



## The 'cut-off date' - LARA briefing

### 1. What is the cut-off date?

The cut-off date is provision made in the CRoW Act 2000, to close the DMS<sup>1</sup> to the addition of any historical public rights of way, i.e rights of way that came into being before 1949.

### 2. When will the cut-off date be?

When the [Government announced that its earlier decision to repeal the cut-off date legislation had been reversed](#) and the provisions will be implemented, it also stated that the cut-off date will be deferred five years, from 1 January 2026 to 1 January 2031.

### 3. What will be extinguished?

The following will be extinguished, if not recorded on the DMS by the cut-off date.

- Any way that was a footpath or bridleway<sup>2</sup> on 1 Jan 1949 and has remained as a a footpath or bridleway at the cut-off date and is not an “excepted highway”<sup>3</sup>.
- Any higher rights (including BOAT rights) over a way shown on the DMS on the cut-off date as a footpath, bridleway or restricted byway.

Where any bridleway rights are extinguished, pedal cycle rights are also extinguished.

Any diversion, widening or extension of an extinguished way between 1949 and the cut-off date is to be taken as having occurred before 1949, regardless of whether it was shown on the DMS. In other words: the diversion, widening or extension is included in the extinguishment, whether or not it is recorded on the DMS.

### 4. What about motor vehicle rights over ways that are not already recorded on the DMS by the cut-off date?

There is separate provision for motor vehicle rights over ways not already recorded on the DMS by the cut-off date. The 2000 Act introduced a new section 54A<sup>4</sup>. This says that, after

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<sup>1</sup> Definitive map & statement.

<sup>2</sup> Note: not a restricted byway.

<sup>3</sup> As defined by s.54(1) of the 2000 CRoW Act, the exceptions concern only footpaths & bridleways, or any other ways that may be specified in regulations - any such regulations are highly unlikely to include motor vehicular rights.

<sup>4</sup> into the Wildlife & Countryside Act 1981.

the cut-off date, it will not be possible to add to the DMS as a BOAT, any way not already shown on the DMS as a highway of any description. This provision was always intended to be part of the cut-off date package and we must assume it will come into force alongside the cut-off date.

No vehicular rights will be extinguished by s.54A. The reasoning behind this was because of the difficulty of establishing the true status of potential vehicular highways except on a case by case basis. So there will be many ways that cannot be recorded as a BOAT but where the rights are unproven. This will include most UURs<sup>5</sup>.

The Government is empowered to make transitional arrangements to protect any vehicular rights over ways for which applications have been submitted before the cut-off date. We do not know if they will do this but have no reason to think they will not.

## **5. Is there any scope to increase the total mileage of the current recorded network of UURs and BOATs?**

Scarcely any - the 2006 NERC Act effectively extinguished off any unrecorded vehicular rights not shown on the 'list of streets'<sup>6</sup>. Applications made before the NERC Act cut-off date of 20 January 2005 are still required to be processed to a conclusion, but there are likely to be few of these left.

There may also be applications for ways that meet the exceptions from extinguishment in section 67(2) on the 2006 Act, but, other than ways shown on the 'list of streets', few of these are likely to be successful.

## **6. Is it still possible to add an existing UUR to the DM&S as a BOAT?**

Until cut-off date (now to be 1 January 2031), ways shown on the 'list of streets' can be added to the DMS as BOATs. This would preserve the total network mileage, but would not increase it. But it would not be in the motoring organisations' interests to submit applications to record such ways on the DMS - see the following paragraph.

## **7. Should UCRs be claimed as BOATs before the cut-off date?**

While motor vehicle rights over ways shown on the 'list of streets' remain protected by section 67(2)(b) of the NERC Act 2006, it is in the motoring organisations' interests not to submit applications for UCR's. This is because of the risk that an application could result in the way being recorded as a restricted byway, bridleway, or footpath<sup>7</sup>. Whereas otherwise, the status of the way would remain ambiguous, with any vehicular rights being preserved by section 67(2)(b).

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<sup>5</sup> Also known as UCRs, but to be more accurate: carriageways shown on the 'list of streets' - see [LARA guidance](#) for further information.

<sup>6</sup> The list, kept by local authorities, of highways maintainable at public expenses.

<sup>7</sup> BHS & RA campaigns have generated applications for UURs to be recorded at lower status.