Somerset Council offices such as Keynsham, Trimbridge, the Guild Hall in Bath, leisure centres and libraries. It will also be sent to local residents and other interested groups. It is hoped that the public will contact the Public Rights of Way team with information as a result of the leaflet.

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