

REPORT OF THE ACCESS & RIGHTS OF WAY MANAGER

**SUBJECT:
WELSH GOVERNMENT WHITE PAPER; CONSULTATION ON ACTIVE TRAVEL
(WALES) BILL**

Purpose of Report

To bring Members' attention to the implications of the White Paper for the work of the National Park Authority and seek Members' approval for officers to respond to the consultation.

Introduction/Background

The intention of the Welsh Government's proposals in this White Paper is to encourage a culture of walking and cycling in Wales so that more journeys and trips are taken on foot and bicycle rather than by motorised transport. In doing so people can experience the health benefits, it can reduce our greenhouse gas emissions and can help address poverty and disadvantage. The white paper therefore focuses on the development of cycling and walking as a means of travel rather than for leisure and recreation.

Together with Pembrokeshire County Council, the National Park Authority has undertaken a number of infrastructural improvements and promotional work to provide opportunities for cycling and walking to encourage more people to walk and cycle for both leisure and utilitarian purposes. In recent years most of this work has been in the strategic context of the Wales Cycling and Walking Strategy. This five year plan comes to an end in 2013 and during the review of its implementation it is possible that the Welsh Government (WG) has concluded that legislation is now required in order to make further progress in the development of walking and cycling opportunities.

The White Paper proposes to introduce new duties for local authorities in Wales as follows:

- to identify and map the routes within their areas that are safe and appropriate for walking and cycling;
- to identify and map the enhancements that would be required to create a fully integrated network for walking and cycling and develop a prioritised list of schemes to deliver the network;
- to deliver an enhanced network subject to budget availability and following due process;
- to consider the potential for enhancing walking and cycling provision in the development of new road schemes.
- as part of this White Paper consultation, WG are also seeking views on whether some of the definitions of public rights of way should be amended in Wales in order to provide more cycling opportunities.

Clarification has been received from WG that national park authorities are not defined as local authorities for the purposes of this White Paper, the new duties would only relate to highway authorities and accordingly there would be no requirement for this Authority to adopt the new duties. There is, however, an expectancy that national park authorities would work closely with their neighbouring highway authorities in implementation of the new duties. In this respect the National Park Authority would of course continue to work closely with Pembrokeshire County Council, especially in the identification of suitable routes and the enhancements needed to provide an integrated network of walking and cycling opportunities. The preparation of composite maps would be an achievable and valuable exercise. It would certainly assist the public to identify cycling opportunities and help to guide future development of a sustainable transport network. The WLGA has welcomed the proposals but pointed to the financial implications of developing an integrated network and its ongoing maintenance.

Public Rights of way

The main implications of the consultation for the National Park Authority are to be found in paragraphs 65 -68 under the title Rights of Way Revisions. The National Park Authority has been delegated a range of functions, powers and duties in respect of public rights of way by Pembrokeshire County Council. The White Paper quite rightly raises the issue of the complexity of the legislation surrounding public rights of way and cycle tracks as a major barrier to the provision of new routes. Consideration of this matter is to be welcomed, however, a solution to this problem is far from straight forward. Procedural issues relating to public rights of way are currently the subject of a DEFRA consultation taking place in England and such far reaching changes to the classifications and legal procedures for public rights of way are probably beyond the scope of this white paper.

As well as the Coast Path, the National Park Authority is liable for the maintenance of a network of 1246 individual public rights of way; 1122 routes are classified as public footpaths on which the public have right of passage on foot only. The remaining 10% are bridleways along which the public have right of passage on foot, horseback and pedal cycle. Bridleways are fragmented and were not registered with the needs of recreation in mind, reflecting local patterns of transport in the days before widespread motor transport. There is no obligation to maintain bridleways to a condition suitable for cycling so at present, few bridleways would provide opportunities for utilitarian travel by bicycle.

A few bridleways and public footpaths in the National Park have been improved to create cycleways, notably for safe routes to school and as part of Sustrans' National Cycle Network. These schemes have been funded by external grants and are now maintained as cycleways by the County Council.

The White Paper suggests that a blanket reclassification of the rights of passage on all public footpaths in Wales could entitle cyclists to use public footpaths and thus deliver a wide range of new cycling opportunities. Officers of national park authorities and highway authorities in Wales responsible for the management of PROW met to discuss the White paper in June. As a body we have reservations on the practicalities of implementation of such an option, not least the significant amount of costly work that it could entail without necessarily delivering the standard of new cycling opportunities that people desire. These views are shared by Pembrokeshire Local Access Forum.

While public rights of way present unrivalled opportunities for leisure walking, the suitability of the network of rural public footpaths for cycling is a major consideration and at present, their condition is a major barrier to utilitarian cycling and in many cases walking as a convenient mode of transport. Rural public footpaths are generally characterised by a natural surface that can vary depending on weather conditions, they often cross agricultural land can be narrow in width with stiles and gates.

At present the activity of cycling along a public footpath is considered a trespass against the owner of the land. Local authorities receive complaints from both landowners and walkers regarding unlawful cycling on public footpaths. This suggests that there is both a demand for more cycling opportunities (primarily for leisure) but that the public footpaths being so used are in the main, unsuitable. Sustrans have specific criteria relating to surfaces and barriers which routes must meet in order for them to be promoted as cycle routes. It is highly unlikely that the majority of rural public footpaths, not just in the National Park but Wales, would meet such criteria relating to hard surfaces, etc which is deemed necessary by Sustrans to facilitate and encourage travel by bicycle. The definition of "walking" and "pedestrian" in the white paper includes not only those who travel by foot but also users of wheelchairs and other mobility aids. It is clear therefore that the majority of public rights of way are not suitable for such usage and would have to be improved to a high standard in order to accommodate such needs. The white paper proposes to produce detailed guidance to clarify the necessary standards, however, it is not clear whether one standard to suit all cycling and walking needs will be adopted or whether routes can be maintained and classified to accommodate mountain bikes and one extreme and wheelchair users on the other.

The Pembrokeshire Coast Path is an issue that is a specific cause for concern. The majority of the coastal sections of the National Trail are made up of public footpaths. The Coast Path is therefore risk assessed and managed for the purpose of leisure walking and seeks to balance the particular quality of experience with safety. With large sections of narrow footpaths on unprotected cliff edge and over 4,000 steps the Coast Path is both unsuitable and unsafe for cycling. Unlawful cycling on the Coast Path is a concern not least for the safety of walkers who encounter cyclists on narrow cliff paths. The character of the Coast Path would have to change greatly in order to safely accommodate the demand for cycling and impact on the quality of experience for walkers.

The White Paper recognises that there are public footpaths, particularly in urban and semi-urban areas, which are of a quality and type which would allow for use by cyclists; and others in more rural settings which could be suitable in terms of their location and condition (surface, width and lack of limitations such as stiles, steps and kissing gates). It would therefore be preferable if WG could provide a new power to expediently deliver new cycling opportunities on suitable public footpaths that could be selectively upgraded and maintained for cycling as well as walking.

Comparisons

The innovative proposals by WG would introduce a new duty in relation to walking and cycling development without comparison or precedent.

An appraisal of the suitability of all public footpaths for the introduction of a new right of cycling could be compared to the reclassification of Roads Used a Public Path (RUPPs) which also required an appraisal of each individual route resulting in a

protracted exercise spanning two decades. This procedure was time consuming and expensive in terms of its demands on staff time.

Options

It could be argued that the core proposals do not require legislation to realise the desired outputs, however, the Cycling and Walking Strategy has been in place since 2009 and it appears to be the view of the WG that this strategic guidance has not been effective in the delivery of new active travel opportunities.

Rather than look to introduce a blanket reclassification of rights of passage on public footpaths, the WG should consider an alternative course of action to provide new streamlined powers to selectively upgrade public footpaths for cyclists where they would form suitable opportunities and strategic routes.

There is scope, however, to overcome some anomalies by allowing equestrian users on existing cycle paths.

Financial considerations

In seeking to provide cycling and walking opportunities, the Park Authority is usually only able to undertake significant improvements to public footpaths and bridleways with external grant aid and often in partnership with Pembrokeshire County Council. The statement in the proposals that implementation will be subject to budget availability suggests that additional funding will be forthcoming if the new duties are introduced.

In terms of staff time there would certainly be an involvement of officers in advising on suitable routes to be included on the two maps of cycling and walking provision. What is not clear is the possible changes to the classification of rights of passage on public footpaths as this could potentially generate a great deal of additional work for the National Park Authority in its role of managing public rights of way. The White Paper suggests that there could be provision for exceptions, however, this would require an appraisal of the suitability of the entire network of public footpaths and would be a significant undertaking in terms of staff time. The need to assert and protect a new right of passage for cycling on public footpaths would also no doubt generate additional work for officers. Current legal work which focuses on formal route diversion of public rights of way would therefore be reduced.

Risk considerations

Given that the Park Authority is not required to implement the new duties, the corporate risks of the White paper are limited; however, the unknown quantity that may result from a reclassification of public footpaths in particular could result in significant implications in terms of work and affect relationships with key stakeholders such as some walking groups and landowners.

With the cooperation of landowners the Authority has made great progress in improving ease of access to the network of PROW by replacing stiles with gates. There are concerns that any imposition of higher rights of passage may limit future cooperation in replacing stiles with gates, reduce the take up of such agreements and even result in stiles being restored. Where stiles are recorded as lawful limitations of a public right of way, a landowner can insist on their retention.

Compliance

The core proposals of the White Paper comply with several Corporate Strategy Objectives notably Outcomes 1, 2, 3, & 5. National Park Grant letters from the WG minister in recent years have also specified the need to make progress in the provision of more cycling opportunities.

Human Rights/Equality issues

In order to be compatible with the European Convention of Human Rights (the Convention) regard must be had to Convention Rights in the decision making process. Although this Authority will not be the decision maker for this proposal, this report's content and associated recommendation is considered to set out and strike a fair balance between the competing interests. Walking is free at the point of use and cycling has become increasingly affordable, accessible to the majority of the population and evidently increasing in popularity. More facilities for safe walking and cycling can therefore help address poverty and disadvantage.

Biodiversity implications/Sustainability appraisal

Proposals to improve cycling and walking opportunities will clearly complement sustainability aims by reducing the use of motorised transport and accordingly cutting carbon emissions. There may be implications for the rural landscape if walking and cycling improvements are introduced in the countryside with materials and design of an urban character.

Welsh Language statement

No issues.

Conclusion

For the reasons stated above officers would suggest that a wholesale reclassification of public footpaths to cyclepaths would not be effective in delivering opportunities for sustainable travel and would only serve to frustrate public expectations, especially if there was no obligation to maintain public footpaths for cycling.

A more effective course of action would be to identify and map the routes that are needed to deliver a fully integrated network, including public rights of way where deemed appropriate and then empower local authorities to convert any suitable public footpaths to cyclepaths with a procedure that is both swift and fair to all interests.

RECOMMENDATION: That **Members approve the report and the response contained in the annex and authorise officers of the National Park Authority to respond to the consultation by the 14th August 2012.**

Background Documents

Welsh Government White Paper; Consultation on Active Travel (Wales) Bill

(For further information, please contact Anthony Richards, Access & Rights of Way Manager extn 4849)

Author: Anthony Richards

Annex A – Consultation Response Form

Please send completed copies to:

Active Travel Bill Team
Transport Policy and Legislation
Welsh Government
Cathays Park 2
Cardiff
CF10 3NQ

LGCTransportMailbox@wales.gsi.gov.uk

The consultation is running until the 14th August, and responses are accepted up until that date. Responses are welcome in electronic or hard-copy.

Consultation Response Form

Your name: Anthony Richards

Organisation (if applicable): Pembrokeshire Coast
National Park Authority

Email / telephone number: 01646 624849

Your address: Llanion Park, Pembroke Dock,
Pembrokeshire SA72 6DY

Question 1: What are your views on the proposals for Local Authorities to have a duty to:

- **identify and map the routes within their areas that are safe and appropriate for walking and cycling;**
- **identify and map the enhancements that would be required to create a fully integrated network for walking and cycling and develop a prioritised list of schemes to deliver the network;**
- **deliver an enhanced network subject to budget availability and following due process**
- **consider the potential for enhancing walking and cycling provision in the development of new road schemes?**

The preparation of composite maps would be a valuable exercise. Sufficient additional resources should be allocated by WG to local authorities to ensure the new duty can be implemented. Local authorities should be encouraged to consult widely during their preparation. The maps would assist the public to identify cycling opportunities and help to guide future development of a sustainable transport network. New road improvement schemes should always incorporate improvements for non-motorised traffic.

With a reasonable time scale and sufficient resources, the new duties relating to mapping are achievable.

Question 3. Do you think the type of routes and facilities that Local Authorities be required to map should be specified in guidance or regulation?

Detailed guidance is definitely required in order to enable local authorities to define what are “safe and appropriate” routes for active travel. This will make the new composite maps consistent across Wales in terms of the standards of routes that are promoted.

Question 4. What are your views about revising rights of way definitions, for example allowing cyclists to use footpaths, or equestrians to use cycle paths?

The National Park Authority has been delegated a range of functions, powers and duties in respect of public rights of way by Pembrokeshire County Council. The White Paper quite rightly raises the issue of the complexity of the legislation surrounding public rights of way and cycle tracks as a major barrier to the provision of new routes. Consideration of this matter is to be welcomed, however, a solution to this problem is far from straight forward and we would suggest probably beyond the scope of this white paper, being more appropriate for inclusion in future legislation.

In the Pembrokeshire Coast National Park public footpaths make up 90% of the network of public rights of way and few of the remaining bridleways provide suitable opportunities for utilitarian travel by bicycle.

The White Paper suggests that a blanket reclassification of the rights of passage on all public footpaths in Wales could entitle cyclists to use public footpaths and thus deliver a wide range of new cycling opportunities. Officers of national park authorities and local authorities in Wales responsible for the management of PROW met to discuss the White paper in June 2012. As a body we have reservations on the practicalities of implementation of such an option as it could well entail a significant amount of work for officers without necessarily delivering the standard of new cycling opportunities that people desire. These views were supported by Pembrokeshire Local Access Forum.

While public rights of way present unrivalled opportunities for leisure walking, the suitability of the network of rural public footpaths for cycling is a major consideration and at present, their condition is a major barrier to utilitarian cycling and in many cases walking as a mode of transport. Rural public footpaths are generally characterised by a natural surface that can vary depending on weather conditions, they often cross agricultural land can be narrow in width with stiles and gates.

At present the activity of cycling along a public footpath is considered a trespass against the owner of the land. Local authorities receive complaints from both landowners and walkers regarding unlawful cycling on public footpaths. This suggests that there is both a demand for more cycling opportunities but that the public footpaths being so used are in the main, unsuitable. Sustrans have specific criteria relating to surfaces and barriers which routes must meet in order for them to be promoted as cycle routes. It is highly unlikely that the majority of rural public footpaths, not just in the National Park but Wales, would meet such criteria relating to hard surfaces, etc which is deemed necessary by Sustrans to facilitate and encourage travel by bicycle. The definition of “walking” and “pedestrian” in the in the white paper includes not only those who travel by foot but also users of wheelchairs and other mobility aids. It is clear therefore that the majority of public rights of way are not suitable for such usage and would have to be improved to a high standard in order to accommodate such needs.

The Pembrokeshire Coast Path is an issue that is a specific cause for concern. The majority of the coastal sections of the National Trail are made up of public footpaths. The Coast Path is therefore risk assessed and managed for the purpose of walking and seeks to balance the particular quality of experience with safety. With large sections of narrow footpaths on unprotected cliff edge and over 4,000 steps the Coast Path is both unsuitable and unsafe for cycling. Unlawful cycling on the Coast Path is a concern not least for the safety of walkers who encounter cyclists on narrow cliff paths. The character of the Coast Path would have to change greatly in order to safely accommodate the demand for cycling and impact on the quality of experience for walkers.

The white paper suggests that there be provision for exceptions, however, this would require an appraisal of the suitability of the entire network of public footpaths and would be a significant undertaking in terms of staff time. The need to assert and protect a new right of passage for cycling on public footpaths would also no doubt generate additional work for officers.

With the cooperation of landowners the Authority has made great progress in improving ease of access to the network of PROW by replacing stiles with gates. There are concerns that any imposition of higher rights of passage may limit future cooperation in replacing stiles with gates, reduce the take up of such agreements and even result in stiles being restored if they are lawful limitations. The imposition of cycling rights on public footpaths could also adversely affect relationships with key stakeholders such as some walking groups and landowners.

The White Paper recognises that there are public footpaths, particularly in urban and semi-urban areas, which are of a quality and type which would allow for use by cyclists; and others in more rural settings which could be suitable in terms of their location and condition (surface, width and lack of limitations such as stiles, steps and kissing gates). It would therefore be preferable if WG could provide a new power to expediently deliver new cycling opportunities on suitable public footpaths that could be selectively upgraded and maintained for cycling as well as walking.

Rather than look to introduce a blanket reclassification of rights of passage on public footpaths, the WG should consider this alternative course of action to provide these new streamlined powers to selectively upgrade public footpaths for cyclists where they would form suitable opportunities and strategic routes.

We believe a wholesale reclassification of public footpaths to cyclepaths would not be effective in delivering opportunities for sustainable travel and would only serve to frustrate public expectations, especially if there was no obligation to maintain public footpaths for cycling. A more effective course of action would be to identify and map the routes that are needed to deliver a fully integrated network, including public rights of way where deemed appropriate and then empower local authorities to convert any suitable public footpaths to cyclepaths with a procedure that is both swift and fair to all interests.

There is scope, however, to overcome some anomalies for example by allowing equestrian users on existing cycle paths.

Question 5: What are your views of the proposal for new design guidance?

Given the absence of standard design guidance for active travel routes, this proposal is to be welcomed.
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Question 6: What would the costs and the benefits be to you or your organisation (or the people your organisation represents)?

The promotion and ongoing development of active travel opportunities via the proposed new duties would complement a number of objectives in the National Park Authority's Corporate Strategy 2011-14, namely Outcomes 1, 2, 3, & 5. The costs of a blanket reclassification of the right of passage on public footpaths to entitle cycling would outweigh the benefits for the reasons contained above/in the attached report.

There is a need to acknowledge the recreational and economic benefits of active travel opportunities, in terms of the leisure opportunities they offer for both residents and visitors to Wales. Local authorities should closely integrate the development of active travel with their other duties in respect of tourism, leisure & economic development and public rights of way management. All local authorities have statutory Rights of Way Improvement Plans whose implementation up to 2018 can contribute greatly to the objectives of the White Paper.