

## **NEW FOREST ACCESS FORUM**

**Meeting:** *Monday 01 June 2015*

**Agenda item 7:** *Deregulation Act 2015*

### **Summary for Local Access Forums**

#### **Rights of way clauses in the Deregulation Act 2015**

The rights of way clauses are part of a wider de-regulatory package of public rights of way reforms; other aspects of the reforms will be implemented through secondary legislation (regulations) and guidance.

The existing legal processes for recording public rights of way are complex, slow and resource intensive. The reforms make improvements to benefit users of rights of way, landowners, local authorities and developers alike by creating a simpler system for mapping, changing and extinguishing rights of way. The proposals are a balanced package supported by a group representing the full range of interests in rights of way. They make procedures more streamlined, and flexible, but also give local authorities more scope to use their judgement in dealing with insubstantial or irrelevant applications and objections, and enable the development of locally negotiated solutions.

#### **Detail on the clauses in the Act**

The clauses in the Act introduce a preliminary sift for applications to record rights of way, so that local authorities are relieved of the burden of dealing with poor or spurious applications. They also provide that local authorities (rather than applicants) approach landowners, but only where claims pass the preliminary sift, and enable the local authority to negotiate an alternative route with the landowner before recording the way; this will reduce the number of applications that result in costly dispute procedures. Provision for landowners to apply for gates on byways will also reduce the number of applications that are disputed and end up at public inquiry.

Other measures cut the number of cases that are referred to the Secretary of State for resolution; these include providing for recourse to a local magistrate's court rather than the Secretary of State where a local authority has failed to deal with a viable application and ensuring that any given case can go before the Secretary of State only once, rather than several times, which can often be the case at present. A similar measure enables authorities to refer only those parts of orders that are disputed to the Secretary of State for resolution.

Improvements to provisions for a 'right to apply' make it easier for landowners to get local authorities to respond positively to requests for the extinguishment or diversion of an existing right of way.

There are a number of smaller procedural changes to cut the administrative and financial burden on local authorities and others. These include giving: local authorities discretion to disregard irrelevant appeals and objections, rather than having to submit them all to the Secretary of State as is currently the case; a fast track procedure for correcting minor administrative errors on the definitive map and statement, rather than having to go through the full modification order procedure; reducing the requirement for advertising rights of way orders in newspapers; providing that the courts quash only the Secretary of State's decision, where that is found to be at fault, so that the order-making process does not have to start all over again from scratch; providing that applications to have a right of way recorded do not have to be accompanied by copies of documents that are already in the authority's possession; enabling volunteers to transfer applications, so that work does not have to start over again where an applicant can no longer pursue it;

Other measures reduce the scope for disputes over rights of way once the definitive map and statement is closed at the 2026 cut-off date. One measure ensures that, just as rights of way

cannot be claimed or upgraded after the cut-off, they also cannot be downgraded. Providing for local authorities to designate a right of way for protection during a short window after the cut-off will enable local authorities to derive maximum benefit from the work undertaken by volunteer groups in the period leading up to the cut-off date.

**Jonathan Tweney - Defra**  
**April 2015**

*The full Deregulation Act 2015 can be found on the [legislation.gov.uk](http://legislation.gov.uk) website. The rights of way clauses can be found in the section entitled '[Use of land](#)'.*