

Local Access Forums Guidance: 2

The role, duties and functions of Local Access Forums



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

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Cyngor Cefn Gwlad Cymru
Countryside Council for Wales

The Countryside Council for Wales is the statutory adviser to government on sustaining natural beauty, wildlife and the opportunity for outdoor enjoyment throughout Wales and its inshore waters. with English Nature and Scottish Natural Heritage, CCW delivers its statutory responsibilities for Great Britain as a whole, and internationally through the Joint Nature Conservation Committee

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The role, duties and functions of Local Access Forums

1. Introduction

This guidance outlines the role, duties and functions of Local Access Forums (LAFs). It includes guidance on the areas of work in which LAFs are likely to be involved, including that work in which it has a statutory role. It also includes guidance on how best to ensure that LAFs are fully involved in the democratic process. It is intended to be of use to all those involved with Local Access Forums, including appointing authorities, members and observers.

An Appendix gives background information to enable this guidance to be read as a stand alone document but those seeking further information on the setting up of LAFs should refer to *CCW LAF Guidance Note:1 – The Establishment of Local Access Forums*.

This guidance has been endorsed by the Welsh Assembly Government.

2. Statutory function of Local Access Forums

It is the statutory function of a Local Access Forum, as respects the area for which it is established, to advise as to the improvement of public access to land in that area for the purposes of open-air recreation and the enjoyment of the area. (CROW Act Section 94(4))

In carrying out its functions, a LAF shall have regard to:

- the needs of land management;
- the desirability of conserving the natural beauty of the area for which it is established, including the flora, fauna and geological and physiographical features of the area; and
- guidance given from time to time by the National Assembly for Wales.

3. Statutory areas of work

The Countryside & Rights of Way Act (CROW) 2000 and the subsequent regulations issued by the National Assembly for Wales place a statutory duty on local authorities, National Park Authorities, the Countryside Council for Wales, and the Forestry Commission to refer certain matters to LAFs. It is possible that future regulations will give them additional statutory duties. However, at the time of writing, Local Access Forums are statutory consultees on the following matters.

3.1 Byelaws relating to access land

(See CROW S17; LAF reference in S17(3)(b))

The CROW Act gives access authorities the power, as respects access land in their area, to make byelaws for the purposes of:

- preserving order;
- preventing damage to land or anything on it; and
- securing that persons exercising the new right of access do so without interfering with the enjoyment of others.

However, before any such byelaws are made the access authority must consult with any Local Access Forum established in the area.

3.2 Wardening of access land

(See CROW S18; LAF reference in S18(2))

The CROW Act gives access authorities the power to appoint wardens as respects access land in their area. They may be

appointed for the following purposes:

- securing compliance with byelaws;
- to enforce compliance with exclusions and restrictions;
- to advise and assist the public with regard to the new right of access;
- to perform any other duties in relation to access land that the access authority may determine.

The Act requires that before appointing such wardens, and subsequently from time to time, an access authority must consult any LAF established for the area.

3.3 Long term exclusions and restrictions on access to access land

(See CROW S21-33; LAF reference in S27(1))

Owners and certain other persons with an interest in land designated as access land may exclude or restrict access for up to 28 days to any area of land, without giving a reason, subject to certain limitations on the dates on which they can exercise this right. However, additional exclusions and restrictions can only be made by direction of the relevant authority. The relevant authority will generally be CCW, except in the Brecon Beacons, Pembrokeshire Coast and Snowdonia National Parks where it will be the National Park Authority. The Forestry Commission will be the relevant authority for areas of land which are dedicated as access land by the owner and which consist wholly or predominantly of woodland.

The relevant authority may by direction exclude or restrict access to access land during a specified period for the purposes of:

- land management;
- avoidance of risk of fire or of danger to the public;
- nature conservation and heritage preservation.

However, before giving such a direction so as to exclude or restrict access indefinitely or for a period which exceeds, or may exceed, six months the relevant authority must consult any LAF which covers the area in question.

3.4 Rights of Way Improvement Plans

(See CROW S60-62; LAF reference in S61(1)(e))

It is a statutory duty for all local highway authorities to prepare a Rights of Way Improvement Plans (ROWIP) within five years of the relevant sections of the CROW Act coming into force and to review it at not more than ten yearly intervals. It is expected that the sections will come into force late in 2002.

ROWIPs must contain:

- (a) the authority's assessment of:
- the extent to which local rights of way meet the present and likely future needs of the public;
 - the opportunities provided by local rights of way (including cycle tracks) for exercise and other forms of open-air recreation and the enjoyment of the authority's area;
 - the accessibility of local rights of

way to blind or partially sighted persons and others with mobility problems;

- such other matters relating to local rights of way as the National Assembly may direct.

(b) a statement of the action they propose to take for the management of local rights of way, and for securing an improved network of local rights of way, with particular regard to the matters dealt with in the assessment.

(c) such other material as the National Assembly may direct.

CROW S61(1)(e) requires highway authorities to consult with LAFs before preparing or reviewing a ROWIP.

3.5 Draft maps of open country and registered common land

(See Regulations 2001 NO.4001 (W.329); LAF reference in Schedule 1)

The CROW Act requires CCW to produce draft maps of open country and registered common land as the first stage in a process, which will eventually lead to the new right of access being introduced, expected to be in 2005. Wales has been divided into fifteen areas and a draft map will be issued for each between February 2002 and October 2003. The consultation period for each draft map will be three months.

Schedule 1 of the regulations lists those organisations that are statutory consultees. Local Access Forums are included in this list.

4 Other areas of work

Within the broad remit set by the CROW Act of 'the improvement of public access to land in that area for the purposes of open-air recreation and enjoyment' a LAF, in consultation with the secretary, should be able to set its own agenda. It is therefore not possible to be comprehensive in this section but the following are offered as examples of the areas in which it is envisaged that most LAFs will wish to be involved.

4.1 CROW Act regulations

The National Assembly has to produce over 20 sets of regulations to accompany the CROW Act. Many sections of the CROW Act cannot come into force until the relevant regulations are also in force. Consultation papers will be produced on all regulations, some in conjunction with DEFRA.

Responses to these consultations will be welcome from any organisation or individual. However, the National Assembly are particularly interested in receiving the collective views of Local Access Forums and they will be sending copies of draft regulations and/or consultation papers to LAF secretaries as they become available.

4.2 Management of the new right of access

Whilst it is unlikely that the new right of access will come into force before 2005, it will be necessary for all the bodies involved to consider the management of the new right well before then. Local Access Forums will have a key role to

play in advising those bodies charged with managing the access – primarily the local authorities, National Park authorities and CCW.

Examples of areas of work on which LAFs will probably have a view include:

- access points;
- wardening;
- information and publicity;
- signs and information points;
- infrastructure – stiles, gates etc;
- creation of routes to access land;
- arrangements for managing exclusions and restrictions.

4.3 Strategic priorities for the public rights of way and cycle networks

It is not anticipated that detailed rights of way work, such as individual PROW diversions etc, will generally be discussed by LAFs, largely due to the level of detail and time constraints – although there may be exceptional occasions when it is felt appropriate for a specific case to be discussed, particularly if it has implications for the wider network. However, it is likely that LAFs will become involved in advising on strategic priorities. For example, they may wish to advise on matters such as:

- development of cycling routes;
- improvements to the bridleway network;
- management of off-road vehicle access;
- disabled access;
- PROW which link to settlements;
- PROW which link with access land.

4.4 Other forms of open-air recreation

It is important to note that LAFs are not only being set up to consider access to land for the purposes of walking. The statutory function requires that they consider improving access to land for the purposes of all forms of open-air recreation and the enjoyment of the area. Local Access Forums may thus become involved with access to land for purposes other than walking, cycling and horse-

riding. For example hang-gliding, picnicking, fishing, shooting and access to wildlife and conservation sites are all forms of open-air recreation which require access to land. The exact nature of the relevant interests will vary from area to area and it is thus down to each LAF to decide which subjects are legitimate ones for discussion in their area.

5 Involving LAFs in the democratic process

Local Access Forums constitute a new level in the process of formulating countryside access management, strategy and policy. They fit in well with the current modernisation of local government to make it more accountable by giving the public a greater role in local issues. It is crucially important that a LAF's role in the process is made clear from the outset and that they are taken seriously by all concerned. This section outlines CCW's advice on the full engagement of LAFs by appointing authorities and the other bodies who, by statute, must have regard to relevant LAF advice.

5.1 Bodies having regard to LAF advice by statute

The CROW Act makes it a statutory duty of various bodies to have regard, in carrying out their functions, to any relevant advice given to them by a LAF. These bodies are:

- the appointing authority;
- any body exercising functions under

- Part I of the Act in relation to land in that area (primarily CCW, the National Assembly and, in some cases, the Forestry Commission);
- the local highway authority.

Clearly, to enable the LAF to give advice there needs to be effective lines of communication between the LAF and those bodies having regard to the LAF's advice (see 5.3 and 5.5. below).

5.2 The setting of a LAF agenda

The regulations require that LAF agendas are drawn up by the LAF secretary in consultation with the LAF Chair and Deputy Chair. It is likely that the agenda items will come from one of the following sources:

- agenda items proposed by the LAF members;
- agenda items proposed by the appointing authority;
- agenda items proposed by the other

bodies who by statute have to have regard to LAF advice (see 5.3);

- agenda items proposed by other bodies or individuals.

The Secretary, Chair and Deputy Chair thus have the responsibility of deciding, from the proposed agenda items, which ones take priority, taking into account the time available for discussion in the meeting / meetings.

5.3 Referral to LAFs by bodies taking advice

It is important that local and National Park authorities, the National Assembly, CCW and the Forestry Commission consider referring all relevant matters to the relevant Local Access Forum – this will serve two primary purposes:

- to provide information for the LAF members;
- to invite the LAF members' advice.

Therefore a 'culture' needs to be developed within the statutory advisees whereby all relevant access related matters are referred to the LAF. In some cases the LAF may not wish to give any advice but it is important that they are given the opportunity to do so. It is important that the situation is avoided where a LAF says that it would have given advice on a relevant matter which was not referred to it.

5.4 Work generated by the LAF itself

It is very important that Local Access Forums play a full part in setting their own agendas and do not just wait for work to be referred to them by the appointing authority or other bodies. Thus, the individual members should all

be encouraged to suggest agenda items and to write supporting papers where necessary.

5.5 Forwarding advice to relevant bodies

Clearly, to be effective, there needs to be an effective way of ensuring that LAF advice is received by the relevant body/bodies. In addition to minutes it will therefore be necessary for the Chair and/or secretary to ensure that advice is properly targeted via the most appropriate method – likely to be a paper or letter or a meeting with the body receiving the advice. LAFs could discuss at an early meeting how they can best ensure that their advice is properly communicated to the relevant bodies.

5.6 The role of observers

It is important to note that observers are invited to meetings by the Chair of the LAF and NOT by the appointing authority. The only observers who may attend as of right are any officer of the appointing authority and one representative from CCW and the National Assembly (see LAF Regs 15(8) and 15(9)).

The actual role of observers is largely down to the Chair in consultation with the members. However, it is likely that the majority of observers will be invited because they have knowledge, or are representative of an interest or body, which it is felt would make their presence beneficial to the working of the LAF.

They are not automatically entitled to speak but may do so with the consent of the Chair. Observers can either have a 'standing' invitation or be invited to

specific relevant meetings. Unlike with members, observers do not necessarily have to be named persons and an organisation can be invited to send an observer of their choice.

5.7 LAF representation on other groups/workshops

It is likely that Local Access Forums will be invited to send a representative or representatives to other meetings. This is to be encouraged as it is another means by which the Local Access Forum can be fully involved in the process of access management and policy. It is clearly important that LAF members are committed to attending outside groups if appropriate. On occasion LAF representatives may also be invited to give presentations, talks and briefings etc. to meetings.

5.8 Engaging with the public

As statutory advisory bodies in a democratic system it is important that LAFs pay due consideration to effective communication with the public.

- **Public attendance at LAF meetings**

The regulations require that meetings are open to the public, unless it is deemed by the person presiding (normally the Chair) that they should be excluded for reasons of sensitivity. However, exclusion of the public should generally only occur in exceptional circumstances.

- **Preparation of an annual report**

The regulations require that all appointing authorities must produce a

publicly available annual report as soon as possible after the 31 March each year. This basically should contain details of the work done by the LAF in the preceding year and a work plan for the coming year.

- **Making LAF documents available**

Whilst not specifically required in regulations, CCW strongly advise that LAFs should also consider how best to engage with the public outside of the meetings and between the annual reports. Thought should be given to advertising the meetings and making minutes, agendas and details of membership available. It is likely that the most appropriate media for disseminating information will be the appointing authority's web site and the local press. In addition LAF members themselves should be encouraged to do all they can to engage with the public.

- **Allowing public input**

Local Access Forums may like to consider whether they could establish a mechanism by which the public can play a stronger role in the LAF. For example agenda items and questions could be invited, probably via the secretary, in advance of the meetings. It would then be up to the LAF to decide whether any suggestions received should be dealt with by the Forum.

6 Further information

Acts / Regulations and Advice Notes

- Countryside and Rights of Way Act 2000; The Stationery Office Limited, (2000).
- The Countryside Access (Local Access Forums) (Wales) Regulations 2001; The Stationery Office Limited, (2002).
- The Development of Access Forums in Wales 2000-01; CCW, (2001).
- The Establishment of Local Access Forums – Advice & Best Practice Guidance; CCW, (2002).

APPENDIX – Background to Local Access Forums

1. What are Local Access Forums?

The Countryside & Rights of Way (CROW) Act 2000 requires that Local Access Forums (LAFs) are set up throughout Wales and England. They are advisory bodies set up to advise as to the improvement of public access to land in that area for the purposes of open-air recreation and enjoyment of the area, and to other matters as prescribed by the National Assembly for Wales. The Assembly have chosen not to prescribe additional matters in regulations, although they could do so in the future.

2. Who is setting them up?

The CROW Act places a statutory duty on 'appointing authorities' to establish LAFs. Within National Parks the appointing authority is the National Park Authority, elsewhere it is the local unitary authority.

3. What area will they cover?

Appointing authorities can establish as many LAFs as is necessary to effectively cover their area. In many authorities a single LAF will be adequate. The larger authorities may establish more than one to keep things 'local'. Neighbouring authorities will be able to establish joint LAFs.

4. How many will there be?

There are twenty-five appointing authorities in Wales. The majority will have one LAF covering their whole area. However, Brecon Beacons National Park (3), Powys (3) and Snowdonia National Park (2) are expected to have more than one LAF. Joint LAFs are being formed between Pembrokeshire Coast National Park and Pembrokeshire County Council and between Snowdonia and Gwynedd in the southern part of these authorities' areas. It is expected that in total there will be twenty-nine LAFs in Wales.

5. Who will they advise?

The CROW Act stipulates that LAFs will advise the appointing authority, bodies exercising functions under part 1 of the Act (primarily CCW), the highway authority and other bodies as may be prescribed in regulations (in the event none have been so prescribed). These bodies have a statutory duty to have due regard to relevant advice given by a LAF. However, it is anticipated that less formal links will be established with other bodies, such as landowning and user groups.

6. Who appoints the members?

The decision as to who to appoint to a LAF rests with the appointing authority. However, they must have full regard to the CROW Act and the regulations, which in particular require an advertisement to be placed in the local press inviting expressions of interest in becoming a member. The CROW Act specifically requires that 'appointing authorities' must appoint persons to the LAF who are representative of:

- a) users of public rights of way or access land;
- b) owner/occupiers of access land or land over which local rights of way subsist; and
- c) any other interests especially relevant to the area.

Crucially, appointing authorities must have regard to the desirability of maintaining a reasonable balance between a) and b).

7. What will they advise on?

In practice LAFs can advise on any matter relating to access to land for the purposes of open-air recreation and enjoyment in the area. The CROW Act stipulates that they must be consulted on certain issues, such as the mapping of open country and registered common land, wardening, the making of byelaws and Rights of Way Improvement Plans. Other areas of work will be agreed between the LAF and the appointing authority. (See sections 2-4 for more details.)

8. Will all of Wales be covered by LAFs?

In theory the National Assembly can agree that no LAF is needed in areas where there are no relevant issues to consider. However, it is expected that all of Wales will be covered by LAFs.

9. What progress has been made so far?

The National Assembly for Wales and CCW have been very keen to see LAFs established early. The regulations allowing statutory LAFs to be established came into force on 1 January 2002. However, in advance of this, CCW have advised and assisted several local and National Park Authorities to help them establish interim LAFs in advance of the regulations. The experiences of the interim LAFs have been very useful in the formulation of guidance for the statutory LAFs.

10. When will LAFs be established?

The regulations require Local Access Forums throughout Wales to be established by 31 December 2002.