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Regulating the use of motor vehicles on public rights of way and off road

A guide for Local Authorities, Police and
Community Safety Partnerships

December 2005



Llywodraeth Cynulliad Cymru
Welsh Assembly Government



defra
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Food and Rural Affairs

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This document is also available on the Defra website.

Published by the Department for Environment, Food and Rural Affairs.
Printed in the UK, November 2005, on material that contains a minimum of 100% recycled fibre for uncoated paper and 75% recycled fibre for coated paper.

PB 11381

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1. Introduction

This circular stems from Defra's consultation paper issued in December 2003 on the 'Use of Mechanically Propelled Vehicles on Rights of Way'. There was a strong consensus in the responses to the consultation in favour of Proposal 1 which said: "we will develop a strategy to disseminate and better inform the police, local authorities, the courts and others about the extensive powers and penalties already available for dealing with vehicles using rights of way illegally, anti-socially, or, in sensitive areas, harmfully".

This circular is a first step – to provide information on getting the most out of existing legislation, and to encourage the formation of local partnerships to tackle abuse.

While this circular is aimed at illegal use of public rights of way, the anti-social and environmentally damaging use of motor vehicles away from public highways both in the countryside and in urban areas cannot be ignored.

While most people who drive motor vehicles away from the public highway do so in a responsible manner, a minority disregard the negative impacts that their activity has not only on the environment but also on local communities and visitors. 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.

The powers currently available to the police and local authorities are an important tool in tackling illegal and inappropriate motor vehicle use, but there are additional ways in which the local community, together with the police and local authorities and of course the relevant motoring clubs, can work to provide solutions. We are aware of areas where the police, local authorities and the clubs are working together to reduce the level of illegal off road use. A key part of their approach is through education and the provision of supervised designated sites.

It is hoped that this circular will bring together local authorities, the police, motoring clubs and the local community to help stop this continued illegal use of motor vehicles on rights of way.

2. What legislation already exists?

This guide sets out the legislation that is already available to tackle the problems arising from the use of rights of way by mechanically propelled vehicles – see section 9. Legislation in this area has, in recent years, been significantly strengthened by the Countryside and Rights of Way Act 2000 and the Police Reform Act 2002.

The Countryside and Rights of Way Act 2000 strengthened section 34 of the Road Traffic Act 1988 (the section that makes it an offence to drive on a right of way or off-road without lawful authority) in several ways. Contrary to a widespread misconception about section 34 (largely brought about by misunderstandings about section 34A, which the Government has decided not to implement), these strengthened provisions **are already in force**.

First, the term 'motor vehicles' was changed to 'mechanically propelled vehicles'. 'Motor vehicles' are broadly defined elsewhere in road traffic legislation as vehicles that are road-legal. The definition 'mechanically propelled vehicles' now includes vehicles that are not road-legal vehicle, such as an unlicensed or untaxed motorbike or quad bike.

Second, section 34 introduced a presumption that a right of way carries only the rights shown on the definitive map and statement. In other words, it makes it clear that where a person is prosecuted, the onus is on the person prosecuted to prove that there is a general public right to use that way with a vehicle.

At the same time section 34 was extended so that it will cover restricted byways¹. So it will be an offence to drive on restricted byway as well as a footpath and bridleway.

Sections 59 and 60 of the Police Reform Act 2002, give the Police the power to seize vehicles that are being driven in a way that causes, or is likely to cause, alarm, distress or annoyance. Where practicable, the Police are required to warn the driver before seizing a vehicle, so that he or she has the opportunity to stop the anti-social use. Police forces that have made use of sections 59 and 60; have found it particularly effective in conjunction with section 34 of the Road Traffic Act 1988.



Roseberry Topping – This is SSSI, National Trust land and the path to the left in the picture is the Cleveland Way National Trail

Photo Credit – North York Moors National Park Authority

¹ Sections 47-51 of the Countryside and Rights of Way Act 2000 introduce a new category of right of way called 'restricted byway'. Restricted byways replace ways shown on local authorities' definitive maps as roads used as public paths (RUPPs). Restricted byways carry rights for walkers, horse riders and vehicles other than mechanically propelled vehicles including cyclists. Reclassification from RUPP to restricted byway does not extinguish any private rights or higher rights that may exist, but have not been recorded.

3. Key Actions for Police and Local Authorities

The following is a list of principles that will help to make best use of the existing powers that are available to the police and local authorities.

- **Develop** a working relationship between local authorities, the local police and local motoring groups so as to improve coordination and use of the powers available. Consider involving other organisations such as conservation agencies who will have a specific interest in designated conservation sites.
- **Establish** a working group to develop a local strategy for reducing illegal use of public rights of way. This could include local partnerships such as Local Access Forums – especially those where motoring interests are properly represented.
- **Hold** regular meetings of the working group to discuss the local strategy and take ideas forward.
- **Support** nearby authorities in their management of this issue. Many of the recreational drivers using the byway network may travel from your area. The support of the local authority and the police can include distributing a code of conduct through tourist information centres, garages and vehicle dealerships and recreational driving user clubs in your local area.
- **Target** hotspots – i.e. a concentration of illegal off road activity or where an important area is being affected. This has proved successful in areas where an integrated approach has been adopted. This has included Rights of Way Officers, National Park and local authority rangers, conservation agency staff, and park wardens assisting the police in gathering information.
- In some areas police forces have a **nominated** officer who has become their rights of way specialist. Other forces rely on their wildlife expert. Major benefits can accrue where nominated officers liaise closely with legitimate motoring users.
- **Produce** and distribute information leaflets, in collaboration with recreational driving user groups, garages and vehicle dealerships. This may be an effective means of informing illegal and anti-social drivers of the enforcement policies in your particular area.
- **Investigate** what action might discourage illegal activity from taking place – perhaps signposts, the appropriate use of physical barriers and well maintained routes.
 - i. Accurate signs and way marks can remove doubt; they simplify and facilitate enforcement against illegal use, reduce conflict and reduce the likelihood of trespass.
 - ii. Well maintained routes will reduce conflict, and remove the opportunities for ‘mud-plugging’



Examples of how to discourage illegal activity from accessing specific rights of way

Photo Credit – Killingbeck Police

4. Examples of Local Initiatives



Photo Credit – Killingbeck Police

Resources to tackle illegal and irresponsible use of motor vehicles are scarce but there are many examples where a resolve to act and a creative approach have met with significant success.

Case Study 1 – Building partnerships, Devon, Cornwall and the Isles of Scilly

Devon and Cornwall Constabulary have recruited an Anti-Social Behaviour and Public Reassurance Officer. This has enabled the setting up of links between county council public rights of way wardens and the police, principally to progress anti-social behaviour and crime reduction issues concerning public rights of way. Links have also been made with emergency planning and wildlife officers.

The objective is to take an overview of countryside and rights of way issues and act as the central point of contact within the constabulary for related issues. The constabulary now has a framework in place that can be utilised or quickly activated to deal with issues of concern relating to public rights of way as they emerge.

Further information is available at:
www.devon-cornwall.police.uk

4. Examples of Local Initiatives

Case Study 2 – Example of involvement of the Local community, Safer Swansea Partnership

The Safer Swansea Partnership is formed by groups from the public, private and government sectors working together with the aim of making the City and County of Swansea a safer place to live. The partnership has identified off road biking as a serious problem and their chosen approach is through education and provision firstly, and then enforcement.

The partnership has linked up with South Wales Police, who are now using 'all terrain bikes'. These bikes will be able to gain access to areas that are currently inaccessible to patrol cars. The squad reacts to information gathered by police units throughout South Wales, working with other external agencies, and utilising police resources such as helicopters and horses.

Petrol stations in Swansea have been asked not to sell fuel to underage motorcyclists. They have been asked to sell fuel only to adult motorcycle riders who are willing to provide personal details.

Options for alternative sites have been investigated. These will be purpose built to meet the needs of even the most skilful riders, whilst on-site workshops would be held to educate riders in all aspects of motorcycle ownership.

Further information is available at:
www.safer Swansea.org.uk/youth_offroadbikes.asp

Case Study 3 – Stakeholder Partnership, Wales off Road Motorcycling Steering Group

The Forestry Commission and the Countryside Council for Wales are working in partnership with other agencies to engage a wide range of stakeholders. This partnership came about from a National Conference in 2004 to investigate the problems arising from off road motorcycling and the impact it has on communities and landowners throughout Wales.

Subsequent meetings have been set up between these parties to help share understanding of the issues surrounding motorcycle use in Wales. From these meetings additional groups have been created which will be responsible for specific areas such as enforcement and education.

Further information is available from:
Stephen.Buckley@forestry.gsi.gov.uk

4. Examples of Local Initiatives

Case Study 4 – Using powers under the Police Reform Act 2002, Humberside Police

Police on trail motorbikes in Humberside are patrolling rural bridleways to clamp down on nuisance riders and are catching unqualified and uninsured bikers on country paths. The motorcyclists are causing danger to people using the ways because the bikers in the main are unqualified, unskilled and often reckless.

Officers are using trail bikes because motorcyclists can easily escape across country when approached on foot or in a police car. Police have also put up signs at the main problem areas, warning riders of their presence. Offenders are informed that if they continue to ride illegally they run the risk of being prosecuted or having their vehicles seized.

Humberside Police issue letters to motorcycle and quad bike owners and riders either found riding illegally or for whom evidence of illegal riding exists. The letters are warnings under section 59(4)(b) of the Police Reform Act 2002. They state that 'if you continue to drive the vehicle in the same way on any other occasion, the Police can seize the vehicle under Section 59 of the Police Reform Act 2002'.

Case Study 5 – Examples of how to target hot spots Kent County Council and South East Kent Police

A police operation to clamp down on illegal use of motorcycles has been declared a success by Kent Police. Operation Freedown which ran during September 2003 saw Kent Police target county hot spots. The action led to warnings, arrests and prosecutions and the seizure of 9 vehicles.

Operation Freedown targeted an area of chalk grassland designated as a Site of Special Scientific Interest. Undercover officers were used to collate information on illegal motor bike use. Having gathered intelligence, offenders were identified and arrested. This drastic measure involved a lot of police time and money, but gave a clear signal that illegal behaviour will not be tolerated. There has been a significant drop in the number of bikes using the site since the arrests.

North Kent police officers intend to return to the areas to reinforce the message that illegal biking will not be tolerated.

4. Examples of Local Initiatives

Case Study 6 – Killingbeck Divisional off Road Motorcycle Unit – an update

Killingbeck off Road Motorcycle unit was formed in June 2001 to deal with the high volume of complaints about youth nuisance and the illegal use of motorcycles on rights of way and off road.

Killingbeck are still seen as a major part of their road policing policy and play an integral role in their action plan and make constant patrols of all inner city estates tackling offenders who are using stolen vehicles. The changes that they have made are:

- The cameras that are in use provide evidence against offenders and they also target robbery hotspots such as ginnels and subways and have helped to cut crime in such areas.
- The new vehicles are able to access such areas are providing high visibility patrols in areas that would not normally see such patrols helping to ease peoples fear of crime.
- The mapping system that the officers use has been modified which helps identify and target hotspot areas for all crime types within divisions.

Killingbeck is still recognised as best practice within the West Yorkshire police unit and provide advice and training to other off road units both in West Yorkshire and around the country.

West Yorkshire police have recently run a series of vehicle target days throughout the force area in which Killingbeck played a key role tackling off road misuse in all West Yorkshire Divisions. They have also started tackling off road misuse in another West Yorkshire division.

The figures for 2004 are as follows:

- Section 59 warnings issued 390
- 100 vehicles seized or recovered with a value of over £60,000
- 62 offenders arrested

Further information is available from:
Adrian Filkin or Andy Johnson on 0113 2322035



Killingbeck Police Off Road Unit

Photo Credits – Killingbeck Police

4. Examples of Local Initiatives

Case Study 7 – Working with the Community Safety Partnerships – Bromley

The Police and the Borough's Park Ranger Service have been mounting joint patrols since August 2003 when Bromley's Community Safe Partnership handed distinctive yellow off-road bikes to the police. Since then the police have patrolled the area together with the park rangers. Prior to the initiative there were over 100 complaints in three months from residents about nuisance motorbikes and quad bikes illegally riding off-road in Bromley Parks and open-spaces. After the first three months of the initiative there has been a significant drop in the amount of illegal off-roading and also the number of complaints made, down to less than 10.

The operation has been very effective in that seven bikes have been seized, over 20 written warnings given as well as many verbal warnings. One rider was stopped and arrested on the discovery that the bike was actually stolen property which was later restored to its rightful owner. The operation has received tremendous support from the public and the results in deterring offenders have been encouraging.

The message that nuisance riding is unacceptable has also been taken by the police and park rangers into schools, and young people have been told that their bikes may be taken away and destroyed if they engage in such activity. This has also been incorporated into the road safety advice and training given by Bromley Council.

The police are increasing the number of officers to be trained in using these off-road bikes so that the operation can be extended to include housing estates and alleyways and enable the bikes to be used in other police initiatives.

5. Traffic Management

5.1. Traffic Regulation Orders

Traffic regulation orders can restrict all or certain specified types of users. They can restrict use to certain times or certain seasons, or even ban use altogether in areas where there is a serious problem. Traffic regulation orders can be used to prevent problems from happening, not just stop the damage once it has already occurred. An authority would need to demonstrate a reasonable risk that the situation it was intended to prevent would arise. As a matter of policy and good practice the authority should be able to demonstrate that there was a reasonable risk of the damage occurring which the traffic regulation orders would prevent.

Traffic Regulation Orders (TROs) are made by local traffic authorities under Section 1 of the Road Traffic Regulation Act 1984 to restrict or ban the use of certain highways including public rights of way. TROs can be made for a variety of reasons, including:

- preventing damage to the right of way;
- preventing use by vehicular traffic of a kind that is unsuitable having regard to the character of the way;
- preserving the character of the way in cases in which it is especially suitable for use by people on horse-back or on foot;
- preserving or improving the amenities of the area through which the way runs; and
- conserving natural beauty, including flora, fauna and geological and physiographical features.

Permanent traffic regulation orders need to be supported by evidence that the order will achieve one (or more) of the following outcomes:

- Avoid danger to persons or other traffic using the road;
- Prevent damage to the road or any building on or near the road;
- Facilitate the passage of any kind of traffic (including pedestrians);
- Prevent unsuitable use by vehicular traffic;
- Preserve the character of the road in cases where it is particularly suitable for horseback or on foot, or preserve or improve the amenities of the area through which the road runs;
- Conserve or enhance the natural beauty of the area. This includes conserving flora and fauna, and geological or physiological features.

5. Traffic Management

Case Study 8 – Example of Traffic Regulation Order – The Ridgeway, Blewbury Down

The Ridgeway National Trail managed by the Ridgeway Management Group made up of the local highway authorities and the



Photo Credit – The Ramblers Association

Countryside Agency is now applying annual seasonal traffic regulation orders in order to protect the most vulnerable sections of the Ridgeway during the winter period from 1 October to 30 April. The proper management of the Trail through a combination of regular maintenance and seasonal bans on motor vehicles aims to provide a sustainable route for all users. Enforcement exercises with local police forces also help to ensure the seasonal traffic regulation orders are complied with.

5.2. Pre-emptive Traffic Regulation Orders

On rights of way, traffic regulation orders have generally been used where rights are already recorded in the definitive map of public rights of way. However, it is not widely appreciated that the power in the 1984 Act does not preclude the making of a traffic regulation order restricting or banning vehicles or other traffic even where rights are not recorded in the definitive map.

It is therefore possible to make a traffic regulation order before the outcome of a definitive map modification order is known. In such cases, even where a definitive map modification order application is successful in establishing vehicular rights, vehicular use will continue to be restricted or banned under the terms of the traffic regulation order.

Just because a right of way is recorded as a footpath or bridleway on the definitive map does not mean that vehicular rights do not exist. Where rights of way users believe that vehicular rights exist and a claim to record these rights has been made to the local authority, the route tends to be used by motor vehicles before the claim is determined. If the police seek to prosecute, the users may seek to rely on the evidence submitted to the local authority supporting the byway or if the users can demonstrate they have the right to use the route can claim to defend their use. This makes enforcement action uncertain and use may be uncontrolled, even where it is unsuitable.

5.3. Experimental Traffic Regulation Orders

Local traffic authorities have powers under the Road Traffic Regulation Act 1984 to make experimental orders for up to 18 months to test a scheme of traffic control before deciding whether to make it permanent.

Experimental controls can be introduced quickly because the normal order-making procedures do not apply. Traffic restrictions can also be withdrawn or modified quickly if they are unsuccessful or if they need to be adapted.

Local traffic authorities must follow the procedures laid down in 'The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996' when making an experimental order. Such orders must be advertised at least 7 days before the order comes into effect, and the consultation requirements must be followed before the order is made. This includes the requirement to consult organisations representing persons likely to be affected by any provision in the order, which the order making authority thinks it appropriate to consult. Where an order is intended to be made permanent, objections may be made within 6 months of the order being made, or subsequently varied by the authority. The authority must consider all objections made during the objection period before deciding whether to make the order permanent. They may in certain circumstances be required to hold a public inquiry.

A local traffic authority must be able to demonstrate that the order is a genuine experiment. An order made without good reason would leave a traffic authority vulnerable to judicial review. Experimental orders should not be used to circumvent normal procedures for making permanent traffic regulation order.

5. Traffic Management

Case Study 9 – Example of an Experimental Traffic Regulation Order

Special restrictions banning the use of recreational vehicles on some Green Lanes in the Yorkshire Dales National Park have been made permanent for 12 months.

Four Experimental Traffic Regulation Orders (ETROs) were imposed by the Council from 1 March last year. The ETROs banned the use of recreational motor vehicles like 4x4s, quad bikes and motorbikes.

The Orders were due to expire on 1 September 2005 and, in the light of the results of the experiment, the committee has decided to make the orders permanent for another year.

The impact of the ETROs has been closely monitored since their introduction and the findings show that the experiment has been a success, with the majority of recreational motor vehicle users respecting the closures and the level of use by vehicles on all four routes falling dramatically.

In addition, other recreational users of the lanes have found little to spoil their enjoyment while the restrictions on vehicular use have been in place.

Yorkshire Dales National Park Authority has two bridleways which are covered by an experimental traffic regulation order banning motor vehicles. This was put into force as the local police felt that a section 34 prosecution would be pointless where vehicular rights appear to exist. North Yorkshire Council County made the order under Sections 9 and 10 of the Road Traffic Regulation Act 1984, which prohibit any motor vehicle from proceeding along the specified roads.

Further information is available at www.yorkshiredales.org.uk/newsview.php4?ContentID=2757



Examples of an experimental traffic regulation order in the Yorkshire Dales National Park.

6. Designated Nature Conservation Sites

Sites of Special Scientific Interest (SSSIs) are our most valuable nature conservation and earth heritage sites in England and Wales. There are over 4000 SSSIs in England and over 1,000 in Wales, covering over 1.3 million hectares. Many of these sites are also internationally important. Ensuring that these sites are in a condition that guarantees their long term future is a key Government aim². English Nature estimates that in England around 75% of SSSIs are crossed or abutted by rights of way. Unlawful use of rights of way and off road use can cause damage on some SSSIs – for example between April 2004 and March 2005 English Nature reported that over 70% of reported incidents on SSSIs were attributable to third parties. Of the 220 reported incidents, involving third parties more than 160 concerned damage caused by illegal off-roading activity. The legitimate use of rights of way can also sometimes damage SSSIs, and the TRO powers and Diversion Orders, which may be made for the purpose of conserving nature interests provide a mechanism to use in these circumstances.



Damage caused by illegal motor vehicles on a SSSI, West Nidderdale, Barden and Blubberhouses Moors, North Yorkshire

Photo Credit – English Nature

In order to tackle this problem, and protect SSSIs from damage, it is important that the more effective use is made of all the powers available to the conservation agencies, the police and local authorities are used. All public bodies have a duty to further the conservation and enhancement of SSSIs in the exercise of their functions³. A partnership approach between these organisations is likely to be most successful in addressing difficulties on hotspot SSSIs and the principles of good practice set out at the beginning of this Guide form a basis for taking forward action. The conservation agencies have an important role to play and the SSSI regime which they administer includes some additional powers which may also be relevant for tackling illegal rights of way or off road use where this is damaging to nature conservation interests. These powers and offences are described below and are in addition to the powers available to the police (for example under the Road Traffic Act 1988) and local authorities, described elsewhere in this Guide, which remain very important.

² Defra Public Service Agreement 3b is to ensure that 95% of SSSIs by area are in favourable or recovering condition by 2010, as assessed by English Nature.

³ Section 28G of the Wildlife and Countryside Act 1981, as amended, imposes the duty 'to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna, or geological or physiographical features by reason of which the site is of special interest'. A Code of Guidance published by Defra in May 2003 entitled 'Sites of Special Scientific Interest: Encouraging Positive Partnerships' provides further information on this duty and all aspects of the SSSI regime.

6. Sites of Special Scientific Interest

Section 28P(6) of the Wildlife and Countryside Act 1981 provides that any person who, without reasonable excuse, intentionally or recklessly destroys or damages any of the fauna, flora or geological or physiographical interest features of a SSSI or recklessly disturbs the fauna, is liable to a fine up to £20,000 in the magistrates court or an unlimited fine on conviction in a higher court provided they knew those features were within a SSSI. Illegal users of rights of way or off roaders could be committing this offence.



Bodmin Moor, Cornwall

Photo Credit – English Nature

Recognising that proving sufficient knowledge of the status of the land is often very difficult and can frustrate justified enforcement action, the Government has recently bought forward proposals in the Natural Environment and Rural Communities Bill to introduce an additional offence in England and Wales. This mirrors the existing offence in 28P(6) but does not require knowledge of SSSI status and carries an appropriate lesser penalty. This Bill also provides a power for the conservation agencies to erect signs on SSSI land for the purpose of providing information. This will allow, for example, signs to be erected explaining the special interest of a site and warning users of the damage they could cause to a SSSI if their activity is unlawful or unauthorised. It is expected that, should they be adopted in the final Act, both these proposals will further assist in tackling problems associated with the illegal use of rights of way and off roading on SSSIs.

6.1 Diversion Orders

Provisions in Schedule 6 to the Countryside and Rights of Way Act 2000 (due to be implemented in 2006) will enable a local highway authority to divert a public right of way to protect a Site Of Special Scientific Interest (SSSI) and enable an occupier to temporarily divert a right of way across their land to enable dangerous works to take place.

Paragraph 12 of Schedule 6 to the CROW Act 2000 includes provision to insert new sections 119D and 119E into the Highways Act 1980. Once commenced these sections will give local highway authorities the power to divert, but not extinguish, relevant highways for the protection of the special interest features of land designated under the Wildlife and Countryside Act 1981 as SSSIs. The power to apply for such orders in England (to be known as SSSI diversion orders) is restricted to English Nature.

6. Sites of Special Scientific Interest

Case Study 10 – Partnership working between English Nature and Lincolnshire Police

The English Nature Eastern area team received an increasing number of complaints concerning unauthorised access to National Nature Reserve and a SSSI by illegal off roaders. Both of the specific sites are nationally and internationally important nature conservation sites.

English Nature held a meeting with Lincolnshire Police in 2001, where the police force offered help with an 'operation' to raise awareness and caution vehicle drivers (initially under the Road Traffic Act provisions). English Nature then produced leaflets which set out the new provisions and offences in the Wildlife and Countryside Act 1981 and also showed the location of the SSSIs. These leaflets were then distributed, by the police to all caravan sites before the start of the holiday season in Easter 2002. These leaflets have also been handed out to all off road drivers seen on the site.

Signs were also posted at all car parks on both SSSIs which set out the offence under the Wildlife and Countryside Act 1981 and also showed the location of the SSSIs.

The English Nature Conservation Officer has supplied the police with a standard letter and maps for the police to issue to all those cautioned or fined by the police under the Road Traffic Act 1988. This particular section of English Nature has also set up a database to keep a record of all those to whom the letter has been sent.

Further information can be found from:
alison.flowers@english-nature.org.uk

7. National Parks

Most Park Authorities have joined forces with the local police authorities and with recreational vehicle user groups, in projects designed to stop illegal and anti-social off-roading and to persuade those involved to use legal routes or purpose built facilities. In other cases signs discouraging off roading are being put up at sites used for illegal off roading. These initiatives have resulted in offenders being caught. However, these operations only take place where resources allow, and problems can recur if there is not consistent action. Given the pressure on police resources there is no guarantee that this will happen. The Government has power to change the law. and regarding the status of routes also leads to a nervousness to prosecute by highway authorities, who also have the power to prosecute e.g. for driving more than 15 yards off a highway.

Case Study 11 – National Park Initiatives – North York Moors

The National Park Authorities aim to discourage those recreational activities that are incompatible with National Park purposes such as intense activity by off-road vehicles. Motor rallies will only be authorised on appropriate footpaths and bridleways, and the NPA will assist in identifying appropriate sites outside the National Park. Illegal activity has been targeted in joint crackdown days with both North Yorkshire and Cleveland Police and their success is being monitored. The police have trained National Park rangers to act as professional witnesses and, working with motorised user groups, the NYMNPA has produced an advisory leaflet on the law and how to get information on legal routes, and press releases have been issued.

Further information can be found at:
<http://moors.uk.net/news1.php?nid=147&offset=8&rmid=Archive&mid=1>

Contact: General@northyorkmoors-npa.gov.uk

Case Study 12 – National Park Initiatives – Brecon Beacons

Use of motor vehicles on unsurfaced routes is considered inappropriate due to physical damage, impact on tranquility and stock disturbance.

Since 2003 the Brecon Beacons National Park Authority has operated a “zero tolerance” policy on illegal or antisocial off-roading. National Park Authority targets are to campaign against the illegal use of vehicles on open hills through a zero-tolerance policy and occasional crackdowns with police, to monitor unsurfaced tracks and determine the need for maintenance and management, to produce an advisory leaflet for those who wish to use the legal vehicular routes in the Park, and to find sites outside the Park for motorcycling.

An education day which was aimed at trial bike riders and 4x4 users took place recently in the Brecon Beacons. This exercise was organised by National Park Authority Wardens and Dyfed Powys Police, together with landowners and representatives from the Green Lanes Association and the Trial Bike Riders Federation.



Ystrad quarry operation

Photo Credit – Brecon Beacons

In the first of what promises to be a regular process, Police Officers, National Park wardens, representatives from landowners including the National Trust and the Forestry Commission together with the Green Lanes Association and Trials Bike Riding Federation carried out an education day in Ystrad quarry.

The quarry, a large disused limestone quarry on the edge of the national park, was chosen by BBNPA and police because a significant number of people use the site as a starting point to ride trials bikes and drive 4x4 vehicles illegally into the park. The quarry also suffers from other misuse including fly tipping and burnt out cars. Consequently, Customs and Excise and a representative from an organisation involved in tracking stolen plant equipment were also invited.

During the course of the day, four vans and a car, all containing trials bikes were stopped together with three 4x4 vehicles and five trials bike riders. A stolen quad was impounded, three people were found in possession of cannabis and another was carrying a lock knife. At the beginning of the day a van and 4x4 failed to stop and a pursuit took place, during which the occupants of the van were throwing machinery and tools at the police car. The van eventually crashed and the occupants escaped on foot. A search of the vehicle revealed a broken safe and several containers of red agricultural diesel.

Further information can be found from:
Peter.Tyldesley@breconbeacons.org

8. Making the Best of Byways

A second edition of Making the Best of Byways is being published to reflect changes to the law since 1997 and developing good practice. It has been made clear by the responses to the consultation paper 'Use of Mechanically Propelled Vehicles on Rights of Way' that the potential of this guide has not been fully exploited.



A trail motorcycle rider on the Roych Road

Photo Credit – Derbyshire County Council

The first objective of the guide is to provide an informative document for authorities and user groups with an interest in the use of motor vehicles on byways, and the management of routes. Secondly, it is a practical reference manual for authorities, landowners, contractors, volunteer groups and others involved in the maintenance of byways.

The scope of the guide, as far as the exercise of rights is concerned, will continue to be confined to management of unsealed (in whole or part) ways carrying rights for mechanically propelled vehicles. The guide is not intended to cover illegal use of footpaths, bridleways or restricted byways or other illegal off-road activities.

9. Existing Powers

This section sets out powers to tackle problems that occur with mechanically propelled vehicles on rights of way and in the wider countryside. It is not intended as a definitive guide to the law. Legal advice should be sought where relevant, and the relevant legal provisions should always be consulted.

Issue	Legislation available
<p>Prohibition of driving mechanically propelled vehicles else where than on roads.</p>	<p>Section 34(1) of the Road Traffic Act 1988 provides that anyone driving a mechanically propelled vehicle without lawful authority on land not forming part of a road or on a road that is a footpath, bridleway or restricted byway is guilty of an offence.</p> <p>Section 34(2) provides that where a way is shown in the definitive map as a footpath, bridleway or restricted byway, it is to be taken as a way of the kind shown unless the contrary is proved. The burden of proving that there are public vehicular rights of way rests with the defendant. The prosecution does not have to show that there are no vehicular rights.</p> <p>Under section 34(3), it is not an offence under section 34(1) if a person drives a mechanically propelled vehicle on any land within fifteen yards of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land. Further, under section 34(4), a person is not to be convicted of an offence under section 34(1) with respect to a vehicle if he proves to the satisfaction of the court that it was driven in contravention of section 34(1) for the purpose of saving life or extinguishing fire or meeting any other like emergency.</p> <p>The phrase ‘mechanically propelled vehicle’ has been substituted in place of the original reference to ‘motor vehicle’ in section 34(1). Thus, those categories of vehicle that were considered to fall outside the legal definition of a motor vehicle, such as unregistered or unlicensed scramblers and quad bikes, come within the scope of section 34. However, for the purposes of section 34, ‘mechanically propelled vehicle’ does not cover lawnmowers controlled by pedestrians (provided they are not capable of being used or adapted for any purpose other than cutting grass) and electrically assisted pedal cycles. Further, invalid carriages are specifically exempted from the effect of section 34 (see section 20 of the Chronically Sick and Disabled Persons Act 1970).</p>

9. Existing Powers

Issue	Legislation available
<p>Prohibition of driving mechanically propelled vehicles else where than on roads. (continued).</p>	<p>An offence under section 34 is punishable on summary conviction by a maximum fine of level 3 on the standard scale, which is currently £1000.</p> <p>A fixed penalty of £30 can be imposed on anyone found contravening section 34.</p>
<p>Driving a motor vehicle in a public place in a dangerous or careless manner.</p>	<p>The Road Traffic Act 1991 extended the scope of the main driving offences (sections 1-3 of the Road Traffic Act 1988) to include acts of dangerous driving and careless and inconsiderate driving of a mechanically propelled vehicle in a public place. This enabled prosecutions to be brought for offences committed whilst driving vehicles in off-road areas to which the public have access.</p>
<p>Carrying more than one passenger on a motorcycle.</p>	<p>Section 23(1) of the Road Traffic Act 1988 provides that not more than one person in addition to the driver may be carried on a two-wheeled motor cycle. If a person is carried in contravention of section 23(1), the driver is guilty of an offence.</p>
<p>Powers to stop, seize, remove and search</p>	<p>Where a constable in uniform has reasonable grounds for believing that a motor vehicle is being (or has been) used on any occasion in a manner which (a) contravenes section 3 or 34 of the Road Traffic Act 1988 (careless and inconsiderate driving, and prohibition of off-road driving), and (b) is causing (or has caused), or is likely to cause, alarm, distress or annoyance to members of the public, he may make use of the powers set out in section 59 of the Police Reform Act 2002.</p> <p>These powers are: (a) to order the person driving the vehicle to stop, (b) to seize and remove the vehicle, (c) to enter, for the purposes of (a)/(b), any premises (including a garage adjoining a house, but excluding the house itself) on which he has reasonable grounds for believing the vehicle to be, and (d) to use reasonable force, if necessary, in the exercise of the powers listed in (a) – (c) above.</p> <p>A constable must not seize a motor vehicle in the exercise of the powers conferred on him by section 59 unless (a) he has warned the person appearing to him to be the person whose use falls within section 59 that he will seize it if that use continues or is repeated, and (b) it appears to him that the use has continued or been repeated after the warning. However, such a warning need not be given</p>

Issue	Legislation available
<p>Powers to stop, seize, remove and search. (continued).</p>	<p>if the circumstances make it impracticable (and in certain other limited circumstances).</p> <p>A person who fails to comply with an order to stop under section 59 is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.</p> <p>The Police (Retention and Disposal of Motor Vehicles) Regulations 2002 (SI 2002/3049) set out detailed rules in relation to removal and retention of motor vehicles seized under section 59, and the release or disposal of such motor vehicles.</p>
<p>Promoting or participating in unauthorised motor vehicle trials on a footpath or bridleway.</p>	<p>Section 33 of the Road Traffic Act 1988 provides that a person must not promote or take part in a trial of any description between motor vehicles on a footpath or bridleway unless the holding of the trial has been authorised by a local authority in accordance with section 33.</p> <p>It is an offence under section 33(3) to promote or take part in an unauthorised event or to contravene any conditions attached to an authorisation.</p>
<p>Driving motor vehicles otherwise than in accordance with a licence.</p>	<p>Under section 87 of the Road Traffic Act 1988 it is an offence for a person to drive on a road ("road" includes public rights of way) a motor vehicle of any class otherwise than in accordance with a licence authorising that person to drive such a vehicle. It is also an offence to cause or permit another person to drive otherwise than in accordance with a licence.</p>
<p>Use of a motor vehicle without third party insurance.</p>	<p>Under section 143 of the Road Traffic Act 1988 it is an offence for a person to use a motor vehicle on a road ("road" includes public rights of way) or other public place without third party motor insurance (which must comply with the requirements of Part VI of the Road Traffic Act 1988). Similarly, it is an offence to cause or permit a person to use a motor vehicle without such insurance.</p> <p>A person charged with using a motor vehicle in contravention of section 143 will not be convicted if he proves that: (i) the vehicle did not belong to him and was not in his possession under a contract of hiring or of loan,</p>

9. Existing Powers

Issue	Legislation available
<p>Use of a motor vehicle without third party insurance. (continued).</p>	<p>(ii) he was using the vehicle in the course of his employment, and (iii) he neither knew nor had reason to believe that there was not in force in relation to the vehicle an insurance policy of the type described above.</p>
<p>Power to seize vehicles driven without licence or insurance.</p>	<p>Section 165A of the Road Traffic Act 1988 (which was inserted by the Serious and Organised Crime Act 2005) sets out three conditions that trigger powers under subsection 165A (5).</p> <p>The first condition is that (a) a constable in uniform requires, under section 164, a person to produce his licence and its counterpart for examination, (b) the person fails to produce them, and (c) the constable has reasonable grounds for believing that a motor vehicle is or was being driven by the person in contravention of section 87(1) (see above).</p> <p>The second condition is that (a) a constable in uniform requires, under section 165, a person to produce evidence that a motor vehicle is not or was not being driven in contravention of section 143 (see above), (b) the person fails to produce such evidence, and (c) the constable has reasonable grounds for believing that the vehicle is or was being so driven.</p> <p>The third condition is that (a) a constable in uniform requires, under section 163, a person driving a motor vehicle to stop the vehicle, (b) the person fails to stop the vehicle, or to stop the vehicle long enough, for the constable to make such lawful enquiries as he considers appropriate, and (c) the constable has reasonable grounds for believing that the vehicle is or was being driven in contravention of section 87(1) or 143 (see above).</p> <p>If any of the above conditions is satisfied, the constable may (a) seize the vehicle in accordance with subsections 165A(6) and (7) and remove it, (b) enter, for the purpose of exercising a power falling within paragraph (a), any premises (other than a private dwelling house) on which he has reasonable grounds for believing the vehicle to be, (c) use reasonable force, if necessary, in the exercise of any power conferred by paragraph (a) or (b).</p> <p>Before seizing the motor vehicle, the constable must warn the person by whom it appears that the vehicle is or</p>

Issue	Legislation available
<p>Power to seize vehicles driven without licence or insurance. (continued).</p>	<p>was being driven in contravention of section 87(1) or 143 that he will seize it. However, the constable is not required to give such a warning if the circumstances make it impracticable for him to do so.</p> <p>If the constable is unable to seize the vehicle immediately because the person driving the vehicle has failed to stop as requested or has driven off, he may seize it at any time within the period of 24 hours beginning with the time at which the condition in question is first satisfied.</p>
<p>Failure to stop a mechanically propelled vehicle when required by a constable in uniform or traffic officer.</p>	<p>Under section 163 of the Road Traffic Act 1988, a person driving a mechanically propelled vehicle on a road must stop the vehicle on being required to do so by a constable in uniform or a traffic officer. Breach of section 163 is an offence.</p> <p>Under section 163(4), a constable in uniform may arrest a person without warrant if he has reasonable cause to suspect that the person has committed an offence under section 163. However, it should be noted that section 163(4) is to be repealed from a date to be appointed (see the Serious Organised Crime and Police Act 2005, Schedule 7, paragraph 27). See Part 3 of the 2005 Act in relation to powers of arrest; these powers are to be brought into force from a date to be appointed.</p>
<p>Power of constables to obtain names and addresses of drivers and others, and to require production of evidence of insurance or security and test certificates.</p>	<p>Section 165(1) of the Road Traffic Act 1988 requires any of the following persons, on being required by a constable or vehicle examiner, to give their name and address and the name and address of the owner of the vehicle, and to produce a number of documents for examination (which are set out in section 165(2)):</p> <ol style="list-style-type: none"> 1. a person driving a motor vehicle (other than an invalid carriage) on a road; 2. a person whom a constable or vehicle examiner has cause to believe to have been the driver of a motor vehicle (other than an invalid carriage) at a time when an accident occurred owing to its presence on a road or other public place; or 3. a person whom a constable or vehicle examiner has reasonable cause to believe to have committed an offence in relation to the use on a road of a motor vehicle (other than an invalid carriage).

9. Existing Powers

Issue	Legislation available
<p>Power of constables to obtain names and addresses of drivers and others, and to require production of evidence of insurance or security and test certificates. (continued).</p>	<p>Subject to section 165(4), a person who fails to comply with the requirement set out above is guilty of an offence under section 165(3).</p> <p>Under section 165(4), a person shall not be convicted of an offence under section 165(3) by reason only of failure to produce any certificate or other evidence if in proceedings against him for the offence he shows that (a) within seven days after the date on which the production of the certificate or other evidence was required it was produced at a police station that was specified by him at the time when its production was required, or (b) it was produced there as soon as was reasonably practicable, or (c) it was not reasonably practicable for it to be produced there before the day on which the proceedings were commenced.</p> <p>Under section 165(5), a person (a) who supervises the holder of a provisional licence granted under Part III of the Road Traffic Act 1988 while the holder is driving on a road a motor vehicle (other than an invalid carriage), or (b) whom a constable or vehicle examiner has reasonable cause to believe was supervising the holder of such a licence while driving, at a time when an accident occurred owing to the presence of the vehicle on a road or at a time when an offence is suspected of having been committed by the holder of the provisional licence in relation to the use of the vehicle on a road, must, on being so required by a constable or vehicle examiner, give his name and address and the name and address of the owner of the vehicle.</p> <p>A person who fails to comply with a requirement under section 165(5) is guilty of an offence.</p>
<p>Driving disqualification where vehicle used for purposes of crime</p>	<p>Section 147 of the Powers of Criminal Courts (Sentencing) Act 2000 provides courts with the power to disqualify people from driving where a vehicle is used for the purposes of crime.</p> <p>The power is limited in operation. It applies where a person (a) is convicted before the Crown Court of an offence punishable on indictment with imprisonment for a term of two years or more, or (b) having been convicted by a magistrates' court of such an offence, is committed under section 3 of the Powers of Criminal Courts</p>

Issue	Legislation available
<p>Driving disqualification where vehicle used for purposes of crime. (continued).</p>	<p>(Sentencing) Act 2000 to the Crown Court for sentence. In either case, in order for the disqualification power to be triggered, the court must be satisfied that a motor vehicle was used (by the person convicted or by anyone else) for the purpose of committing, or facilitating the commission of, the offence in question. Section 147 also applies where a person is convicted by or before any court of common assault or of any other offence involving an assault (including an offence of aiding, abetting, counselling or procuring, or inciting to the commission of, an offence). In order for the disqualification power to be triggered in these circumstances, the court must be satisfied that the assault was committed by driving a motor vehicle.</p>
<p>Noise disturbance from off-road vehicles.</p>	<p>Section 79 of the Environmental Protection Act 1990 provides that the following matters constitute statutory nuisances: (a) noise emitted from premises so as to be prejudicial to health or a nuisance (section 79(1)(g)), and (b) noise that is prejudicial to health or a nuisance and which is emitted from or caused by a vehicle, machinery or equipment in a street (section 79(1)(ga)).</p> <p>'Premises' includes 'land' and so is not restricted to buildings and structures.</p> <p>It should be noted that section 79(1)(ga) does not apply to noise made by 'traffic' (section 79(6A)).</p> <p>Enforcement is by local authorities, which must cause their areas to be inspected from time to time to detect statutory nuisances, and must issue an abatement notice once satisfied that a statutory nuisance exists or is likely to occur or recur.</p> <p>It is an offence not to comply with, or to contravene, an abatement notice without reasonable excuse. The offence is punishable on summary conviction by a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction. In relation to an offence on industrial, trade or business premises, the maximum fine on summary conviction is £40,000.</p> <p>Where an abatement notice has not been complied with</p>

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Issue	Legislation available
<p>Noise disturbance from off-road vehicles. (continued).</p>	<p>the local authority may, whether or not they take proceedings for an offence, abate the nuisance and do whatever may be necessary in execution of the notice (section 81(3)).</p> <p>The power under section 81(3) shall, where the matter to be abated is a statutory nuisance by virtue of section 79(1)(g), include power to seize and remove any equipment which it appears to the authority is being or has been used in the emission of the noise in question (section 81(3A)).</p> <p>Section 86 of the Clean Neighbourhoods and Environment Act 2005 will, once in force, introduce subsection 2A to section 80 of the Environmental Protection Act 1990. This subsection provides that where a local authority is satisfied that a statutory nuisance falling within section 79(1)(g) exists, or is likely to occur or recur, in the area of the authority, the authority shall (a) serve an abatement notice, or (b) take such other steps as it thinks appropriate for the purpose of persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence.</p>
<p>Holding motor events off road.</p>	<p>Section 13A of the Road Traffic Act 1988 provides that a person shall not be guilty of an offence under sections 1, 2 or 3 (causing death by dangerous driving; dangerous driving; and careless, and inconsiderate, driving) by virtue of driving a vehicle in a public place other than a road if he shows that he was driving in accordance with an authorisation for a motoring event given under regulations made by the Secretary of State.</p> <p>The Motor Vehicles (Off Road Events) Regulations 1995 (SI 1995/1371) provide that certain authorising bodies may give an authorisation for a motoring event for the purposes of section 13A of the Road Traffic Act 1988 upon such conditions as the body thinks fit.</p> <p>Subject to the paragraphs on section 33 of the Road Traffic Act 1988 above, it is not illegal merely to organise or take part in an unauthorised motoring event in a public place but drivers and riders will be liable to prosecution if they breach sections 1, 2 or 3 of the Road Traffic Act 1988.</p>

Issue	Legislation available
<p>Obscured number plates on mechanically propelled vehicles</p>	<p>Under the Road Vehicles (Display of Registration Marks) Regulations 2001 (SI 2001/561) there are certain rules which must be adhered to:</p> <ol style="list-style-type: none"> 1) A registration plate must be displayed at the front and rear of motor vehicles (with some exceptions). 2) Registration plates must meet the relevant British Standard, which will vary depending on the date the vehicle was registered. 3) Lettering should be black on a white plate at the front and on a yellow plate at the rear (slightly different rules apply in relation to vehicles registered before 1st January 1973). 4) The plate should be made of retro reflecting material (slightly different rules apply in respect of vehicles registered before 1st September 2001). 5) Lettering, spacing, style and layout are prescribed. The applicable rules will depend on when the vehicle was registered and when the plate was fixed to the vehicle. <p>Please refer to the Regulations and to www.dvla.gov.uk/vehicles/regmarks for further information on heights, widths etc., and for further information regarding the British Standard.</p>
<p>Testing – police powers</p>	<p>Section 6 of the Road Traffic Act 1988 provides that if any of the following situations applies, a constable may require a person to co-operate with any one or more ‘preliminary tests’ administered to the person by that constable or another constable.</p> <p>The situations are as follows:</p> <ol style="list-style-type: none"> 1. A constable reasonably suspects that a person (a) is driving, is attempting to drive or is in charge of a motor vehicle on a road or other public place, and (b) has alcohol or a drug in his body or is under the influence of a drug. 2. A constable reasonably suspects that a person (a) has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place while having alcohol or a drug in his body or while unfit to

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Issue	Legislation available
<p>Testing – police powers (continued).</p>	<p>drive because of a drug, and (b) still has alcohol or a drug in his body or is still under the influence of a drug.</p> <p>3. A constable reasonably suspects that a person (a) is or has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place, and (b) has committed a traffic offence while the vehicle was in motion.</p> <p>4. (a) an accident occurs owing to the presence of a motor vehicle on a road or other public place, and (b) a constable reasonably believes that the person was driving, attempting to drive or in charge of the vehicle at the time of the accident.</p> <p>A constable may administer a ‘preliminary test’ by virtue of any of the above only if he is in uniform.</p> <p>The ‘preliminary tests’ covered by section 6 are described in sections 6A to 6C. Section 6A describes the preliminary breath test, section 6B describes the preliminary impairment test, and section 6C describes the preliminary drug test.</p> <p>A person commits an offence if without reasonable excuse he or she fails to co-operate with a preliminary test in pursuance of a requirement imposed under section 6.</p>
<p>Driving, or being in charge of a mechanically propelled vehicle, when under the influence of drink or drugs</p>	<p>Section 4 of the Road Traffic Act 1988, as amended by the Road Traffic Act 1991, provides that a person is guilty of an offence if he or she drives or attempts to drive a mechanically propelled vehicle on a road or other public place when he or she is unfit to drive through drink or drugs.</p> <p>Further, section 4 provides that a person who, when in charge of a mechanically propelled vehicle which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence. A person is deemed not to have been in charge of a mechanically propelled vehicle if he or she proves that at the material time the circumstances were such that there was no likelihood of his or her driving it so long as he or she remained unfit to drive through drink or drugs. The court may, in determining whether there was such a likelihood, disregard any injury to him or her and any damage to the vehicle.</p>

Issue	Legislation available
<p>Driving, or being in charge of a mechanically propelled vehicle, when under the influence of drink or drugs. (continued).</p>	<p>A person shall be taken to be unfit to drive for the purposes of section 4 if his or her ability to drive properly is for the time being impaired.</p> <p>Section 4 contains provisions relating to a constable's power to arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing an offence under section 4. However, it should be noted that this power is to be repealed from a date to be appointed: see the Serious Organised Crime and Police Act 2005, Schedule 7, paragraph 27. See Part 3 of the 2005 Act in relation to powers of arrest; these powers are to be brought into force from a date to be appointed.</p>
<p>Driving, or being in charge of a motor vehicle, with alcohol concentration above the prescribed limit</p>	<p>Section 5 of the Road Traffic Act 1998 provides that a person is guilty of an offence if he or she drives or attempts to drive, or is in charge of, a motor vehicle on a road or other public place after consuming so much alcohol that the proportion of it in his or her breath, blood or urine exceeds the limit prescribed by section 11 of the Road Traffic Act 1988.</p> <p>It is a defence for a person charged with the "in charge" offence to prove that at the time he or she is alleged to have committed the offence the circumstances were such that there was no likelihood of his or her driving the vehicle whilst the proportion of alcohol in his or her breath, blood or urine remained likely to exceed the prescribed limit. The court may, in determining whether there was such a likelihood, disregard any injury to him or her and any damage to the vehicle.</p>

10. Frequently asked Questions

1. What is a MPV (mechanically propelled vehicle)?

The term MPV is not defined by legislation, but will include, for example, child-sized motorcycles, quads and all motorised vehicles as defined in the Road Traffic Act 1988. Note the exceptions from the definition of motor vehicle contained in section 189(1)(c) of the Road Traffic Act 1988 i.e. grass-cutting machines, certain vehicles controlled by pedestrians, and specified electrically assisted bicycles.

2. Why is a MPV different to a motor vehicle?

A motor vehicle, in legal terms, is a MPV intended or adapted for use on the roads. It was considered that this definition did not capture, for example, unregistered or unlicensed scramblers and quad bikes, so the concept of a MPV was introduced. MPV is a broader concept than motor vehicle; all motor vehicles are MPVs, but some MPVs are not “intended or adapted for use on the roads”.

3. Is an electrically assisted pedal cycle a MPV?

An electrically assisted pedal cycle would almost certainly be regarded as a MPV. However, section 189 of the Road Traffic Act 1988 and section 140 of the Road Traffic Regulation Act 1984 provide that electrically assisted pedal cycles of such class as may be prescribed by regulations are not to be treated as motor vehicles for the purposes of those Acts. The Electrically Assisted Pedal Cycles Regulations 1983 (SI 1983/1168), which have effect as if made under the sections 189 and 140, prescribe the class of pedal cycles. Sections 189, 140 and the Regulations thus exempt certain types of electrically assisted pedal cycles from many rules that would otherwise apply.

4. What is a public place?

The Road Traffic Act 1991 amended sections 1 to 3 of the Road Traffic Act 1988 and enables prosecutions to be brought for causing death by dangerous driving, dangerous driving, careless and inconsiderate driving of a mechanically propelled vehicle in a public place off the highway.

A public place might include moorlands, common land or Sites of Special Scientific Interest (SSSIs) and has been held by the courts to mean an area to which the public at large have access or that the public have express or implied permission to access from the Land Owner.

5. What is the difference between a public right of way and a highway?

The terms ‘public right of way’ and ‘highway’ are often used interchangeably. Both mean a way over which the public have a right to pass and repass. ‘Highway’ is often used to refer to the physical feature and ‘public right of way’ to the legal right to, for example, walk, ride or drive over it.

6. What about people who are registered as disabled who want to drive along a public right of way or in a public place?

Section 34 of the Road Traffic Act 1988 provides that anyone driving a mechanically propelled vehicle without lawful authority on land not forming part of a road, or on any road that is a footpath, bridleway or restricted byway is guilty of an offence.

However, in the case of a vehicle which is an invalid carriage complying with the requirements prescribed by the Use of Invalid Carriages on Highways Regulations 1988 (SI 1988/2268; the "Regulations") and which is being used in accordance with the conditions prescribed in the Regulations, section 20 of the Chronically Sick and Disabled Persons Act 1970 provides an exemption. Section 20(1) (b) specifically excludes the section 34 offence from applying to invalid carriages of the prescribed type which are being used in the prescribed manner (i.e. prescribed under the Regulations).

Further, section 20 provides that in the case of a vehicle which is an invalid carriage complying with the prescribed requirements and which is being used in accordance with the prescribed conditions: (i) no statutory provision prohibiting or restricting the use of footways shall prohibit or restrict the use of that vehicle on a footway (for the purposes of section 20, 'footway' includes footways, footpaths and bridleways). Thus, for example, a pavement quad can be used by a registered disabled person on a footpath; (ii) if the vehicle is mechanically propelled, it shall be treated for the purposes of the Road Traffic Regulation Act 1984 and the Road Traffic Act 1988, except section 22A of that Act (causing danger to road users by interfering with motor vehicles, etc.), and the Road Traffic Offenders Act 1988 as not being a motor vehicle, and certain specific sections of the Road Traffic Act 1988 shall not apply to it.

7. Do I have to register, tax, insure my MPV if I want to drive or ride on a public right of way or in a public place?

Yes. This applies even if you own the land across which you will drive or ride, and the rule does not depend on the purpose of the journey. Special rules simplify the process for some agricultural vehicles, and there are exemptions for certain vehicles – please see questions 3 and 6.

8. Where can I drive my motor cycle, car, four wheel drive vehicle off road?

If it is 'road legal' you can drive or ride anywhere you have permission to do so. If not, you can drive or ride anywhere which is not a public road or a public place (see above), provided that you have permission. A landowner or occupier can give such permission, but only for a maximum of 28 days if the use amounts to a 'change of use'. If the use amounts to racing, only 14 days are allowed. These allowances do not apply where the land involved is or is within a Site of Special Scientific Interest.

Planning permission should be obtained if the change of use is intended to last beyond the initial 28 day period, and then, conditions may be applied to the use. Such permission is difficult to obtain in many areas.

For further details, see the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418).

9. What is the difference between a public highway and a public right of way?

Technically, the highway is the land over which you travel when exercising (relying on) a right of way. Unless there is a right of way, there is no highway, in legal terms. Many people use the term 'highways' to mean the ordinary tarred road network, and 'rights of way' to comprise footpaths, bridleways (and sometimes other routes such as byways). In some counties there are different departments dealing with 'highways' and 'rights of way', though the proper distinction would be between the different classes of way.

10. Frequently asked Questions

10. Where can I ride a motor cycle or drive a car without tax or insurance?

You may use a road legal motor vehicle without 'tax' (road vehicle excise duty) on any highway which carries vehicular rights and which is not repairable at public expense. As these characteristics are often difficult to establish, and as such routes rarely join up to make a useful network, the safe (but incorrect) answer is 'only on private land'.

As a general rule, insurance is required for vehicular use on any highway, and in any public place, and is advised in all cases.

11. What is meant by 'off road'?

The term is used in many different ways, and confusion can result. A four wheel drive vehicle clearly has capability to drive away from ordinary roads, so it can rightly be called an 'off road vehicle'. This has led people to call the use of such vehicles on private land 'off-roading'. People then go on to think that the use of untarred roads can also be called 'off road'. Further confusion can arise as, in legal terms, untarred footpaths are roads. The safe rule is to use 'off road' only to refer to activities which are entirely away from highways – e.g. events such as motocross, speedway, and motor racing.

12. Do I need a licence to drive 'off road'?

If you use the term properly (see q12) then you do not need a licence, but you do need permission. If your off-road activity is a motor sport event, you may need a competition licence – for some events there are further requirements such as medical tests, etc.

13. How old do I need to be to drive 'off road'?

As long as you do nothing which counts as driving in a public place, there is no limit on age. There are clubs which organise off-road events for under-age drivers or riders – the LARA website may have helpful contact details.

14. Can I drive on a footpath, bridleway and restricted byway if the landowner gives me 'lawful authority'?

Yes, that is the legal term which covers permission. Whilst having been given 'lawful authority' by the landowner may avoid an offence being committed under section 34 of the Road Traffic Act 1988, you should consider whether vehicular use of the way might amount to a public nuisance. Both you, and your vehicle, should be road legal for all public roads, even if your use involves only a short section of footpath.

15. Does a landowner or occupier who is driving on a highway on his own land need to comply with the same rules as a member of the public?

Yes, a landowner can be assumed to have lawful authority (i.e. to have given himself permission, in effect), but the rules are no different with regard to the need for a road legal vehicle and a fully licensed and insured driver. As mentioned above, whilst 'lawful authority' may avoid an offence being committed under section 34 of the Road Traffic Act 1988, use of a mechanically propelled vehicle on ways that do not carry vehicular rights, even with permission, may amount to the common law criminal offence of public nuisance.

16. What powers does a member of the public have to stop or question a motorist believed to be acting unlawfully on a highway, or off-road?

Only a constable or traffic officer has the power to stop a highway user; anyone else trying to do so puts themselves at risk, both physically and legally (for obstructing the highway).

Questions may be asked by anyone, but there is no obligation for a motorist to respond, except in the case that an accident has occurred that is covered by section 170 of the Road Traffic Act 1988. In this case, all drivers involved should stop and give their name and address and also the name and address of the owner and the identification marks of the vehicle to anyone with reasonable grounds for so requiring such information.

Away from public roads (i.e. 'off road'), a landowner or occupier can ask a driver to leave at once – even if permission has previously been given. If the instruction is not followed, reasonable force can be used – depending on the circumstances – to remove the driver and vehicle from the land. Unless a reportable accident has occurred, there is no obligation to give names, addresses, etc.

Although provisions contained in the Serious Organised Crime and Police Act 2005 will, once in force, change the position slightly, as a general principle, except in limited circumstances, only a constable has the power to arrest a person.

11. Glossary of Rights of Way

Byway open to all traffic is a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purposes for which footpaths and bridleways are used.

Bridleway is a highway for pedestrians, horse riders and bicyclists (who must give way to people on foot or on horseback).

Footpath is a highway over which the right of way is on foot only.

Footway is a portion of carriageway that is set aside for use only by pedestrians.

List of Streets is a list that a highway authority must legally keep, showing all the highways in its area, which are maintainable at a public expense

Definitive Map is a legal document showing the location and status of footpaths, bridleways, restricted byways and byways open to all traffic. This is available for inspection and copying at an authority's office.

Definitive Statement is the statement which accompanies the map and should detail the width of the right of way, gates, stiles, along with a description including any limitations of use.

Off Road is the term used to indicate driving or riding away from any highway.

PB 11381

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