

NORTH YORKSHIRE COUNTY COUNCIL
NORTH YORKSHIRE LOCAL ACCESS FORUM

24 November 2005

DEFRA Consultation relating to the amendment of the Local Access Forums
(England) Regulations 2002

1.0 Purpose Of Report

- 1.1 To formulate a response on behalf of the North Yorkshire Local Access Forum (LAF) to the DEFRA consultation paper on amendment of the Local Access Forum regulations.

2.0 Background

- 2.1 The Local Access Forums (England) Regulations came into force in August 2002. They set out the formal framework for the establishment, membership and operation of LAFs and, nationally, virtually all access authorities established forums over the following twelve months. After a two year period of operation, the opportunity is being taken to consider if any changes need to be made to the Regulations in the light of experience. In August members received a report on the research undertaken for the Countryside Agency by the University of Gloucestershire into the activities and operation of LAFs in England. A separate report on this agenda considers the effectiveness of our own LAF against a checklist of good practice. Lessons learned from this research have driven some of the proposals now being put forward for changes to the Regulations.

3.0 The Consultation Paper

- 3.1 A copy of the consultation paper is attached as Appendix 1. A response has been requested by 29 November 2005.
- 3.2 The purpose of the consultation paper is to seek views from interested parties on a number of specific recommended changes to the regulations governing the establishment and operation of Local Access Forums and to canvas views on any additional improvements that consultees may wish to suggest. The various proposals made are listed in section 4 below, together with a suggested response to DEFRA on behalf of the North Yorkshire Local Access Forum. Members are asked to consider these comments and make any amendments or additions as appropriate.
- 3.3 The County Council's Environment and Heritage Overview and Scrutiny Committee has taken an interest in the work of the North Yorkshire Local Access Forum. It has asked to be given the opportunity to comment before any response is made to the consultation paper. DEFRA has confirmed that it will still be able to take account of any responses received shortly after its deadline. In view of the timescales, a copy of this report has already been submitted to the Overview and

Scrutiny Committee with the agenda for its next meeting on 30 November 2005. A written note will be circulated to members of the Scrutiny Committee on the day of their meeting containing any additional comments made by the Local Access Forum. If the County Council, through its Overview and Scrutiny Committee, wishes to make any further comments, it will be made clear that these are in addition to those already made by the Local Access Forum.

4.0 Comments

4.1 The various proposals made in the consultation paper are listed below, together with a suggested response. Members are asked to read the text accompanying each proposal, on pages 4-10 of the consultation paper, which explains the context.

4.2 **Proposal 1: We invite views on whether the Regulations should be amended so that the deadline in those Regulations is removed, thereby ensuring that there is a continuing duty on appointing authorities to have a forum (or forums) for their area.**

Comment: This proposed change is simply updating the guidance and removing reference to a specific date that was only relevant in relation to the initial establishment of LAFs following the CROW Act. The proposal is supported.

4.3 **Proposal 2: We invite views on whether the Regulations should be amended to give appointing authorities the power to extend or reduce the area covered by a forum; combine forums with other forums; establish new forums; abolish forums; and/or; enter into or withdraw from joint arrangements.**

Comment: At its meeting on 17 February 2005, the North Yorkshire LAF considered an approach from the City of York LAF concerning a possible merger. Members were sympathetic to this approach but noted that the LAF Regulations currently appeared to preclude this possibility. The merger was supported in principle, subject to the LAF Regulations being amended and agreement being reached on resources. The proposal would provide more flexibility to respond to changed circumstances both now and in the future and is therefore supported.

4.4 **Proposal 3: We invite views on whether an appointing authority, before making any of the changes referred to in Proposal 2, should be required to consult any other appointing authorities that the authority considers would be affected by the proposal. Similarly, we invite views on whether the authority should be required to consult any existing forums that the authority considers would be affected.**

Comment: The proposal to consult with other relevant appointing authorities and LAFs prior to making any amendment to the LAF's

boundaries would be sensible and would not be onerous. The areas covered by the Appointing Authority and the LAF might not always be the same and separate consultation would therefore be needed. The proposal is supported.

- 4.5 Proposal 4: We invite views on whether the Regulations should be amended to give an appointing authority the power, when establishing a forum or entering into joint arrangements, to appoint members from amongst the membership of any forum(s) previously established by that authority, without a requirement for vacancies to be advertised or for the appointing authority to consult.**

Comment: It would seem sensible if two existing Forums were to merge, for the membership of the new combined Forum to be drawn from the existing membership of the two previous Forums, without the need to re-advertise. This proposal is supported in principle. However, in this scenario, there are a number of difficult issues that would need to be addressed. If one (or both) of the existing LAFs is already operating with a large number of members, how would it be decided which members of the combined Forum would have to retire? In deciding how many and which members should retire, how much emphasis should be placed on the relative geographical sizes and populations of the LAFs to be merged? Which Appointing Authority would make the decision and which would have the final say if there was a difference of view? How would the balance between the three main LAF interest groups be maintained? How would the question of resourcing the merged Forum be dealt with? All such issues need to be specifically addressed by the new Regulations.

- 4.6 Proposal 5: We invite views on whether the Regulations should require appointing authorities to notify the Countryside Agency whenever (a) a new forum secretary is appointed or their contact details change or (b) whenever they make the type of changes referred to in Proposal 2.**

Comment: This would be sensible and would not be onerous. The proposal is supported.

- 4.7 Proposal 6: We invite views on whether the Regulations should require an appointing authority to submit a copy of its forum's annual report to the Countryside Agency.**

Comment: This would be sensible and would not be onerous. The proposal is supported.

- 4.8 Proposal 7: We invite views on whether the Regulations should be amended to reduce the minimum number of forum members from 10 to 8.**

Comment: This may be worth considering if it would help to make some of the smaller LAFs more viable, although there must be doubt

whether a LAF with only 8 members is large enough to contain the necessary range of experience and expertise needed to make it an effective advisory body. The North Yorkshire LAF has always operated with a relatively high number of members (18) and, during the annual recruitment process, applications for membership have always significantly exceeded the number of places available. The issue of a minimum LAF size has therefore not arisen. The LAF therefore expresses no view on this proposal.

4.9 We invite views on: (A) whether to extend the list of bodies to whom it is the function of local access forums to provide advice, and if so, which bodies should be included and why.

Comment: It is not clear why a list of bodies needs to be prescribed in this way. The LAF could instead be given a function to provide advice to any relevant body whose activities have an impact on the remit of the LAF. If a list is prescribed, then it would seem logical to place a requirement on those bodies to themselves engage with the LAF and/or to take account of its advice. Without this requirement it is unclear how much impact the LAF's advice is likely to have. It is also unclear how and in what circumstances advice should be provided. Of the 6 existing bodies listed, the North Yorkshire LAF has had no contact with 2 of the bodies and only 3 of the bodies have ever consulted the LAF. The LAF has provided advice to some of the listed bodies but it is not clear what impact that advice has had as there has been little feedback. Further guidance is required on how LAFs can engage more effectively with relevant bodies.

4.10 We invite views on: (B) whether the Secretary of State should prescribe additional matters on which local access forums should provide advice, and if so, what these matters should be and why.

Comment: The LAF should be consulted by the Countryside Agency on all applications for restrictions to areas of open access. The North Yorkshire LAF was not consulted on one particular proposal for restrictions because the Countryside Agency was minded to refuse the application. It is not clear why consultation should take place only when the Agency proposes to approve an application. The North Yorkshire LAF has not to date been asked to advise on any applications for access restrictions, despite this being one of its specific tasks set out in guidance. It would also be worth prescribing a requirement for LAFs to provide advice on the preparation and review of Local Development Frameworks. These could potentially be key documents for facilitating increased or improved access. This would however only be really effective if Local Authorities are required to consult or seek the views of the LAF at relevant stages in their preparation. Major planning applications can also have significant impacts on the provision of recreational activity, either through impacting upon existing facilities or providing opportunities for increased provision. It would therefore be useful for LAFs to be given an opportunity to advise on the larger more significant applications.

- 4.11 **We invite views on: (C) whether any other amendments should be made to the Regulations, in order to improve the effectiveness, operation or administration of forums, and if so, what these should be and why.**

Comment: There is no current provision in the Regulations for the appointment of substitutes amongst local authority elected members on the LAF. Due to the heavy workloads of elected members, there are often occasions when a provision to appoint substitutes would help to improve attendance at LAF meetings.

- 4.12 **We invite views on: (D) how the Secretary of State's guidance to forums and local authorities should be revised.**

Comment: More detailed guidance would be helpful on the longer term role and remit of LAFs and how their work can be made to be more effective. Their existing remit is heavily linked to the preparation of Rights of Way Improvement Plans and to the introduction of access to open country. All LAFs will have an adopted ROWIP within two years. Many have already helped with the successful introduction of open access. In North Yorkshire, this is already operating smoothly with few significant issues of concern. In the longer term, therefore, clearer guidance is required on what should be the main focus for the LAF's work. Guidance would also be useful on the most appropriate format for LAF Annual Reports.

- 4.13 **We invite views on: (E) examples of good practice which can be used in developing guidance for forums and local authorities.**

Comment: The North Yorkshire LAF has helped to establish from scratch a very successful team of 40 Open Access Volunteers to provide advice to the public and minimise any management problems on the ground. All are provided with rigorous training and equipped with appropriate health and safety equipment. The team patrols throughout the year on weekends and other busy periods. The LAF advised on the formation of the volunteer taskforce and on preparation of the Open Access Management Plan which guides their work. It receives regular progress reports at all its meetings and some LAF Members form part of the Open Access Volunteer team.

5.0 Recommendation

- 5.1 It is recommended that, subject to any additional views from members, the comments set out in section 4 of the report are endorsed and submitted to DEFRA as the response of the North Yorkshire Local Access Forum to the consultation paper.

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