

# Unsurfaced Highways Shared with Motor Vehicles

England & Wales

## THIS BRIEFING COVERS:

Byways Open to All Traffic (BOATs) and Unsurfaced Unclassified Roads (UUCRs)

## HEADLINE MESSAGE

Unsurfaced highways are valuable routes for cycling in the countryside, although their use by recreational motor vehicles and tractors too can compromise enjoyment and make the surface unrideable.

## KEY FACTS

- A byway open to all traffic (BOAT) is open to all classes of traffic including motor vehicles, but is not necessarily maintained to the same standard as an ordinary road. There are some 3,000km of them.
- An unsurfaced, unclassified road (UUCR) is repairable by the local authority, but access rights may not be clear and subject to dispute. It is 'unclassified' because it has not been categorised as an A, B or C road. There are some 9,000km of UUCRs.
- Traffic Regulation Orders (TROs) can be used to stop motor vehicles using BOATs or UUCRs; if repairs are needed, 'Section 56' notices can be served on the highway authority.

## Cycling UK VIEW

- Cycling UK accepts that licenced recreational motor vehicles (two and four wheel) have a legal right to use BOATs and UUCRs.
- Not all of these highways, however, are robust enough for use by motor vehicles, so they should be managed to avoid stirring up mud and creating ruts.
- Cycling UK believes that all UUCRs should be consolidated into the definitive map and statement normally as a restricted byway or, possibly, as a BOAT.
- Cyclists and other non-motorised users go to the countryside for quiet recreation. Unmanaged motorised use of unsurfaced highways is incompatible with this, particularly where these vehicles, especially motorcycles, are inadequately silenced.
- If, after a reasonable time, voluntary management fails to remedy a damaged highway, or is not implemented, then a Traffic Regulation Order (TRO) should be sought to prevent motorised vehicular use.
- The police should implement robust policies to discourage illegal use by unlicensed and/or unsilenced vehicles.
- Use by tractors as part of agricultural or forestry practice can also be extremely damaging and, where this occurs, the Highway Authority (HA) and landowner/tenant should agree on measures to allow unimpeded use by cycles.
- Where, following extensive discussions, an HA fails to maintain a highway that is 'out of repair', then, if the route is an important link, consideration should be given to serving the authority with a Highways Act section 56<sup>1</sup> notice requiring them to repair it suitably.



## BACKGROUND INFORMATION

- **Byways Open to All Traffic (BOATs):**
  - BOATs were created by the 1981 *Wildlife & Countryside Act*<sup>2</sup> to clarify rights of access for motorised and non-motorised users
  - There are some 3,000km in England and Wales
  - They should have a minimum width of 3m and may not be ploughed
  - *The Natural Environment and Rural Communities Act 2006* (NERC) prevented new byway claims from being made unless:
    - The main use between 2001 & 2006 was by motor vehicles; or
    - The highway is on the *List of Streets* maintainable by the HA, but not on the definitive map<sup>3</sup>; or
    - There is evidence of motorised use prior to 1930; or
    - They are certain, tightly specified claims already made prior to 2005.
- **Unsurfaced Unclassified Roads (UUCRs):**
  - There is considerable debate over rights of access to UUCRs; some local authorities regard them as footpaths, while others consider that they have full highway status
  - They are found on the *List of Streets*<sup>4</sup>
  - There are some 9,000km in England and Wales
  - They may not be ploughed
- **Cycling, BOATs and UUCRs:**

### Action from highway authorities:

There are a number of actions that highway authorities (HAs) can take to get the best out of BOATs and UUCRs for walking and cycling:

- Engaging in a process to consolidate UUCRs into the definitive map and statement as, normally, restricted byways. There may be evidence to indicate BOAT status instead, in which case the way should be at least 3m wide and be appropriately surfaced.
- They can help by identifying and reporting sections that are unusable or unpleasant for cyclists/walkers because of their use by motor vehicles and/or because they are in disrepair.
- In cases of inappropriate use by motor vehicles, the HA should first consider voluntary measures to manage the situation. If this does not succeed, a TRO may be necessary.

**Traffic Regulation Orders** (*Road Traffic Regulation Act 1984*): A TRO is the legal instrument by which traffic authorities implement most traffic management controls on their roads. TROs may be permanent or experimental, and are designed to regulate, restrict or prohibit the use of a road or any part of the width of a road by vehicular traffic or pedestrians. A TRO may take effect at all times or during specified periods, and certain classes of traffic may be exempted from it. For more on TROs, see: [www.cyclinguk.org/local-cycle-campaigning/traffic-regulation-orders/more-information-about-traffic-regulation-orders](http://www.cyclinguk.org/local-cycle-campaigning/traffic-regulation-orders/more-information-about-traffic-regulation-orders)

Note: Motorised use on firm surfaces can help suppress vegetation, particularly where the route is enclosed by hedges, walls and fences, and if the HA's vegetation cutting programme is inadequate. However, this use should be appropriate and sustainable.





**Action from cyclists:** cyclists and other users of off-road routes can report disrepair to the HA, requesting a date by which maintenance will be carried out. If need be, they can serve the authority with a *Section 56<sup>s</sup>* order if the route is likely to be well-used by cyclists and other non-motorised users.

**Section 56 Orders** (*Highways Act 1980 'Enforcement of liability for maintenance'*): Where, following extensive discussions, a highway authority fails to maintain an 'out of repair', publicly maintainable highway (which includes Rights of Way), members of the public can serve them with a section 56 notice. This gives the authority six months to repair the problem, and if this fails to happen, the complainant may apply to the magistrate's court for an Order to compel them to do so (if the court agrees that the way is indeed out of repair).

For more on obstructed or 'out of repair' highways, see Cycling UK's briefing at:  
[www.cyclinguk.org/sites/default/files/file\\_public/obstructions-and-out-repair-rowbrf.pdf](http://www.cyclinguk.org/sites/default/files/file_public/obstructions-and-out-repair-rowbrf.pdf)

## POLICY BACKGROUND

- Irresponsible use of unsurfaced highways by motor vehicles led to campaigning by landowning and walking organisations resulting in new legislation to restrict this use.
- The *2000 Countryside & Rights of Way (CROW) Act<sup>6</sup>* converted all Roads Used as Public Paths (RUPPs) into Restricted Byways. This removed the ambivalence over the right of motorised use, by restricting passage to non-motorised users. In light of this successful reclassification of RUPPs, Cycling UK believes that it would be in the interests of all users if a similar process now took place with UURs. This would mean that these routes would then consolidated into the definitive map and statement as either restricted byways, or BOATS. In future, we would like to see suitability and sustainability acting as the guiding allocation criteria, rather recorded historic use.

## FURTHER READING

- *Evidence of motor vehicular use under the NERC Act 2006*. By Graham Plumbe.  
[www.gleam-uk.org/guidance/evidence-of-motor-vehicular-use-under-the-nerc-act-2006/](http://www.gleam-uk.org/guidance/evidence-of-motor-vehicular-use-under-the-nerc-act-2006/)

## REFERENCES

- <sup>1</sup> 1980 Highways Act (s56). [www.legislation.gov.uk/ukpga/1980/66](http://www.legislation.gov.uk/ukpga/1980/66)
- <sup>2</sup> Wildlife & Countryside Act 1981(s53 (5)). [www.legislation.gov.uk/ukpga/1981/69](http://www.legislation.gov.uk/ukpga/1981/69)
- <sup>3</sup> The Definitive Map is a statutory document that must be produced and kept up to date by every county council or unitary authority (except Inner London Boroughs). Every single right of way in an authority's area should be recorded on it. The map can be modified via Definitive Map Modification Orders (DMMOs), as long as there is evidence to support the application.
- <sup>4</sup> Documents listing highways repairable by the local authority, but in reality often badly maintained
- <sup>5</sup> See note 1.
- <sup>6</sup> Countryside & Right of Way Act 2000 (s52) [www.legislation.gov.uk/ukpga/2000/37/contents](http://www.legislation.gov.uk/ukpga/2000/37/contents)