

The Motoring Organisations' Land Access & Recreation Association

## Anti-Social and Unlawful Motoring in the Countryside

Enforcement, Education and Alternative Provision





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## Foreword

Some organisations and individuals are opposed to all recreational motoring 'off-tarmac' in the countryside, but alongside them sit many more who, whilst not anti-motoring in principle, may at times be seriously disadvantaged by those motorists whose actions are anti-social, unlawful, or both.

Whenever problems of this type occur, and such problems are often both local in effect and short-lived in time, there is the inevitable call for a permanent ban on all motor vehicles using a particular area or lane. Where enacted this seriously disadvantages the lawful and responsible driver whilst often having little or no effect on unlawful or anti-social behaviour.

With the resources available to local authorities and the police increasingly stretched, and with more frequent changes of personnel in both, it has become clear to LARA that officers in these organisations may be unaware of the wide range of powers they already have to curb anti-social and unlawful motoring in the countryside, and in particular that many of the laws covering unlawful motoring are as applicable to the countryside as they are to the tarmaced road.

This LARA report, and the associated LARA paper on *Driving Conduct and Traffic Offences*, explain what is anti-social and what is unlawful, with an explanation of the measures already available to tackle both.

We welcome all comments, and suggestions for clarification or improvement. LARA and its Member Organisations are ready and willing to work with highway authorities, the police, and non-motorised user groups, to address anti-social and unlawful motoring in the countryside.

Andrew Knightly Brown  
Honorary Chairman of LARA  
March 2019

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Abbreviations & Glossary: <https://laragborg.wordpress.com/glossary/>

## I. Introduction

- I.1. In setting out the scope of this report it is necessary to start with what it does not cover: the use of motor vehicles in a manner, and in locations, compliant with the law. Some people may prefer not to meet any 'recreational vehicles' when out in the countryside, but that is a matter of preference rather than law. This report starts from the premise that motoring on unsealed public roads, public paths, and open countryside, is lawful where the people doing it comply with the relevant statutes and regulations.
- I.2. There is also a distinction to be drawn between people who are exercising a right, but in doing so fall short on regulatory requirements (e.g. the size of vehicle licence plates), and those who drive where they have no right to be.
- I.3. A further distinction arises with respect to certain types of 'off road motoring', where that motoring is part of more-serious criminal activity. 'Moped crime', local drug supply, and the 'Guy Fawkes Ride-out' motorised riots, all use motor vehicles (often 'off-road' motorcycles), but this conduct is taken by the police and courts to be 'crime', whereas simply driving a scrambles motorcycle through a country park would tend to be regarded as anti-social behaviour. That is not to belittle the impact that anti-social behaviour can have on people's lives. This report addresses the anti-social end of the spectrum of motoring offences and leaves hard crime to the police.
- I.4. Current practice falls into four areas: Enforcement. Engineering. Engagement. Enabling.
  - **Enforcement** is essentially the use of police and council powers either to prosecute or caution transgressors, sometimes with the power to seize the vehicles involved. Enforcement is split into two parts: traffic offences, and anti-social behaviour.
  - **Engineering** falls into two parts: physically engineering-out a local problem with barriers and fencing, and social engineering, such as improving a problem area so as to be attractive to local people for country park recreation. This displaces the unlawful activity.
  - **Engagement** brings in notices and signs, on-site advice and warnings, educational material, and (occasionally) outreach schemes.
  - **Enabling** is the provision of places where people who simply 'want somewhere to ride my motorbike / drive my 4x4' can go and do just that.
- I.5. There is no easy answer. Illegal and anti-social motoring waxes and wanes, moves around, and is rather like pressing on a soft balloon when it comes to enforcement. The police are sometimes reluctant to press too hard. They would rather have local youngsters motorcycling in the woods than on residential streets, and nowadays police resources are stretched so thin that this misconduct is only periodically prioritised.
- I.6. For this report, unsealed public roads on a highway authority's 'list of streets' are taken to be highways for all classes of traffic. If any such highway were shown to be only a public path, then public path offences would apply. There is no great difference in practice.



## 2. Enforcement: Traffic Offences

- 2.1. There is no shortage of statutory provisions available to the police (sometimes councils) to be employed against anti-social and/or unlawful drivers of motor vehicles. As with all roads it is a matter of police resources, and officers being in the right place at the right time.
- 2.2. Police officers have reasonable discretion to decide whether to report an offender for prosecution (or issue a fixed-penalty ticket on the spot), or caution, either informally ('verbal warning'), or formally using the procedures in the Police Reform Act 2002. Some offences also provide for the seizure of offenders' vehicles.
- 2.3. There remains some statutory distinction between 'motor vehicle' and 'mechanically propelled vehicle' in statutory offences. For example, the requirement to have third party insurance still applies to 'motor vehicles'. The arcane distinction between the types has largely been taken away by successive court cases involving off-road motorcycles, go-karts, GoPed scooters, and Segways. See Coates v. Crown Prosecution Service [2011] EWHC 2032 (Admin).
- 2.4. The tabulation in LARA Reference Document 2019.3.14 lists types of conduct and potential road traffic offences, and locations where offences can occur. This is not an exhaustive list, rather it focuses on the types of motoring which cause distress and damage, and associated offences which provide the police with more and better enforcement powers.

## 3. Enforcement: Anti-Social Behaviour – The Police Reform Act 2002

*S.59 Vehicles used in manner causing alarm, distress or annoyance*

*(1) Where a constable in uniform has reasonable grounds for believing that a motor vehicle is being used on any occasion in a manner which—*

*(a) contravenes section 3 or 34 of the Road Traffic Act 1988 (c. 52) (careless and inconsiderate driving and prohibition of off-road driving), and*

*(b) is causing, or is likely to cause, alarm, distress or annoyance to members of the public, he shall have the powers set out in subsection (3).*

*(2) A constable in uniform shall also have the powers set out in subsection (3) where he has reasonable grounds for believing that a motor vehicle has been used on any occasion in a manner falling within subsection (1).*

*(3) Those powers are—*

*(a) power, if the motor vehicle is moving, to order the person driving it to stop the vehicle;*

*(b) power to seize and remove the motor vehicle;*

*(c) power, for the purposes of exercising a power falling within paragraph (a) or (b), to enter any premises on which he has reasonable grounds for believing the motor vehicle to be;*

*(d) power to use reasonable force, if necessary, in the exercise of any power conferred by any of paragraphs (a) to (c).*

- 3.1. S.59 of the PRA 2002 was introduced in response to the growth in informal 'custom car meets' in places like shopping centre car parks, where drivers would spin wheels, perform handbrake turns, and make noise into the night. The scope of the legislation also embraces illegal off-road motorcycling.

- 3.2. The powers cannot be exercised unless the driver is both using the vehicle anti-socially (as defined in s.59(1)(b)) and is committing either the s.3 or the s.34 offence. Someone driving in a way that might be considered anti-social but not committing either of these offences is not liable to having his vehicle seized, nor is someone committing a different motoring offence.
- 3.3. Essentially, s.59 is intended to operate against road-going vehicles and licensed drivers, causing them to stop their activity and leave the scene, with the added threat of vehicle seizure if they repeat the behaviour within 12 months. If employed against off-road motorcyclists, a requirement to leave the scene would generally mean that the police officer was facilitating unlicensed and uninsured vehicles being used on the highway or in public places. Such vehicles can also be seized using RTA 1988 powers (see LARA Reference Document 2019.3.14).

#### **4. Enforcement: Anti-Social Behaviour – Public Spaces Protection Orders**

- 4.1. Public Spaces Protection Orders (PSPO) are made under the provisions in ss.59-74 of the Anti-social Behaviour, Crime and Policing Act 2014 and associated regulations.
- 4.2. The orders are made by district councils in England (or county councils where there is no district council) and county / county borough councils in Wales, and must refer to a specific place, or highway, where the local authority is satisfied on reasonable grounds that certain conditions have been met.
- 4.3. Anti-social behaviour for this purpose includes activities that have taken place and have had a detrimental effect on the quality of life of those in the locality; or it is likely that activities will take place and that they will have a detrimental effect. Also, the effect or likely effect of these activities must satisfy these conditions: is, or is likely to be, persistent or continuing in nature, and is, or is likely to be, unreasonable, and justifies the restrictions being imposed.
- 4.4. Lawful ordinary use by drivers of a public highway is not unreasonable behaviour, but unlawful use of a public path, or open space, may be. Orders made to close a road to stop fly-tippers would not be reasonable if these unnecessarily stopped otherwise lawful traffic.
- 4.5. PSPOs are usually enforced by council officers, either by warnings or the issue of fixed-penalty notices. Police officers and police community support officers can also enforce PSPOs. Statutory notices describing the prohibited activities can be placed in an area subject to a PSPO.
- 4.6. There is considerable scope to use PSPOs against anti-social / unlawful driving on public vehicular highways, public paths, and open spaces.

#### **5. Enforcement: Anti-Social Behaviour – Injunctions**

- 5.1. Some local authorities have obtained High Court injunctions against what is usually called 'car cruising': informal and impromptu gatherings of 'custom car' enthusiasts, resulting in groups proceeding along the highway, often with noise and anti-social behaviour.
- 5.2. Injunctions of this sort are a crude device in that they tend to catch lawful and reasonable activities, such as classic car runs, as unfair 'collateral damage'
- 5.3. At least one authority has made and maintained a public spaces protection order, rather than an injunction, to prevent gatherings and cruises in a particular location.

## 6. Engineering

6.1. There are two types of engineering: *physical* and *social*.

- **Physical engineering** is gates, barriers, fences and embankments. No works can easily stop motorcycle access without also stopping horses and wheelchairs. 'A'-frame barriers, and wheelchair gates, will stop or displace some motorcycling where horse access is not needed, but some bikes will get through and others will get around. 4x4 access is easier to prevent with barriers, posts and locked gates, but the seriously criminal element (e.g. hare coursers), rather than casual off-roaders, sometimes break gates or drag barriers out using their vehicles or winches.
- **Social engineering** comes from active redesignation and management for public access of the type of sites traditionally used by off-road motorcyclists, and sometimes 4x4s. Post-industrial 'waste' land is a magnet for local lads on bikes, and often becomes a known destination for people bringing scramblers and quads in vans. Sometimes (and more in the past than nowadays) these are 'blind eye sites', where the owners, councils and police take no steps against this use, so long as it does not spill out into more sensitive places. When post-industrial land (e.g. colliery sites) is upgraded and designated for public access – country parks – the presence of the public, once above a low threshold, displaces all or most of the motor activity.

## 7. Engagement

7.1. Engagement comes in various forms: signage, literature (e.g. leaflets), peer pressure, wardening and outreach ('soft policing').

7.2. **Signage** falls mainly into two areas: on land, and on roads and public paths.

- On land, e.g. post-industrial sites and public paths, the site managers are free (but potentially constrained by planning rules) to put up notices such as 'private land - no unauthorised motor vehicles.' Historically, the police are more likely to take enforcement action where there are such signs than where there are not.
- On roads and public paths the rules in the *Traffic Signs Directions and Regulations* apply. Signs and notices that regulate traffic are strictly controlled in both their format and use, and e.g. a 'no motors' traffic sign cannot be used without an associated traffic regulation order.

7.3. Informal advice from government suggests that a local authority could properly put a notice on a bridleway saying e.g. 'no motorcycles: public bridleway only' under the provisions in *The Town and Country Planning (Control of Advertisements) (England) Regulations 2007*. The 1992 Regulations, with a similar provision, are still in force in Wales.

7.4. **Literature** in the form of at-, or near-site handouts, is usually in the form of a generic 'code of conduct', embracing lawful motoring (with good neighbour advice) together with simple 'this is unlawful, do not do it' warnings. Codes of conduct, or similar advice, are issued by the principal motoring organisations, and are nowadays more available online than in printed form.

7.5. **Peer pressure** has traditionally been through editorial and letters in motoring and motorcycle magazines ('if you behave like that, then you will get us all banned ...') and now this has expanded considerably via social media such as YouTube and Facebook.



- 7.6. Peer pressure can extend into formal discipline, e.g. where the Auto-Cycle Union publicises that any of its members caught motorcycling illegally in places where competitive events are held with the owner's consent, are liable to have their competition licences withdrawn.
- 7.7. **Wardening and outreach.** Wardening of a particular site or public path would normally involve countryside rangers, forestry workers, gamekeepers, and sometimes police community support officers. Where there is an ongoing problem, police officers can be engaged to hand out informal warnings (rather than penalty notices).
- 7.8. Some police forces maintain teams with officers and motorcycles capable of apprehending offenders who are away from car parks and tarmac roads.
- 7.9. In some places members of national motoring organisations go out with police and land managers, specifically targeting 'hot spot' locations, where people regularly go in order to drive illegally.

## 8. Enabling

- 8.1. Enabling falls mainly into two heads: information, and site provision.
- 8.2. **Information** guides and assists lawful motorists in knowing where they can go, thereby steering them away from being in the wrong places. Sufficient traffic signs and waymarks to reassure the public about the status of a road or public path takes away the excuse of ignorance of the law. The principal recreational motoring organisations have (or are developing) this information and making it available online, but there is no substitute for good signage. Good signage also informs non-motorists of a road's status, so that they can make appropriate route choices.
- 8.3. **Site provision** can and does work for some parts of the spectrum of off-tarmac motoring. Leaving aside traditional club-organised motor sport events, there is a history of viable operation for:
  - **4x4 'pay and play' driving sites.** There are a lot of these around the country, and many are part of farm diversification schemes. The sites get planning permission because there is no great noise problem: the customers' vehicles are (with few exceptions) road registered.
  - **Quads: tracks and trail driving.** Again, diversification is a factor in land availability here. Like 4x4s, recreational quads tend to be safe to operate, and can be constrained by landforms. Such sites are an insurable operation because participants use the site's machines under rules and safety discipline.
  - **Karts.** Again, kart hire centres are now common, indoor and outdoor, with their numbers constrained by how many sites the commercial market can support. The type of karts used for public hire are extremely quiet.
  - **Motorcycle practice tracks.** These are primarily moto-cross-type (scrambles) tracks, operated on a commercial pay-and-play basis. Users bring their own machines and gear, and although speed and a degree of danger is involved, the sites operate to rules generally similar to those engaged with formal motorcycle competition events. There is noise-testing for machines, and riders must wear specific protective clothing. These sites are generally noisier than a commercial 4x4 site, and find it more difficult to get

planning permission as a consequence. The development of electric-powered off-road motorcycles will assist here.

- **Agency-supported schemes.** There is a long history of schemes and sites run by, or with the close involvement of, councils, police, social services, and probation. These partner agencies can find and bring stable funding, and have no commercial requirement to balance the books each year. The schemes run with a high degree of discipline, and are sometimes aimed more at the clients of social services and probation than at the general public. Very good at what they do, but not really a solution to everyday illegal anti-social motoring.

8.4. Current site provision does not work well, if at all, for casual off-road motorcyclists (this is not so much a 4x4 issue) who just wish to ride around for fun, and are not bothered about the legalities involved. These fall into two groups: those who ride out from home (neighbourhood riders), and those who travel to a location (usually by van) to ride.

- **Neighbourhood riders** tend to stay away from places well-used by local people, at least during peak hours. They use the ordinary roads, public paths, country parks, disused railways – whatever land is open, where experience is that active enforcement is unlikely. Enquiry suggests that these people simply do not want to be part of any scheme or project. They would welcome a site where they can go without fear of enforcement. Mostly their machines and themselves are not road-legal, and they have no van transport. Many could not afford to use pay-and-play sites if such were available.
- **Travelling riders** tend to go to known locations. This might be a particular piece of land or forestry, or a wider area where they use public paths and open land. These people know that what they do is unlawful, but they operate in a sub-culture of ‘who cares’? They would not be amenable to any scheme or project; certainly not unless effectively enforced against for their current activities.

8.5. In the 1980s and 1990s there was considerable interest in creating ‘trail parks’: formalised and managed tracks for casual motorcycling, with safe and maintained machines for hire to the public and for agency-run participation schemes. Most sites failed, at least in their original intention and structure: site users simply wrecked the motorcycles in a short time. There was no business model for long-term viability.

8.6. Casual riding site provision is sometimes touted as a panacea for unlawful neighbourhood and traveling motorcyclists: *‘just give them an area of land and let them get on with it.’* It is not that simple. Neighbourhood riders generally have no lawful means of transport to such sites, but the biggest hurdle is simply liability and insurance. No public agency is going to provide such a site and invite its use. The liability for death or injury would be uninsurable. ‘Blind eye sites’, where the police and councils choose not to enforce, provide a form of casual riding site provision, but bring with them inevitable access and noise issues.

## Reference Documents

The Reference Documents listed below are all available from the LARA website. The web links are to the version of each Reference Document current in March 2019. If the web link generates an error message, the most likely reason is that the Reference Document has been updated. Go to <http://laragb.org> select 'Reference Documents', and follow the links or use the Search facility.

**Driving Conduct and Traffic Offences: Enforcement Against Anti-Social and Unlawful Motoring in the Countryside.** LARA 2019

[http://laragb.org/pdf/LARA\\_20190314\\_DrivingConductAndOffences.pdf](http://laragb.org/pdf/LARA_20190314_DrivingConductAndOffences.pdf)

**Motor Sport Events in the Countryside: Good Practice Guidance for Event Organisers & Land Managers.** LARA 2016

[http://laragb.org/pdf/LARA\\_20160123\\_MotorSportEventsInCountryside.pdf](http://laragb.org/pdf/LARA_20160123_MotorSportEventsInCountryside.pdf)

**Practical Management of Motorised Recreational Vehicle Activity: The Lake District Hierarchy of Trail Routes Initiative.** Waymark 2014

*'This offer anticipated actions being taken that were informed by fact and not by prejudice or hyperbole. It sought to break the mould of twenty-five years of what had proved to be little more than intellectual trench warfare with the battlefield doing no more than vibrate ...'*

[http://laragb.org/pdf/IPROW\\_201406\\_LakeDistrictTrailRoutes.pdf](http://laragb.org/pdf/IPROW_201406_LakeDistrictTrailRoutes.pdf)

**Illegal use of public rights of way and green spaces with public access by mechanically propelled vehicles.** DEFRA Final report 2007

*The research was commissioned by the Department for Environment, Food and Rural Affairs (Defra) and the Countryside Council for Wales (CCW) to investigate the illegal use of public rights of way (PROWs) by mechanically-propelled vehicles (MPVs).*

[http://laragb.org/pdf/DEFRA\\_200709\\_FaberMaunsellReport2.pdf](http://laragb.org/pdf/DEFRA_200709_FaberMaunsellReport2.pdf)

**Wales Off-road Motorcycling Steering Group. Annual Report 2006**

*'Off-road motorcycling has recently been a rapidly increasing activity, both lawful and unlawful. Opposition against the activity is also growing and in many instances the number of available sites or locations is reducing due to policy, planning or environmental restrictions.'*

[http://laragb.org/pdf/WORMS\\_200600\\_AnnualReport.pdf](http://laragb.org/pdf/WORMS_200600_AnnualReport.pdf)

**Regulating the use of motor vehicles on public rights of way and off road . A guide for Local Authorities, Police and Community Safety Partnerships.** DEFRA 2005

*'At present there is little provision for people who want to ride a motorcycle or drive their car away from public highways for fun. This makes the provision of new areas for the off road enthusiast an important consideration.'*

[http://laragb.org/pdf/DEFRA\\_200512\\_RegulatingMPVonPROW.pdf](http://laragb.org/pdf/DEFRA_200512_RegulatingMPVonPROW.pdf)

**Making the best of byways . A practical guide for local authorities managing and maintaining byways which carry motor vehicles.** DEFRA 2005

*'This guide has been prepared to support the management of byways where problems exist. Such problems might include conflicts between users, poor surface conditions, and increases in byway use.'*

[http://laragb.org/pdf/DEFRA\\_200512\\_MakingTheBestOfByways.pdf](http://laragb.org/pdf/DEFRA_200512_MakingTheBestOfByways.pdf)

**Cowboy Motoring - Facts and Fallacies.** CRN Journal Summer 2005.

*'Illegal off-road motoring – particularly motorcycling – is like a soft balloon. If you press hard to try and pop it, it moves away in response to your finger and simply bulges out somewhere else.'*

[http://laragb.org/pdf/CRN\\_200506\\_CowboyMotoring.pdf](http://laragb.org/pdf/CRN_200506_CowboyMotoring.pdf)

**Off Road Motorcycling in Greater Manchester: Identifying Solutions.** Red Rose Forest. March 2005

*'This Study and Report were commissioned in August 2004 in response to an ever-growing problem in Greater Manchester caused by the unlawful use of off-road motor vehicles on open countryside, parks, country parks, public paths, conservation sites, playing fields, estates and back streets.'*

[http://laragb.org/pdf/RROSE\\_200503\\_OffRoadGreaterManchester.pdf](http://laragb.org/pdf/RROSE_200503_OffRoadGreaterManchester.pdf)

**Motorcycle Misuse on the County Durham Coast A Report to Turning the Tide.** 1999

*'Turning the Tide is a programme for the restoration of the Durham coastline ... Motorcycle misuse of the sites and facilities being improved by Turning the Tide is a significant problem. Illegal use of land and paths by motorcyclists has been a constant feature of this area (and adjoining regions) for many years.'*

[http://laragb.org/pdf/TTT\\_199900\\_MotorcycleMisuseDurhamCoast.pdf](http://laragb.org/pdf/TTT_199900_MotorcycleMisuseDurhamCoast.pdf)

**Survey of Motorsport Venue Loss.** The Motorsport Facilities Unit. 1993.

How planning rules and land designations operate against site provision for motor sport and recreation.

[http://laragb.org/pdf/LARA\\_19930500\\_MFU\\_MotorsportsVenueLoss.pdf](http://laragb.org/pdf/LARA_19930500_MFU_MotorsportsVenueLoss.pdf)

**Motorsport in the Community: The Way Ahead.** 1992

Papers from a conference hosted by Gateshead Council to consider urban motorsports facilities

[http://laragb.org/pdf/SPCO\\_199203\\_MotorsportInTheCommunity.pdf](http://laragb.org/pdf/SPCO_199203_MotorsportInTheCommunity.pdf)

**Northern Motorsports Project. The Way Ahead.** 1991

A report setting out 'The Way Ahead' for motorsports facility provision, participation, and the development of performance in the Northern Region.

[http://laragb.org/pdf/SPCO\\_199100\\_NorthernMotorsportsProject.pdf](http://laragb.org/pdf/SPCO_199100_NorthernMotorsportsProject.pdf)

**Providing for Motorsports: from image to reality.** Sports Council. 1986

Researched and written by a team at Oxford Polytechnic led by Dr Martin Elson.

*'The Sports Council hopes that this report, the handbook, and the seminars which help disseminate their messages, will indeed provide a new basis for reasoned debate and action for better provision.'*

[http://laragb.org/pdf/SPCO\\_198603\\_ProvidingForMotorsports.pdf](http://laragb.org/pdf/SPCO_198603_ProvidingForMotorsports.pdf)