



**SELECT COMMITTEE
OF
TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
BING ER-LHEH TINVAAL**

**PROCEEDINGS
DAALTYN**

**PUBLIC FOOTPATHS, BRIDLEWAYS AND
GREEN LANES
(PETITION FOR REDRESS)**

HANSARD

Douglas, Monday, 28th February 2022

PP2022/0037

FBGL, No. 3/2021-22

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Members Present:

Chair: Mrs S L Maltby MHK
Mrs D H Caine MHK
Mr R W Henderson MLC

Clerk:

Miss F Gale

Assistant Clerk:

Miss P Convery

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Select Committee of Tynwald on Public Footpaths, Bridleways and Green Lanes (Petition for Redress)

*The Committee sat in public at 10.36 a.m.
in the Legislative Council Chamber,
Legislative Buildings, Douglas*

[MRS MALTBY *in the Chair*]

Procedural

The Chair (Mrs Maltby): Good morning everybody and welcome to this public meeting of the Select Committee of Tynwald on Public Footpaths, Bridleways and Green Lanes. I am Sarah Maltby MHK and I chair this Committee. With me today are the other Members of the Committee, Daphne Caine MHK and Bill Henderson MLC, along with our Clerks.

5 This Committee was established to consider a Petition for Redress of Grievance presented at Tynwald Hill in July of last year. The Petition calls for a single agency to take responsibility for maintaining the Island's footpaths.

Before we begin, please can we all ensure our mobile phones are off or on silent. For the purposes of *Hansard*, I will be ensuring that we do not have two people speaking at once.

10 First, we will be hearing from a group of experienced walkers who regularly use the Island's footpaths, but first, Mrs Caine, would you like to ...?

Mrs Caine: Just for the sake of openness, I would like to confirm for the record that I have joined Mr Braidwood and his Hiking Companions on a number of occasions.

15

The Chair: Thank you.

EVIDENCE OF

Ms Catriona Livingstone, owner of Manx Walks;

Mr David Leiserach, Footpaths Officer, Manx Footpaths Conservation Group; and

Mr Phil Braidwood, Hiking Companions walking group

Q158. The Chair: Okay, so could you please introduce yourselves and tell us about your interest in and knowledge of the Island's footpaths. Who wants to go first?

20 **Mr Leiserach:** My name is David Leiserach. I used to be a chartered civil engineer and member of Highways and Transportation. I have retired and now spend a lot of my time walking this wonderful Island.

The Chair: Thank you.

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Ms Livingstone: I am Catriona Livingstone, I am semi-retired. I have a business, I take people on guided walks. I also walk for pleasure, I probably average five to seven miles a day, and there are very few footpaths I have not walked on.

30 **The Chair:** Thank you.

Mr Braidwood: I am Phil Braidwood, retired, in some instances. I am also in the Hiking Companions group and I walk every Saturday afternoon and Sunday morning at that time with friends.

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Q159. The Chair: Okay. Thank you.

We will talk about walking tourism first, if that is okay. Catriona, you run a walking tour business. What walking infrastructure is necessary to support a business such as yours? More specifically, what impact does the lack of maintenance have on your business?

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Ms Livingstone: The people who go on my walks range in age and fitness ability, so from age 24 to 74. Some of them have replaced hips or knees, they are different sizes, different weights. Taking other people on walks has given me a different insight into the problems of badly maintained footpaths because I have got a duty of care for the people I am taking.

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Before I take anyone out on a walk I do a risk assessment and I walk the walk beforehand, and there are some places where I just would not take a group. Things that would make me just abandon it would be if there were unfenced livestock, cows, you are in a field and there is no exit route, the hedge is not ... you could not jump over it or you could not get away from it. A broken stile or blocked gate. If you have to go on a route where you would exit onto a road, not all roads, but if it has got high hedges, corners and, again, no escape route, no pavement, I would not want to take a group on that, and that includes parts of the Raad ny Foillan. Another one would be boardwalks where you have rotted boards or broken chicken wire, that would be another one, I think. I would just look for another route.

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I do not avoid all risks. Like they said in testimony, you cannot avoid all risk, but I do inform people that they are going to be going by cliffs, loose gravel or steep slopes.

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Q160. The Chair: Thank you.

Have you had much feedback from visitors about the state of the Island's footpaths or do you just not take them down the ones that are bad?

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Ms Livingstone: Probably because of COVID – I have been in business for two or three years – I have had mostly locals, which has been great. A lot of them see places they have never seen before.

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I also walk with the group that David belongs to, the footpaths group. I think it is well known that the footpaths are not well maintained, so the feedback I get is ... well, people know that they are bad. Just in general conversation, you meet people and they exclaim about how badly maintained the footpaths are.

But also, the beauty of the Island, it is spectacular. People who come here who are strangers, they just love it, because it is delightful! We have such an asset.

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Q161. Mrs Caine: Thanks, Catriona.

Can I ask you how long have you been walking the footpaths and have you noticed in recent years a marked deterioration in the standard of maintenance of our footpaths?

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Ms Livingstone: Well, I have been walking footpaths since I was a child. I belonged to a walking club with the name – you would not call it this now – it was the 'tramp club', and to get your badge you had to walk so many hills and so many glens, but it gave me a lifelong love of walking. I think

when you are younger you do not really notice things like that. As you get older, and my professional background was in town planning, so then you start to be aware of things, infrastructure or missing infrastructure. So yes, I think it *has* got worse in the last few years, say in the last 10 years. And also during COVID, so many more people were using the footpaths they suffered from ... Places like Peel Hill were like skating rinks.

Q162. The Chair: Just another question, does the Island compare to other walking destinations favourably or less favourably, would you say, from your feedback from your customers and walking companions?

Ms Livingstone: I think it compares very favourably. It is unique. It has scenery that matches anywhere in the world. It is perhaps not as corporate as some places, but yes, it is definitely a destination for walkers – not just serious walkers.

I think if you go back to Victorian times, when they took people out in the countryside and they would do a small walk and there were small cafés, we have lost a lot of those amenities, especially on the premiere routes. You do not have little snack bars. You have got the ladies with the kiosk at Dhoon Glen, the Shed, the kiosk in Peel, but little cafés, like the ones they used to have up at the Lhen, have disappeared.

Mr Braidwood: The Chasms.

Ms Livingstone: Yes, the Chasms.

And then, if we are going to bring thousands more visitors and have them walking on the footpaths, I think we better put in more toilets, more litter bins and actually make it possible, not just for long-distance walkers, there are a lot of potential visitors who like to have a walk, but they like to go somewhere with a view, a loo, coffee and have a smaller walk. But they still spend money.

The Chair: Yes. Thank you.

Mr Braidwood: Well, I have been – if I can interject, Chair?

The Chair: Yes, of course.

Mr Braidwood: – walking for 30-odd years. I have seen a deterioration, as Catriona has said, in the last 10 years and I think if you listen to the audio files from the DoI, as it is now, where the budget has been severely cut, their workforce has been severely cut, so naturally the maintenance of a lot of the footpaths has gone.

I have walked on the Pembrokeshire coast, about three years ago I did the Camino de Santiago Compostela with friends, and that is really very popular now. I have walked the West Highland Way quite a few years ago and then Ben Nevis, I have walked in Wales, Tryfan and Crib Goch, and I have walked in the Yorkshire Dales as well. And, particularly in Pembrokeshire, the footpaths are in an excellent condition compared to some of ours.

When I listened to the Visit Isle of Man audio files, the number of visitors they would like to bring over, I think they talked about 65,000 walkers bringing in a benefit of about £26 million. Some of the coastal path is in an atrocious condition, because a lot of complaints are that they have to come inland, it is dangerous, there are about five or six places where they have to come inland. If you look at Pistol Castle, which is near Meary Veg, and you go down on to the coastal path, it is like a slide going down, it needs a tremendous amount of work, but if we have not got the resources, and you look at the budget. I think Jeff Robinson said it was £12 million down to £1½ million in their budget, it is a revenue budget, but Treasury have changed all of the revenue

130 to the consolidated loans fund, or a consolidated, I think it is a reserve fund now, which is fed from
revenue. So it has completely changed from the last time I was in here.

135 So yes, we need partnership agreements as well, because if you look at the Department for
Enterprise or DEFA, where they say there are working partnerships, Fix the Fells, Cairngorms
National Park, Devon Parish Path Partnership and Shropshire's Outdoor Partnership, they all work
in an agreement, and that is why, when I listened to David Buttery, I do not think there is a need,
personally, for another agency. It is collaborative working between everybody in our
Departments, with a good budget.

140 **Q163. Mrs Caine:** Can I ask, as you have both touched on parts of the Raad ny Foillan being in
a terrible condition, and also no pavement, Catriona, you said you were avoiding going on parts
of it? Jeff Robinson again, I think, said that they would like to extend new sections of footpath to
make that safer, because Tourism also touched on the danger aspect of coming out on roads with
derestricted speed. Is that a real issue, do you think, that the Isle of Man needs to focus on when
the maintenance of *all* the footpaths is in such a state at the moment?

145 **Mr Braidwood:** I think, particularly on the Ballamodha, the Department are looking actually at
trying to circumvent the Ballamodha by talking to landowners, because it *is* a very dangerous
stretch with the speed of the vehicles. He talked about Santon as well, where you have to come
inland. If we could get a full coastal footpath that would be extraordinary, like it is in the UK.

150 **Ms Livingstone:** There are two instances on the Peel Coast Road, just by White Strand, it comes
out onto a corner with hedges that are high and there is no pavement. It is even dangerous if you
have a car and you meet a pedestrian. You cannot go out into the middle of the road or you could
have a head-on collision. And then when you get between Glen Mooar and Glen Wyllin, your
choices are not great. If the tide is in and you are bringing a group along the railway line, you have
155 got either a very steep slope down into Spooyt Vane, and the railing has gone and the steps are
eroded, so that is not ideal. If you go to the road, there is no pavement, there are high hedges and
there is a corner. Similarly, when you come up from Tramand lane, you have gone past Glen Mooar
and Spooyt Vane and you are going towards Glen Wyllin, the railway line is usually so wet there
that it is over your boots. So again, you are put back on the road and it is all curves between Glen
160 Mooar and Glen Wyllin, it is not quite as bad with the hedges being so high, and there is no
pavement – and they have just paved it beautifully so actually cars are going faster there than
they ever have been. Those are not great choices.

165 **Q164. Mr Henderson:** Okay, thank you for that.

I just want to pick up on what you said, Phil, about the part of the petition looking at a different
agency perhaps, or a single agency. You said that maybe that is not the answer, it is collaborative
working. Can you give us a bit more meat on that, in regard to at the minute, DoI have got the
responsibility, in general terms, to look after footpaths, stiles, gates, their upkeep, blah, blah, blah.
They have got – if you can call it – *some* staff to do it, they have got the admin staff behind doing
170 the administration and stuff, so you would not see pulling all of that out of DoI and, say, throwing
into DEFA or setting up an agency as such as being the answer? What would you see as ... in a bit
more ...?

175 **Mr Braidwood:** Mr Henderson, I think it is the 1996 Highways Act, (**Mr Henderson and
Mr Leiserach:** Eighty six.) 1986 Highways Act, which the Department of – when it was transport,
then – had the responsibility to lift all that legislation away and put it into DEFA.

And DEFA have done, I must admit, wonderful jobs in the glens, they really have, with all their
bridges. I know that Tholt-y-Will was closed for quite a long time and if you go into Tholt-y-Will
now it is tremendous what they have done with the walkways and the bridges. But I think it is
180 more putting everybody together, probably just working together.

We had the Greenway Lane Users Group (GLUG), which, when I was Minister for Transport, I was involved with setting up. I know Mr Gawne, who is going to be giving evidence, he was Minister for Agriculture at the time, and that is now the Countryside Access Group, where there are more people working together on that.

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Q165. Mr Henderson: Who do you see as pulling all this joint working, co-operative working together? Would you see that as a new function for DoI or to build on what they have got to ensure it does happen?

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Mr Braidwood: I think it needs to build, because I think it is Alan Harding who chairs the (**Mr Leiserach:** It is.) Countryside Access Group now and they have to pull it together, but everybody has to have the resources.

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I know if you look at the budget now for highways, or the amount they are given, I think it was £360,000. Yes, they have near enough spent that over the last three years, but the two previous I think they only spent about £50,000-odd. Last year they spent about 99% of it. But again, half of it is on staffing and half is on working. And, as Mr Robinson said, if something else happens in highways, those people are taken away, so the maintenance on the footpaths is just neglected.

200

Mr Henderson: Okay. Thank you.

Q166. The Chair: I will bring you in, if that is okay, now. So in your submission, David, you said that one of the objectives of the Manx Footpath Conservation Group is to pressurise Government bodies into carrying out maintenance properly. How do you go about that? How have you found your experience of that?

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Mr Leiserach: The footpaths group have elected me – you can probably see the letters M, U, G across my forehead – (*Laughter*) as Footpaths Officer. I receive complaints from our members, from quite a lot of them, and I am also out regularly walking five or six days a week. I then try to take a digital photograph of whatever defect we see and produce a mini-reportlet, it is a line off a spreadsheet which says what the footpath number is, where does it start, where does it end, where the defect is, what the defect is and what I think the solution might be. I send these into DoI and my only requirement is that they send me a customer number so that we can cross-refer on things. I do not pressurise them into doing anything within days, weeks or months. I am wary of using the word ‘dangerous’, because I do not want something to be closed in perpetuity, but I try and encourage them, where something *is* unsuitable for use, to go out and inspect it very quickly.

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We report between 150 and 270 defects a year. Most of them are dealt with within two years. Whether you consider that acceptable or not is difficult. There is one footpath that we have been complaining about now for, I think, 10 years. It has been closed for six. You might know it as Scout’s Glen, which a lot of people would like to see finished and opened, but it is only one tiny part of the network. There are also, for instance, three footpaths that were severely damaged on 5th December 2015, in the great storm. One of those has never had a closure notice put on it. It is not, according to the DoI, closed, but there is a bridge missing, so you cannot actually walk it. So there are some elements that we have reported and reported and reported, and we get a bit blue in the face about it.

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Generally, when DoI get round to a problem, it does get resolved. There are some lovely repaired stiles and gates that are dealt with. Not enough, though.

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I am beginning to get complaints from the dog-walking community about the fact they cannot get their dogs over stiles and they want stiles taken out. I would be happy just if stiles were repaired. I am biased, I am a foot walker. I am not here to improve accessibility for dogs or pushchairs or people of that sort.

235 We have a linkage with a group called Milton Mountaineers – I have no idea where the name comes from – who are visually impaired. They come over here about every two or three years. Their visual impairment might be that they have no peripheral vision or they might have peripheral vision and nothing down the middle or they might have blurry problems, or they might be totally blind. I have been amazed that they will tackle paths that I would only take really experienced walkers on. If you want to walk everywhere on this Island, you can, but you have to be very careful.

240 I know Mr Buttery wanted this new body to look after *all* footpaths on the Island. There are some that are private and, to my way of thinking, if they are private, they should stay private. There are some that are on Government land, like DEFA, which might do with being included in the whole maintenance of footpaths regime.

245 I think the biggest problem, certainly over the last five years that I have been involved, has been the lack of a legal side to DoI dealing with rights of way problems with rights of way diversions. I believe that the current staff are getting hold of that in a way that I am astounded at and are really trying to resolve it.

The maintenance problem; I am told that there used to be three teams of five for the Island and a management team, so that was 15 workers. We now have one and two parts. It is no wonder that things have gone drastically downhill.

250 Yes, it would be lovely to have all footpaths on this Island walkable by all standards of walkers. However, I would not want to see, for instance, the Raad ny Foillan improved the way that the Heritage Trail has been improved. You do not need a five-foot-wide solid path all the way round this Island. It is the fact that you are going into open country, open locations, beautiful locations that is an important part of what we are doing.

255 But we do need adequate signage, especially, for instance, the Raad ny Foillan, the Millennium Way. They go into out-of-the-way places. We have visitors who come to the Island and get off the Steam Packet with just a guidebook. They do not have a map, they do not have a tablet with a GPS on it. They need to be shown where to go and where it is safe to go and where it is not safe to go. For the Raad ny Foillan that needs clockwise and anti-clockwise. For the Millennium Way, northbound and southbound. DoI, DfE and DEFA are all totally disinterested in improving the signage to deal with those problems.

265 **Ms Livingstone:** On the signage, I thought it was good I heard them saying there was an inter-departmental sign initiative, and so you will know when you are on public land. I think it would also be good to make it clear when you are on private land, ‘with kind permission of’ maybe a private owner. I do not think it is fair that you are asking private landowners to pay for the cost of keeping people safe – a fence to keep cows separate, repairing stiles, repairing gates.

270 **Mr Braidwood:** I know with the permissive path to Slieau Whallian, it says ‘kind permission of the landowner’. (**Mr Leiserach:** At last.) At Spooyt Vain, again, it is ‘kind permission of the landowner’. As has been raised by Catriona, it was the Highways (Amendment) Act 2016 which put the responsibility, if there was a public right of way on a landowner’s land, that they had to maintain it, and I think that would actually put a lot of people off for the cost.

275 If you look at stiles, I know that David Buttery mentioned about stiles and gates and kissing gates, and if you have too much weight at times and you have got a backpack on it is a bit tight getting through, I have experienced that myself. I think the gates should be U-shaped and there should be, again, a generic gate and generic stiles. I know some stiles have got to be altered, and hopefully all the gates produced are Isle of Man produced, because I think some gates have been marked where they have been produced in the UK.

280 **Mr Leiserach:** Could I also have a small comeback there? My understanding is that a lot of maintenance is done by contractors. Those contractors are told to, basically, go away and get on with it. They buy their wood in from a timber merchant on the Island, and it is imported timber. Whereas DEFA, when they employ contractors, say, ‘Come to the sawmill and pick up the timber

285 from the sawmill free of charge.' It seems ludicrous that we have one part of Government who are buying in timber when there is a timber supply on Island.

In my engineering days, if we wanted rock from Dol quarries for DEFA work, we could come to an agreement whereby DEFA would supply it, as it were, at the quarry gate, free of charge, and all our contractor had to do was transport it. The same should be done for timber as well.

290 **Ms Livingstone:** I would like to speak to the in-house or contract workers too.

Dol alluded to how difficult it was going through the procurement process and how hard it was for businesses to plan ahead and invest in training and manpower, and there are special problems with fixing things in out-of-the-way areas, like below Port Soderick, that coastal path. How do you get equipment and workers in there?

295 It seems short-sighted to not have five men, three teams, in-house developing those skills and that knowledge, otherwise if you are changing firms every five to seven years, are you not paying for people to learn that all over again?

I think it would be good for DEFA to have skilled manual workers, like joiners, including an apprenticeship scheme. They were saying they have not employed a manual worker for 20 years. 300 You need to keep those skills, you need to have succession. Invest in that, give them autonomy and let them get on with it. They have done a great job in the glens.

Q167. Mrs Caine: I have got a slightly separate area I just wanted to ask our knowledgeable people here today about, the cyclists. When you are walking, have you seen an increase in cyclists 305 using off-road footpaths?

Also, Mr Braidwood mentioned about the Countryside Access Group, as it is now, the replacement for GLUG. Do you think that that is effective in representing all user groups for access to the countryside? What is your experience of the mixed use?

310 **Mr Leiserach:** The mixed use is increasing.

My understanding is that on DEFA land that is open to public ramblage, you are not meant to ride a bike, whether it be pedestrian powered, electric or motorised. You regularly see the odd cyclist out. Where there has been the odd cyclist it is a low impact and I do not see the problem. However, there are certain areas where there is damage being caused by two-wheeled non- 315 motorised methods of transport, some on private land – for instance, the North Barrule ridge – some on DEFA-owned land. DEFA would – and I am putting words into their mouths – I believe that DEFA would like to do more about it, but they are being held back by budgetary and legal constraints.

The problem is that we are seeing groups of cyclists on areas where I feel they are not 320 necessarily suitable. For instance, going from the Chasms to the Sound across Manx Heritage land. One cyclist on that path is an interesting hazard when you come across them. When you are trying to get a group of walkers past a group of cyclists, whether in the same direction or opposite directions, it is a hairy path to do it on. Yes, the cyclists are not making any significant impact because it is a good solid path, but the whole thing is in the word: it is a 'foot' path. It is not a place 325 where cyclists ought to be going.

Within the Green Lane User Group, there has been very useful swapping of ideas, information, attitudes and assistance. Now that it has become the Countryside Access Group, it obviously has a very different remit, and it has only had two meetings, so it is very difficult to know how it is going to pan out, but there are going to be more clashes because the footpaths are narrower and 330 more convoluted, whereas the green lanes are generally, if somebody comes the other way, you have got room to get past someone.

The Chair: I have got a question –

335 **Mr Braidwood:** I think, following on from David, footpath, in the legislation, it should only be for *foot* use; it should not be for cycles, it should not be for horses or anything. So that is in the legislation. But they are tight.

On some of the paths as well, I think Mr Robinson said, in the legislation it is three-feet wide, he would love to see it six feet, so they can cut it back. And he said for them, for the legislation and to maintain just the footpaths as they are, they would need a budget of about £910,000 and about £200,000 to start making proper improvements.

345 **Q168. The Chair:** So I have got a question for you, Mr Braidwood. The petition calls for an agency to be created for the sole responsibility for maintaining and developing the Island's footpaths. What do you think about the alternative of devolving responsibility to local authorities?

350 **Mr Braidwood:** For local authorities, yes, Onchan has Molly Quirk's and Groudle, but it is maintained by DEFA. Some local authorities are more 'go ahead'. I see Mr Gawne is here, so I am sure that he will be making some comment about it. It is mainly ownership. Will everybody work, if it is under one agency as such? Or if it was under the DoI with everybody working collaboratively, then, yes, I think we can have the work done in different places exactly the same, but if you have local authorities doing some work and another local authority, it might not be of the same standard as the other one.

355 One of the interesting things – and I am just digressing slightly – that Mr Robinson said was that there was hopefully legislation to come through to the Council of Ministers on 'right to roam'. Funnily enough, Tony Brown, when he was nominated for Chief Minister on 14th December 2006, said that he would like to introduce legislation for right to roam, it never came in. I do not like the name 'right to roam'. We have got a Countryside Access Group. The way I always looked at it would be 'access to the Manx countryside', which I think should be introduced. So those areas where we *have* to come inland, we should be able to make a proper coastal path.

Q169. Mr Henderson: Thank you.

365 A question to all three of you, if you can take it in turn. Speaking as a mountain footpath user myself, I am just wondering what you would put as the top three destructive forces, especially on our mountain footpaths, greenways and others routes used by walkers?

Mr Braidwood: I know this is close to your heart, Mr Henderson, because you have put plenty of Questions down previously.

370 One of the reasons the GLUG was started was because of the damage being caused by motorised bikes, particularly you could say over by Agneash coming in from the Ballaragh Road, going round by Slieau Ruy, Slieau Lhean and going back down to Glen Mona there used to be a lovely path once and then the bikes destroyed that, they have done a lot of work on now in improving it so that the bikes can go round.

375 The other one was from the Baltic Road or up from Kirk Michael, and from Ballaugh on the Ballacobb, over the top round to the Brandywell, past Slieau Curn, Slieau Dhoo and Slieau Freoaghane and Sartfell, that was torn to pieces years ago.

The trouble is, I have been walking and you see these bikes and they see walkers and they stop, because they know they are off piste. I have seen bikes down in the valley of Slieau Lhean trying to get up that lovely green bank.

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Q170. Mr Henderson: Would you say the damage is worsening over time?

385 **Mr Braidwood:** No, I think there has been improvement over the last few years. I think you have people now who have organised with the trial bikes going round. The biggest problem is when you get some rogue people who go off piste and tend to destroy it.

I think one of the problems, being in the UK – and I might be wrong here – they have to keep on courses. They are *not* allowed to go round in the countryside on green lanes or whatever, they are restricted to courses. So when they come over here, they tend to say, (**Mr Leiserach:** Whoopee!) ‘Oh, right, we will just go out.’

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Q171. Mr Henderson: Okay. Catriona?

Ms Livingstone: I would agree with what he said and I would add litter is an increasing problem. Those energy sachets you find everywhere and it is a hazard to livestock when you have got plastic bags floating around.

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And the problem with cows not being separated from the footpath is not just the conflict but there are ... In Scarlett last year the footpath completely disappeared. Unless you scrambled around on the rocks, you could not walk it. It was sopping, slipping and sliding, the mud, because after they had cut the crops, the cows had come all the way to the top of the bank. You could *not* walk it.

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Mr Leiserach: I would totally agree that you could not walk it. The fault there is that the legislation is clear: if a farmer wishes to plough his field he can, but he must give notice. They do not. When they have ploughed their field, they should reinstate the path within a certain time. They do not. And DoI were not interested in taking action over that particular event. The law is very plain and very clear within the legislation for damage by farmers to paths.

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Mr Braidwood: Can I just add that with bikes – and I have mentioned this when Mr Henderson put a Question down once – to wear tabards on the back, because you cannot see the number plate on a lot of these scramble bikes because they just get covered in mud. I did suggest one time tabards and also the registration number on the helmets, so if we get close enough at least we can identify the people who are off piste.

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Mr Leiserach: I am sorry to say, the miscreants are the ones who take their number plates off before they go off piste. I have seen bikes and I have seen them with no number plates, and it is very difficult after that to identify.

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Mr Henderson: Thank you.

The Chair: Have you got any questions?

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Q172. Mrs Caine: Obviously you have listened carefully to what the DoI said, and funding has been an issue for 10 years, perhaps, leading to the current problems on footpaths. But I do not see in the Budget this year them getting a million pounds for maintenance. (*Laughter*)

425

Mr Braidwood: No, I do not. I looked at the Pink Book!

Mrs Caine: So what do you think the solution is going to be? Do you see any likelihood of any improvement in the short term?

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Mr Braidwood: You read the submission from Visit Isle of Man where there are volunteer groups. I know, I think even Mr Harding mentioned, that at one time on the Windy Corner he was called out on a Sunday morning and there were about 30 people working away. In the UK, they seem to have more working ethics, together with volunteer groups and everything else.

435

I am sure that through the Countryside Access Group, if it was possible, with more volunteers to assist the Department and trying to give the labour free, as such, in order to improve some of the footpaths.

Mr Leiserach: Can I just –

440 **Q173. The Chair:** I was just going to say, I wonder what your thoughts are, whether if the DoI were to ask more specifically for footpath funding, would that not be perhaps ... do you feel that they prioritise that as an area of some that they would like to maintain?

445 **Mr Braidwood:** I think if you look at DEFA, where they have their pyramid and at the top is the glens and they work all the way down. The DoI will have very similar, where they have the primary footpaths, mainly the coastal footpath, because everybody, visitors, complain that they have to come in all the time in different areas. If we could get primary footpaths in really good condition, I think that would be a start.

450 Catriona with her walking people, she probably sees it more than me and so does David if he is out five times a week walking.

Ms Livingstone: There was a distinction made between grey and green, and I think it would be effective to leave DoI as the holder of legislation to protect the public's right of access, maintain the definitive map, make the highways safer for pedestrians by putting in pavements and fixing the ones that are not fit and looking at linking trails and footpaths with new pavements and turn all the footpaths that are not on highways over to DEFA to maintain. So keep DoI, do not try to unravel that, but let DEFA do what they are good at, which is working in the countryside and give them money for skilled manual workers; get a team of people out there. I do not think that would cost a million pounds. *(Laughter)*

460 Visit Isle of Man said they spent close to £200,000 on advertising for walkers and something like £700,000 or 800,000 on marketing overall.

Mr Braidwood: For three years.

465 **Ms Livingstone:** For three years. Whereas DEFA took that million pounds and they have done wonders in the glens with that money. They have a really can-do attitude.

Mr Braidwood: I think over the last five years they were given a million and I think they spent about £1.2 million.

470 But funnily enough, mentioning the definitive map, I think Ffynlo Williams mentioned there were 220 alterations eventually to come to the definitive map. I was looking at some of the alterations on the definitive map and I was looking at the statutory documents and there was only one contentious one, which was the Meary Voar, Santon one, with Mr Moore at the time, which was July 2018, where he had altered the path and moved it to the side, not in very good condition –

480 **Mr Leiserach:** No, but equally the network was substantially maintained. I do not like when DoI or DEFA, or anyone else, gets pressurised by a landowner into doing something for *their* benefit, but on the other hand, at least that route, it kept the route accessible.

Mr Braidwood: Yes, it did, and I think particularly the Department at the time they had had problems with the landowner for a number of years, and I do not think they actually put out the full problems that that had with the landowner because I think he had accused them of polluting his pools and everything else when the sewage was distributed on land. That one I possibly agreed with what should have happened was the way Mrs Caine voted anyway. *(Laughter)*

Q174. The Chair: Okay.

Well, thank you very much for coming in today to give us your evidence. Have you got anything else you would like to mention before we wrap it up?

490

Mr Leiserach: I think that there needs to be more joined-up thinking. Yes, we can accept a large number of walkers over here, spread out over the whole Island, even if they are all going to be led hand-in-hand around the Raad ny Foillan, we could still hide quite a lot of people over here.

495 But there are bits of the Raad ny Foillan, for instance, or the Millennium Way that are in a very poor condition. And it will only take one small incident and we will lose our good name as a centre for walking.

There are places where telephone/mobile communications are dreadful. I do not want them increased, I do not want to see lots of new masts around the Raad ny Foillan, but we have got to make the Raad ny Foillan safer for people who are not experienced walkers.

500 Within the group that I am in, we have a Thursday group who sometimes walk as little as two miles and we have a Saturday group that walks as much as 20 miles in a day. The Saturday group, you just point them at something and they will go, it does not matter what the state of the stiles, the bogs or anything is, they will go straight through it. Those are not the sort of walkers that are going to have trouble, but some of the routes really drastically need significant maintenance.

505 If Mrs Maltby and Mrs Caine can twist an arm somewhere to either get Treasury to make a relatively small investment in footpaths or convert DoI to shifting a bit of budget sideways, it would make a huge difference. The amount of money being invested at the moment is negligible.

The Chair: Thank you.

510

Mr Braidwood: I think, just following on, particularly as the DoI when they submitted their evidence and when they came to see you, mentioned the Heritage Trail and the amount which had been out of capital, but again that needs maintaining and revenue. That was all done through capital for the Heritage Trail, which is a fine piece of work. Unfortunately, I wish cyclists would have bells on because they come behind you and you cannot hear them and all of a sudden they are on you, and they are supposed to give way to people on foot.

515

The Chair: Thank you.

520 **Ms Livingstone:** I think it is very expensive to not take care of the low lying fruit: reactive maintenance costs a lot, a penny saved is a pound wasted, and you are talking really basic stuff, signposts, safe underfoot, well drained, clear the vegetation, have crossings, bridges and stiles that most people can use, keep people separated from livestock. I think you should employ some workers in-house and let them get on with it.

525

The Chair: Thank you very much. We will now suspend the sitting.

*The Committee was suspended at 11.25 a.m.
and resumed its sitting at 11:29 a.m.*

EVIDENCE OF

**Mr Phil Gawne, Clerk to Arbory and Rushen Parish Commissioners and
former Minister for Infrastructure**

Q175. The Chair (Mrs Maltby): Welcome, Mr Gawne. Could you please introduce yourself and the capacity in which you are appearing here today?

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Mr Gawne: Right, I am Phil Gawne.

I understand that you have asked me to appear in two capacities, and I think it is really important that we make clear when you are asking me in which capacity, so I am wondering whether we could separate the two out in terms of any questioning or anything?

535 Obviously, I submitted the views on behalf of my employer, Arbory and Rushen Parish Commissioners, and you have had those written submissions, but you have also asked me to appear as a former DoI Minister, so I am more than happy to 'spill the beans' as former DoI Minister but it would be good if we could make sure that (**The Chair:** Yes, that is fine.) we have those roles separate because there are things I might say as former Minister that the Commissioners would sack me for! (*Laughter and Interjection*).

540

Q176. The Chair: Scandal!

Right, okie dokie. Well, we will start with the local authority then if that is okay with you.

545 As far as we are aware, Arbory and Rushen is the only local authority which has taken on responsibility for maintaining public rights of way in its area. Could you please walk us through how this came about and what your experience of the arrangement has been to date?

550 **Mr Gawne:** Well the detail obviously is in the written submission, but in effect, I think it was November 2017, the Minister was on Manx Radio basically saying that the Department did not have enough budget, they were looking for people to volunteer to help maintain footpaths, this and that. Then by December, the Commissioners had heard this, they met and they decided that they would be willing to get involved because they felt that the footpaths network in Arbory and Rushen were worthy of maintaining and keeping open.

555 At that stage, Arbory and Rushen were separate authorities, but both authorities agreed that this was the right thing to do. Then, I think in February, the Department wrote to us and I think all the local authorities and basically said we can maintain what they were calling 'blue and green routes'. Blue being the coastal footpath, Raad ny Foillan, and green being the 'more often used' footpaths. But the red and amber footpaths, which were the ones that they deemed to be less often used, they basically said, 'We do not have a budget, we probably will not be able to maintain these'.

560 So at that stage we said, Arbory and Rushen Parish Commissioners said, 'Well, we will trim the red and amber footpaths.' As it has happened, we have also trimmed some of the other ones as well, but we were happy to do that.

565 We have had a few problems along the way in that the personnel changes quite a lot in DoI. Particularly, it would appear, the person responsible for maintaining footpaths, when there is one, and every year we have to go through the whole rigmarole of explaining.

So this year we had a real problem that everywhere our contractor went to trim a footpath, it had already been trimmed. No one had told us that the DoI were going to do this again but the DoI did not know that we were doing it, even though we have told them on several occasions that we are doing this.

570 So effectively, it was great for the Commissioners. We saved a penny on the rates because we did not need to trim footpaths that were already trimmed, but what a shame when we know – this is me speaking as clerk, but very briefly slipping the former Minister hat on – I know that basically there is nowhere near enough budget to maintain the infrastructure that we have on the Island in the DoI. What a shame that they chose to send in teams of contractors to do things that we had already said we would do.

575 And of course, that then adds to the work because we then had our contractor who said, 'Well I am not going to waste my time going all the way out to these places', because he was not charging us for turning up, hiking all his gear out and then finding the path was trimmed. He said, 'You are going to have to resolve this with the DoI before we continue'. So then, of course, we had more complaints about the footpaths in Arbory and Rushen because they had not been trimmed in the way that we *would* have trimmed them if we would have been left to it.

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585 So the one year that has worked well, it has cost us about a penny and a half on the rates to do, which is roughly £5,000, which is not an awful lot of money in the overall scheme of things. It is very easy for us to do, people know that when they pick up the phone to speak to the clerk, the footpath will be trimmed within the week, whereas when DoI – and this is not a criticism on DoI – if they got one or ... at one point I think they had two teams going around the Island, it was pot luck as to where the team would be as to when your footpath would get trimmed.

590 Our contractors are very responsive and generally the path is trimmed within a week of me getting the phone call, so it works very well. It is a simple system. The other local authorities will kill me for saying this but it *is* a simple system and why on earth has Government not devolved this to local authorities five years ago? I just do not understand.

595 **Q177. The Chair:** Do you think local authorities would require anything else in order to be taking on full responsibility of the footpaths?

Mr Gawne: Well, I think ... I will stray into funding a little later with the former Minister hat on, if I could.

600 All local authorities will say that a penny and a half on the rates, we have got to look after the ratepayers' interests. But equally, I would have thought anyway, all local authorities care about their parishes, their towns and their villages and would want to see the best for their areas and for their ratepayers. And when it is such a minimal amount of effort on the part of the local authority to actually do this, why would they not want to do it? I do not really understand.

605 Now, there are areas of concern that I would imagine that the Department of Infrastructure might have, and I could stray into that with the former Minister hat on but, in essence, what you have to do, if you are devolving a thing like this, you have to be clear in terms of the legislation and you have to be clear in terms of the incentives. It is best to look at incentives for the local authority to actually do this and I would have thought the incentive is either you do this properly or we look at putting up charges at the incinerator or looking at other ways in which we can get money off the local authorities.

610 **Q178. Mrs Caine:** Can I take you back to the fundamental issues you put in your submission that you saved 25% of the budget you had set aside to do footpaths because DoI had already trimmed, but is that not something that we are hearing more and more? Do you think that there are the systems in place to adequately manage the response to the routine maintenance? Is it just a lack of funding, or is there a lack of knowledge?

615 And we are also aware of one other local authority who offered to take on responsibility for their footpaths, in Garff, they were turned down and they were prepared to put a bit of budget there at the time, so is it sort of more fundamental at the centre of actually managing the maintenance programme of footpaths as well as the budget?

620 **Mr Gawne:** I think I will need to swap hats at this point (*Laughter*) because clearly it is a DoI thing. I mean, there are various things I should say about the DoI: first of all, the budgets were slashed in 2009, as a result of the 2008 VAT issue, £200 million disappeared. You cannot slash health budgets. You cannot slash education budgets. The next biggest budget was the DoT's, possibly DoT/DoLGEs and DoT's budget was cut in half in the following budget.

625 All Ministers were fully aware of the implications of making these significant cuts. I have heard Ministers, who shall remain nameless, trying to blame DoI Ministers for all of this. Actually, all the Ministers were aware. I have sat as DAFF Minister and DEFA Minister and heard the DoI Minister saying, 'We *can* make this £2 million cut. We can introduce the shared services system whereby maintenance is done by the DoI and cut a further £2 million or £3 million out of the budget *but* you are going to see a much less significant service because you simply cannot do all these things with half the money'.

635 So this has been clear. It has been clear all along. It has been clear to all Ministers who have been Ministers since 2009 that this is the inevitable consequence of not putting enough investment into looking after your infrastructure.

I think it is probably also fair ... I think he probably will not mind me saying this, but the Director of Highways has never been a big supporter of devolving stuff to local authorities, and it is fair to say that he was not as helpful as he might have been in terms of me devolving services such as the maintenance of highways that we devolved.

640 Also, during my time, we introduced a provision in the Highways Act, which allows that local authorities can take on maintenance of footpaths should they wish, so that provision is there. There is no compulsion in the legislation for local authorities to do this, but the provision is there if they wish to.

645 So the only reason I could imagine Garff were not allowed to take that on was because it was decided that somebody in the Department did not want to lose responsibility. I can kind of see that from a professional perspective. The Department ultimately is responsible for all of this and they do want to be sure that everything is being done as well as it can be. But when it is – we have heard from the footpaths people earlier – when it is so obvious that the Department is wholly incapable of doing this work, why on earth would they not want to take a gift from a local authority like that?

Q179. The Chair: You have mentioned a few different Departments that you have served as Minister for. Do you feel that the public rights of way could sit within a different Department or do you think it is well placed where it is at the moment?

655 **Mr Gawne:** I think, and I did say this to Butch Buttery before he put his petition in, that he has missed the point, it is not about the body. I mean, the DoI has the most responsibility for public rights of way, but it does not have a budget and it does not have the human resource available to deal with it. So you could set up as many Departments and agencies as you like, if you have not got the money to do it then you are wasting your time, really.

660 One of the reasons – this is definitely with former Minister, not with Clerk to the Commissioners, hat on – one of the things that we regularly discussed in Council of Ministers in the early days of the massive loss was what do you have influence over, as Minister, in relation to tax, for example? Income for Government, for want of a better word. VAT, you cannot change unless you abrogate the arrangement with the UK. Income Tax, headline rates of Income Tax are seen as the competitive advantage that the Isle of Man has, so loath to alter Income Tax. The only other significant tax is local tax or rates, and it is fair to say that the rates on the Isle of Man are incredibly low compared with most of the areas, most of the countries that surround us. There was a general view – although it does not seem to have manifested itself in the last administration – that we needed to transfer more things over to local authorities, because actually, people could probably afford a little bit more on the rates. But we could not really risk putting up things like Income Tax.

670 So it seems a pretty obvious thing to be doing. As I say, nothing, as far as I am aware, happened over the course of the last five years. I hear that rates reform is off the agenda, but maybe it is not. With the glare I just got, maybe it is back on the agenda, I do not know. (*Laughter*). But rates reform is the forerunner to actually do some of this.

Government, for the last ... how many years? 2009 ... 13-14 years, has been running a structural deficit in its budgeting. There was another structural deficit budgeted in the Budget this month. Quite a significant structural deficit, it is fair to say.

680 Now, yes, you have got COVID, I will give you that excuse. But I do not see a huge amount of effort going into addressing structural deficit. And maybe this is straying a bit away from the topic (*Laughter*) but if you are not prepared to hand over simple, relatively small things, like maintaining rural footpaths, then how on earth are you going to deal with the big stuff?

Sorry, that was a long-winded answer.

685 **Q180. The Chair:** So, in essence, you would support the devolution to local authorities then?

Mr Gawne: Well, it works for us.

I mean certainly trimming the footpaths, making sure that they are clear, we are happy to do that as a local authority. The local authority, I think, would be a little bit less eager to take on
690 responsibility for maintenance of stiles, putting in drains, all of that. The reason for that is we are not really geared up for that in terms of insurances and the like, and I suspect, as well, the Director of Highways would be having kittens at the thought that a whole range of different agencies could be responsible for maintaining bridges, structures and things.

695 **The Chair:** Mr Henderson?

Mr Henderson: No, Phil has made himself very clear on the points I have been interested in anyway.

700 **Miss Gale:** He just answered the question I was going to ask.

Q181. Mrs Caine: Just in terms of the other suggestions that have been made, you say the Commissioners could do the maintenance programme and routine maintenance of footpaths, the cutting back but not the sort of significant bridge building, drainage, fencing, livestock, stiles and everything else we have heard. Do you think that that is best left at DoI or DEFA, in the current set-up?
705

Mr Gawne: As a former DoI, former DEFA Minister and former DAF Minister, I know that all the budgets of those Departments were cut to the bone, and I have not seen any significant replenishment of budgets.
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I know that they are struggling to maintain and deal with the issues that they have, so giving new stuff to Departments to do seems to me, without a budget, unlikely to work.

Knowing that you are operating with a structural deficit, where are you going to find the money from to hand over? I heard David saying that, 'Oh, it is only a small amount', but actually, when
715 you have not got enough to do the absolutely essential stuff, finding small amounts for things which are often deemed to be less important is very difficult to do.

So, I sort of answered your point with the clerk's hat on. With the former Minister's hat on, I might say local authorities *could* fund some of the work for some of the structural repairs to footpaths. It would be a little bit more difficult to do, but I think it is possible. One thing that I was
720 working on which I did not manage to get through was maintenance of footpaths and extra highways pavements. My thinking was that if local authorities felt it was important enough to maintain a particular pavement in their area, then they should be able to raise funds on the rates to do that.

Again, the thinking was that this would be managed by a DoI engineer, but the funding would come via the local authority. I do not see why some enterprise like that could not be set up, some arrangement like that, to allow that to happen.
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Q182. Mrs Caine: But that would be mainly in the grey footpaths, if we are talking suburban or town, adjacent to roads within a sort of suburban area.
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Mr Gawne: Yes, but I do not see why it should not work for (**Mrs Caine:** For the green ...) rural footpaths, public rights of way. It is possible.

Q183. Mrs Caine: I think one of the comments that came out of a previous session was the £12 million highways budget cut to £1.5 million, covering highways, including footpaths, and there was no ring-fencing of footpaths budget within that.
735

Do you think it could be more protected if it went to DEFA and was prioritised alongside glens in their maintenance programme?

740 **Mr Gawne:** It would be wholly dependent on who your Minister and Chief Exec was and how powerful or capable the Minister was to instruct the Chief Exec to do things.

When I was DoI Minister, we did an awful lot of work on the greenways, even with the significant cuts to budget. I required that that was done, so we did quite a lot of repairs to the greenways, some of which was roundly criticised by users because we, 'Destroyed it, it looked
745 wonderful before and now, you have ruined it'. So the bikers were not happy because we had put in smoother surfaces and they liked the ruts, the 4x4 people, I think, did not like it because, 'It should be a grassed area, it should not have hard core down'. So, as ever with these things, you are damned if you do and damned if you do not.

But I was very keen to make sure that we did maintain our greenways and so I made sure that
750 we focused some money on that. But other people may have different views. You know, if you happen to be a Douglas Central – is there a Douglas Central MHK anywhere? – your interest in maintaining upland tracks is probably less than maintaining public highways.

Q184. The Chair: Have you got anything else you would like to add as a ... whichever hat you
755 want to put on? Run through them!

Mr Gawne: Well one hat as a farmer's son but also as local authority clerk, I was interested to hear what Catriona had to say about livestock being fenced off and footpaths.

That will massively increase your budget requirement to maintain the paths. There is an area
760 of dispute, which I think David probably knows about, in our parishes at the moment where a footpath which was not a footpath, it was actually a public highway, has been diverted as a footpath. Then they realised 'Actually, it was not a footpath, it was a public highway and we cannot really do that'. But anyway, it has been diverted and there is a lovely fence put around it which means that we now have to trim it to maintain it because it used to be that the sheep grazed it.
765 Now that it has got the fence around, it will all have to be maintained.

And in terms of the – I have not actually got the figure, I could send you through the detailed figures of how many yards, metres of footpath we have agreed to maintain if you would like – but it is something like 25% of the total distance of the path that actually needs to be cut. Obviously, different paths in different areas have different percentages. If you had a fence round every
770 footpath, you would have to cut the lot which would be a significant increase in cost.

I do get the point about the issue at Scarlett, but for all my life I was living at Pool Vaish for many years, a family farm, and there was never a problem except that one year. So you could be creating – as Government is very good at – a problem to address a relatively small one-off issue and then create a massive cost across the whole of the Island for the future, not least in terms of
775 having to put the fences up.

But that said, there is another issue there that needs to be resolved, which is how does the Department and how does Government require farmers to reinstate damaged footpaths when it is clear that the footpath has been damaged by the farmer or their animals? That needs to be addressed. But then I notice we have a former MNFU man, MHK in the audience, who will
780 probably say that farmers really do not have enough budgets to be maintaining footpaths either.

So yes, it is difficult. In a world where you are having decreasing areas that you can go to to get funding to do stuff and you have some of the lowest taxation – and this is definitely former Minister, not clerk – in the British Isles, it is hard to see why you would not want to put a couple of pence on the rates to tackle this.
785

The Chair: Okay, I think that is us done then. Thank you very much, we will now sit in private.

The Committee sat in private at 11.55 a.m.