

## National LAF Conferences 2013 – 14

### **Presentation: Deregulation Bill** Jonathan Tweney, Policy Adviser, Defra

#### **Defra answers to points raised in the Q&A sessions**

- The 2026 cut-off regulations will be introduced as part of the secondary legislation, which forms part of the reform package, when the primary legislation in the Deregulation Bill has been completed.
- The five proposals put forward for consideration by the SWG by Richard Benyon when he was the Minister are not part of the Deregulation Bill as the Stakeholder Working Group is still considering them.
- The House of Commons Committee which looks at the Deregulation Bill is made up of members from all parties in proportion to their presence in the Commons. Members may have a specific interest in the Bill, some of them were on the Joint Committee which took the Bill through pre-legislative scrutiny. The Committee can receive written evidence and take oral evidence. LAFs are free to make representations to the Committee.
- One of the five Minister's proposals was to introduce more stringent quality requirements for evidence of long usage. The idea is to improve the quality of user evidence this could be done through a standard user evidence form and through new Defra guidance. The standard form and guidance would only apply to rights of way and not village greens.
- There may be non-Government amendments put forward to the Deregulation Bill in relation to the diversion and extinguishment of public rights of way through private gardens and farmyards. The amendments may wish to introduce a presumption to divert out of gardens and farmyards. This is something the SWG is still looking at.
- There has been a proposed amendment to the Bill in relation to motor vehicles and unsealed roads, making all byways open to all traffic into restricted byways and all other unrecorded unsealed roads also into restricted byways, but this is unlikely to be accepted.
- The new Modification Consent Order process means that a local authority can negotiate to re-route a right of way with no direct input from the public. The landowner in the first instance has to agree to the existence of the public right of way. The new Modification Consent Order process is part of a balanced package and therefore compromises have been made by users and landowners in order to agree the package.
- Recourse to the Magistrates Court rather than the Secretary of State is designed to hold local authorities to account, although it may be the case that some people may be deterred from using the Court process. The proposal

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originally came from the relative success of using the Magistrates Court in the section 130 process introduced by CRoW.

- Defra recognises that some people feel that the reform package is not fair and will not work, but the package has been agreed by all the relevant stakeholders and by a group with a very considerable expertise and knowledge of rights of way. Ministers have endorsed this process and recognised that consensus is the best way of resolving rights of way issues. The proposals have also been subject to a public consultation.
- We believe that gates should be allowed to be authorised on restricted byways and byways open to all traffic where there is evidence that they are needed. We recognise the concern of horse riders, but gates can already be authorised on bridleways where necessary and it makes sense to extend this provision to byways. In addition local authorities can impose conditions to ensure there is not undue convenience to users.
- Transitional provisions have been introduced into the Deregulation Bill so that it will be possible to put in place the appropriate measures to deal with applications already in the system. Therefore the preliminary assessment also known as the Basic Evidential Test **will** apply to applications already in the system.
- The target is to introduce the primary and secondary legislation in the reform package and then commence it all on the same date before the end of this Parliament, which will end in March 2015.

### **Defra Update – May 2014**

The Deregulation Bill is now at Report Stage in the House of Commons. Day 1 of Report Stage was on 14 May and Day 2 of Report Stage will be after 4 June the date on which the next session of Parliament starts. After Report Stage there is Third Reading in the House of Commons and then the Bill moves to the House of Lords.