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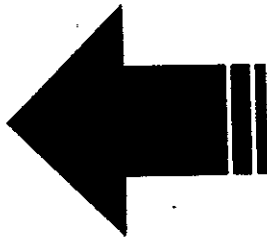
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Circular from the

Welsh Office
Cathays Park, Cardiff CF1 3NQ

22 November 1996

Recovery of Costs for Public Path and Rail Crossing Orders - Amendment Regulations

Introduction

1. This Circular draws attention to and provides policy guidance on a provision in respect of public path and rail crossing orders contained in The Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (SI 1996/1978).
2. Local authorities are already empowered by The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (SI 1993/407) to recover their advertising costs and administrative costs in respect of the making of public path or rail crossing orders under sections 26 (where taken concurrently with an order under section 118), and 118 to 119A of the Highways Act 1980 (as amended); and sections 257 and 261 of the Town and Country Planning Act 1990.
3. Authorities are currently empowered to charge up to £400 for the administrative costs incurred in the making of an order, plus a further £75 for each additional path included in the order. Regulation 3(3) of The Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 removes the ceiling on administrative costs.
4. The guidance below therefore replaces that contained in paragraph 10 of Welsh Office Circular 6/93, expands upon that given in paragraphs 11 and 16, and reiterates that given in paragraph 13.

Administrative Costs for Public Path and Rail Crossing Orders

5. Authorities may charge for the administrative costs incurred in the making of an order. The amount which may be charged must not exceed the costs actually incurred and, in the case of opposed orders, a charge may be made only for the administrative costs incurred up to the point where the order is submitted to the Secretary of State for determination and, where such orders are subsequently confirmed, in advertising that confirmation.

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6. Authorities should draw up and make publicly available scales of charges, indicating the likely costs for unopposed orders (which will be the majority) and the maximum cost which will be charged. Authorities will be expected to reflect in their scales of charges economies of scale achieved through the making of concurrent or related orders (by, for instance, the use of combined public notices and other services or facilities). Each applicant should be informed in advance of the charge relating to their particular order.

7. Authorities should advise on the circumstances in which applicants may request refunds and give details of their policy as to waivers. The requirements and advice on both these matters remain as set out at Regulation 5 of SI 1993/407 and in paragraphs 14 to 18 of Welsh Office Circular 6/93. In addition to the advice on waivers contained in paragraph 16, authorities should consider waiving all or part of their charges where proposed changes to the public path network would benefit the local community.

8. Examples of the administrative costs which may be incurred by local authorities in making an order are set out in paragraph 11 of Welsh Office Circular 6/93. It should be noted that the costs of informal consultations (such as negotiations between authorities, applicants, landowners, user groups and any other interested parties) may only be recovered if those negotiations lead to the making of an order, not if a proposed order is withdrawn.

Payment

9. Payment for advertising or administrative costs, in full or in part, should not be sought until after such costs have been incurred (see advice in paragraph 13 of Welsh Office Circular 6/93).

Financial and Manpower Implications for Local Authorities

10. The guidance contained in this Circular is not expected to result in any significant additional burden on local authorities.

W P. RODERICK

Head of Planning Division

Chief Executives:

County Councils

County Borough Councils

National Park Officers:

National Park Authorities



Cylchlythyr oddi wrth

Y Swyddfa Gymreig
Parc Cathays, Caerdydd CF1 3NQ

22 Tachwedd 1996

Adennill Costau Gorchmynion Llwybrau Cyhoeddus a Gorchmynion Croesfannau Rheilffyrdd - Rheoliadau Diwygio

Cyflwyniad

1. Mae'r Cylchlythyr hwn yn tynnu sylw at ddarpariaeth mewn perthynas â gorchmynion llwybrau cyhoeddus a gorchmynion croesfannau rheilffyrdd a gynhwysir yn Rheoliadau Awdurdodau Lleol (Taliadau am Gymorth Tramor a Gorchmynion Llwybrau Cyhoeddus) 1996 (OS 1996/1978) ac yn cynnig canllawiau polisi arni.
2. Mae gan yr awdurdodau lleol bŵer eisoes o dan Reoliadau Awdurdodau Lleol (Adennill Costau ar Gyfer Gorchmynion Llwybrau Cyhoeddus) 1993 (OS 1993/407) i adennill eu costau hysbysebu a'u costau gweinyddol mewn perthynas â gwneud gorchmynion llwybrau cyhoeddus neu orchmynion croesfannau rheilffyrdd o dan adran 26 (o'u cymryd ar y cyd â gorchmynion o dan adran 118), ac adran 118 i 119A Deddf Priffyrdd 1980 (fel y'i diwygiwyd); ac adrannau 257 a 261 Deddf Cynllunio Gwlad a Thref 1990.
3. Mae gan yr awdurdodau bŵer ar hyn o bryd i godi hyd at £400 am y costau gweinyddol a dynnir wrth wneud gorchmynion, ynghyd â £75 pellach am bob llwybr ychwanegol a gynhwysir yn y gorchmynion. Mae Rheoliad 3(3) Rheoliadau Awdurdodau Lleol (Taliadau am Gymorth Tramor a Gorchmynion Llwybrau Cyhoeddus) 1996 yn dileu'r uchafswm ar gostau gweinyddol.
4. Gan hynny, mae'r canllawiau isod yn disodli'r canllawiau a geir ym mharagraff 10 Cylchlythyr 6/93 y Swyddfa Gymreig, yn ymhelaethu ar ganllawiau paragraffau 11 ac 16, ac yn ail-adrodd canllawiau paragraff 13.

Costau Gweinyddol Gorchmynion Llwybrau Cyhoeddus a Gorchmynion Croesfannau Rheilffyrdd

5. Gall yr awdurdodau godi tâl am y costau gweinyddol a dynnir wrth wneud gorchmynion. Rhaid i'r swm a godir beidio â bod yn uwch na'r union gostau a dynnir ac, yn achos gorchmynion a wrthwynebir, gellir codi tâl dim ond am y costau gweinyddol a dynnir hyd at y pwynt lle cyflwynir y gorchmynion i'r Ysgrifennydd Gwladol i gael ei benderfynu a, lle cadarnheir gorchmynion o'r fath wedyn, wrth hysbysebu'r cadarnhad hwnnw.

Mae copïau pellach o'r cylchlythyr hwn ar gael oddi wrth:

Siop Lyfrau Oriol
Heol Tŷ'r Brodyr, Caerdydd CF1 4AA
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6. Dylai'r awdurdodau lunio cyfraddau taliadau a threfnu bod y rhain ar gael yn gyhoeddus, gan ddangos y costau tebygol ar gyfer gorchmynion diwrthwynebiad (sef y mwyafrif) a'r gost uchaf a godir. Disgwylir i'r awdurdodau adlewyrchu yn eu cyfraddau taliadau unrhyw arbedion maint a sicrhawyd drwy wneud gorchmynion ar y cyd neu orchmynion cysylltiedig (er enghraifft, drwy ddefnyddio cyd-hysbysiadau cyhoeddus a chyd-wasanaethau neu gyfleusterau eraill). Dylai pob ceisydd gael ei hysbysu ymlaen llaw am y tâl yn ymwneud â'u gorchymyn penodol hwy.

7. Dylai'r awdurdodau roi cyngor ynghylch yr amgylchiadau lle caiff ceiswyr ofyn am ad-daliadau, a rhoi manylion am eu polisi ynglŷn â pheidio â chodi taliadau. Mae'r gofynion a'r cyngor ar y ddau fater hyn yn aros fel y'i nodwyd yn Rheoliad 5 OS 1993/407 ac ym mharagraffau 14 i 18 Cylchlythyr 6/93 y Swyddfa Gymreig. Yn ychwanegol at y cyngor ar beidio â chodi tâl a geir ym mharagraff 16, dylai'r awdurdodau roi ystyriaeth i beidio â chodi'r cyfan neu ran o'u taliadau lle byddai'r newidiadau arfaethedig yn y rhwydwaith o lwybrau cyhoeddus o fantais i'r gymuned leol.

8. Nodir enghreifftiau o'r costau gweinyddol y gall yr awdurdodau lleol eu tynnu wrth wneud gorchymyn ym mharagraff 11 Cylchlythyr 6/93 y Swyddfa Gymreig. Dylid nodi mai dim ond os bydd y trafodaethau yn arwain at wneud gorchymyn, ac nid os tynnir y gorchymyn arfaethedig yn ôl, y gellir adennill costau ymgynghori anffurfiol (megis trafodaethau rhwng awdurdodau, ceiswyr, perchnogion tir, grwpiau o ddefnyddwyr ac unrhyw bartïon eraill gyda diddordeb).

Taliadau

9. Ni ddylid gofyn am daliadau am gostau hysbysebu na chostau gweinyddol, yn llawn nac yn rhannol, tan ar ôl i'r costau hynny gael eu tynnu (gweler y cyngor ym mharagraff 13 Cylchlythyr 6/93 y Swyddfa Gymreig).

Goblygiadau Ariannol a Gweithlu yr Awdurdodau Lleol

10. Ni ddisgwylir i'r Canllawiau yn y Cylchlythyr hwn arwain at unrhyw faich ychwanegol sylweddol ar awdurdodau lleol.

W P RODERICK

Pennaeth yr Adran Gynllunio

Prif Weithredwyr:

Cynghorau Sir

Cynghorau Bwrdeistref Sirol

Swyddogion Parc Cenedlaethol:

Awdurdodau Parc Cenedlaethol