

**By email.**

**Comments on Stakeholder Working Group, outline agreement, 25 August 2009**

The three Chairmen of the Joint Local Access Forum for Bath & North East Somerset, Bristol City and South Gloucestershire (JLAF) have discussed this paper and our comments are:

1. We wholeheartedly agree with paragraph 4 and the various provisos but “merely making these changes legally will not achieve the objectives”. We suggest that a positive plan should be made to influence the necessary cultural changes.
2. The outline agreement suggests that the Order Making Authorities (OMA) are given new powers:
  - To **reject** applications – step 1
  - To **negotiate** with landowners – step 2
  - To **ignore** objections – box C

This will mean that Public Rights of Way Teams will be given much more authority than they now have. They will need to be fully trained and experienced with the necessary status and authority to negotiate with challenging individuals and organisations.

3. Step 4 mentions that advertising costs could be reduced “by having shorter adverts linked to full details available on the web”. However, it must be remembered that 20% of people are not on the web, so reasonable amounts of hard copy should be made available on application

4. Paragraph 8. We agree with Edgar Ernstbrunner’s email dated the 18<sup>th</sup> of August on this subject (see below). The cut off date of 2026 will only be equitable to all parties if the entire backlog has been cleared. In the present circumstances we believe this is not likely to happen.

5. Annex 1 Step 2. We would like to see wider notification of interest groups rather than just the LAF and Parish Councils. The application may have been made by an individual or organisation that may be less than fully competent in these matters or badly advised. Opening up the discussion would allow more evidence to come to light.

6. Page 7 Box C. Lack of transparency or concealment is tantamount to perjury or conspiracy to defraud or conspiracy to frustrate the aims of justice. It should be dealt with more severely than a possible award of costs.

Ray Newbiggin, Chairman of the JLAF and EAF member

This email is referred to in the response above....

**From:** Edgar Ernstbrunner  
**Sent:** 18 August 2009 19:56  
**To:** NE Contacts  
**Subject:** Re: STAKEHOLDER WORKING GROUP UPDATE

Dear David,

I wrote to Richard Gething as follows on the 14th:

Dear Mr Gething,

Duncan Graham has just sent me a copy of the NE Stakeholder Working Group paper. Much of it seems fine (the streamlining of the order-making process and of the claims procedure in particular), but there is one point I'm concerned about:

The paper suggests that the 2026 cut-off date be retained subject to a streamlined claims procedure being adopted. That, I think, would be a mistake:

2026 was predicated on the Lost Ways project, the assumption being that, finally, all Rights of Way relying on documentary evidence would be recorded by means of an exhaustive trawl of all available archives. Once that had been completed, a cut-off date was entirely reasonable.

But as you will know, the Lost Ways project was abandoned as infeasible. The archival information remains largely hidden, and it is left to interested parties to look for it.

The main premise for the 2026 date has therefore disappeared. Streamlining the claims procedure does not assist in the time-consuming task of retrieving archival evidence (although it will help with claims based on user evidence, which of course are unaffected by the cut-off date).

Consequently, the 2026 cut-off date should not apply, or, more precisely, there should be no cut-off date at all unless the Lost Ways project or an equivalent is revived.

Yours sincerely  
Dr Edgar Ernstbrunner  
EAF member

Apologies for any duplication.

Kind regards  
Edgar