

Bridleways, restricted byways and cycle tracks

Non-motorised Rights of Way for cycling (England & Wales)

THIS BRIEFING COVERS

Getting the most out of the network; key facts about bridleways, restricted byways & cycle tracks, racing on bridleways; signing & maintenance; legal background; advice for campaigners/cyclists.

HEADLINE MESSAGES

- The right to cycle on some public rights of way (RoW) but not others does not necessarily relate to their suitability. While cyclists have the right to (bi)cycle on bridleways and byways, many of them are unsuitable; on the other hand, cyclists are not automatically allowed to ride along footpaths, many of which are perfectly fine for cycling.
- The suppressed demand for good traffic-free cycling routes for both recreational and utility use is considerable, but much of the RoW network is best suited to mountainbiking. More people could enjoy offroad cycling if the network were expanded, more coherent, and better maintained and signed. This needs concerted action from local and national government, plus reform to RoW law.

KEY FACT

- Cyclists have a right to ride on bridleways, byways and restricted byways, but not footpaths

Cycling UK VIEW

- Improvements and additions to the bridleways and byways network would enhance the opportunities for motor traffic-free cycling, particularly for families and casual cyclists.
- National government should review RoW law to enhance cycling opportunities by, for example:
 - following the lead of Scotland's *Land Reform Act 2003*, which gave cyclists lawful access to most countryside in Scotland;
 - simplifying the legal process for converting footpaths to cycle tracks.
- Highway authorities should fulfil their duties under existing legislation to make sure that the potential of the RoW network is fully realised for both recreational and utility cyclists.
- Cycle racing on bridleways should be permitted by law, subject to appropriate consultation and regulation.
- While signing from roads onto the RoW network is now reasonably acceptable, waymarking¹ of the network itself needs improving.
- Highway authorities should not only fulfil their legal duties to maintain byways and bridleways, but also carry out maintenance programmes to ensure that they are rideable.



BACKGROUND INFORMATION

Cycling UK view

- Improvements and additions to the bridleways and byways network would enhance the opportunities for motor traffic-free cycling, particularly for families and casual cyclists.
 - National government should review Rights of Way (RoW) law to enhance cycling opportunities by, for example:
 - following the lead of *Scotland's Land Reform Act 2003*, which gave cyclists lawful access to most countryside in Scotland
 - simplifying the process for converting footpaths to cycle tracks
 - Local authorities should fulfil their duties under existing legislation to make sure that the potential of RoW is fully realised for both recreational and utility cyclists.
- For links to the legislation mentioned in this briefing, see 'Legal Background' below.
 - For all of the Cycling UK briefings mentioned in this briefing, see www.cyclinguk.org/campaigning/views-and-briefings and filter by 'Off-road access'.

1. Getting the most out of the network

Cycling is legal on about a fifth of the Rights of Way (RoW) network in England and Wales, i.e. on bridleways and byways.² Much of this, however, is largely unsuitable for families or casual cyclists. Navigation is often difficult without reasonable map-reading skills, and the surfaces / topography may only be suitable for dedicated mountain-bikers. In fact, many footpaths offer better cycling conditions. As a result, family and casual recreational cycling is now predominantly on cycle-friendly railtrails, forestry trails and some towpaths.

Unfortunately, recent legislation affecting rights of way in England and Wales (the *Countryside and Rights of Way Act 2000* (CRoW) and the *Marine and Coast Access Act 2009*) has focused on providing better opportunities for walkers rather than for cyclists. As yet, the Government has not been persuaded to legislate for the type of major reforms that would benefit offroad cycling (or, indeed, horse riding).

By contrast, Scotland's *Land Reform Act 2003* gave cyclists lawful access to most countryside in Scotland (see Cycling UK's briefing *Offroad Access in Scotland*). Suitably adapted legislation that would have a similar effect in England and Wales is one way of enhancing the opportunities to cycle in the countryside. In the meantime, simplifying the existing (and time-consuming) legal procedures for converting footpaths into cycle tracks would help expand the rights of way available for cycling (see Cycling UK's *Footpaths* briefing).




There is no legal right to cycle on the well-surfaced footpath on the left, but riding on the rutted, uneven bridleway on the right is perfectly legal.




Duty of highway authorities to ‘protect and assert’: authorities need to bear in mind their duty, under the *Highways Act 1980*, section 130, to: “assert and protect the rights of the public to the use and enjoyment of ... all their highways”. This includes rights of way. *CRoW 2000* introduced new processes to persuade poorly performing authorities to carry out these duties by, for example, introducing Local Access Forums and Rights of Way Improvement Plans (see Cycling UK’s briefings).

2. Bridleways, restricted byways and cycle tracks – facts:

- **Bridleways**

- The 1968 *Countryside Act* section 30 introduced the right to bicycle on bridleways, provided cyclists give way to walkers and horse riders.³
- The 1988 *Road Traffic Act* section 31 made it illegal to race a bicycle on a bridleway (see (3)).
- Authorities do NOT have to maintain bridleways in a suitable condition for cycling (see (5)).⁴
- They are depicted as small dashed lines on Ordnance Survey mapping. 

- **Restricted byways**

- Restricted byways are a type of way created by the *CRoW Act 2000*. Under the Act, ways that had previously been ‘roads used as public paths’ (RUPPs) were reclassified as restricted byways.
- The *Natural Environment and Rural Communities Act 2006* (NERC), section 68, then enabled ways to be claimed as restricted byways where it could be shown that there had been (usually) 20 years of uncontested cycle use.
- Cyclists have full highway rights on restricted byways. They are also open to people on foot, horseback or any other non-mechanically propelled vehicle (such as a horse-drawn carriage).
- There is no public right of way for mechanically-propelled vehicles (which include motor vehicles).
- They should be of minimum 3m width.⁵
- They are depicted as ‘dash – dot – dash’ on Ordnance Survey mapping. 

- **Cycle tracks**

- The *Cycle Tracks Act 1984* allows authorities to convert footpaths away from roads into cycle tracks. This process, though, is rarely used because it tends to generate objections (often from walkers reluctant to share the route with cycles) and, consequently, a costly and time-consuming public inquiry.⁶ Amongst thousands of other statutory rules and regulations, the process came under scrutiny during the Government’s ‘Red Tape Challenge’ (2011, England). This resulted in an agreement to scrap the regulations and allow local authorities more local flexibility.⁷
- The landowner’s permission for the conversion is required if the track passes over farmland.
- Although it is legal to walk along a cycle track created under the *Cycle Tracks Act*, they cease to be public footpaths. This means that a cycle track is not a definitive public right of way, so neither it nor the previous footpath can be shown on the definitive map.⁸ If the Cycle Track Order is later revoked, the public footpath is reinstated and reappears on the definitive map.
- There is a separate process for converting roadside pavements / footways to cycle tracks using section 65/66 of the *Highways Act 1980*. No consultation is needed for this. A formal decision to proceed, together with clear evidence of the formal steps taken to make the conversion, is sufficient.
- Once a public footpath becomes a cycle track, then it is depicted on Ordnance Survey maps as a cycle track and not a footpath. So long dashed lines replace short pecked ones.
- See also Cycling UK’s briefing on *Public Footpaths*



3. Racing on bridleways

Cycling UK view: Cycle racing on bridleways should be permitted, subject to appropriate consultation and regulation.

As long as the appropriate authorisations or permissions have been agreed, cycle races can be held on all highways and RoW, except for bridleways (1988 *Road Traffic Act* section 31). In Cycling UK's view, this is an unreasonable anomaly, and the law needs to be modified to allow appropriately organised events to take place on this type of way.

4. Signing

Cycling UK view: While signing from roads onto the RoW network is now reasonably acceptable, waymarking of the network itself needs improving.

To encourage people to cycle in the countryside for recreation and help them have a good experience once they get there, it is important to make sure that they can find their way easily amongst the network of paths. Waymarking - i.e. placing signs along the network, particularly where confusion is likely - makes all the difference.⁹

5. Maintenance

Cycling UK view: Highway authorities should not only fulfil their legal duties to maintain byways and bridleways, but should also carry out maintenance programmes that ensure that the routes are rideable.

While the 1968 *Countryside Act* section 30 did not create any obligation for a highway authority "to do anything to facilitate the use of the bridleway by cyclists", bridleways are still 'highways maintainable at public expense' under section 36 of the *Highway Act 1980*. Authorities are also obliged to enforce the legislation on surface disturbance and obstructions.

Under section 131A of the *Highways Act*, it is an offence to disturb the surface of a footpath, bridleway or byway without lawful authority or excuse. However, lawful activity like ploughing (see below) or excusable damage by agricultural or forestry traffic often causes ruts, and can make bridleways and byways unrideable. Even though the damage has to be repaired in law, this isn't always done.

It is therefore important for highway authorities to fulfil their legal duties over the repair of rights of way, and their maintenance and inspection regimes should ensure that all routes available to cyclists remain rideable.



- **Section 56, 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 RoW), 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).

- **Section 130A, Highways Act 1980**

This section sets out the procedure to use in the case of obstructions. It allows members of the public to serve a notice on the highway authority *"requesting them to secure the removal of the obstruction from the highway."* In turn, the authority has to serve a notice on whoever is deemed responsible for the obstruction.

See also Cycling UK's briefing on *Obstructions and 'out of repair' Rights of Way*

- **Ploughing:**

- **Bridleways:** on agricultural land, the *Highways Act 1980*, section 134, confers the statutory right to plough / otherwise disturb (e.g. by crop growing) the surface of footpaths or bridleways that go through fields, as long as it complies with good husbandry. The bridleway has to be 'made good' afterwards, its line marked and reinstated to 2m width within 14 days. 'Field-edge' bridleways must be left undisturbed altogether at 3m width.
- **Byways:** there is no right to plough/disturb the surface of a byway. Rendering it inconvenient for the public to use is an offence under section 131A of the Act, and highway authorities must enforce it.
- **Cycle tracks** may not be ploughed unless stipulated in the conversion agreement.

LEGAL BACKGROUND

- The 1968 *Countryside Act*, www.legislation.gov.uk/ukpga/1968/41:
 - Section 27 gives highway authorities the power to erect signposts on bridleways and restricted byways, and requires them *"to erect such signposts as may in the opinion of the highway authority be required to assist persons unfamiliar with the locality"*;
 - Section 30 provided cyclists with a conditional right to ride on bridleways.
- The 1980 *Highways Act*, www.legislation.gov.uk/ukpga/1980/66:
 - Section 36 states that bridleways are highways *"maintainable at public expense"*; while section 41 gives the highway authority a duty to maintain them;
 - Section 56 gives anyone the power to serve a notice on a highway authority requiring them to deal with an 'out of repair' highway;
 - Sections 65/66 makes it possible to convert roadside pavements / footways into cycle tracks;
 - Section 130 imposes on local authorities the duty to *"assert and protect the rights of the public to the use and enjoyment of...all their highways"*;
 - Section 130A gives anyone the power to serve a notice on a highway authority requiring them to 'secure the removal of an obstruction' on a footpath, bridleway or restricted byway;
 - Section 131A covers the offence of causing unauthorised damage to the surfaces of a footpath, bridleway or restricted byway and makes the highway authority responsible for enforcement;
 - Section 134 confers the right to plough/disturb the surface of 'crossfield' footpaths and bridleways and sets out the duty to repair them afterwards. It also makes highway authorities responsible for enforcement. Section 135 deals with other agricultural works, like excavation.



- The 1988 *Road Traffic Act* section 31 makes it an offence to race a bicycle on a bridleway.
www.legislation.gov.uk/ukpga/1988/52/contents#pt1-pb7-l1g31
- The 1984 *Cycle Tracks Act* makes it possible to convert a footpath into a cycle track.
www.legislation.gov.uk/ukpga/1984/38
- The 2000 *Countryside and Rights of Way Act*, www.legislation.gov.uk/ukpga/2000/37/contents
 - Section 47 reclassified ‘roads used as public paths’ as restricted byways; and section 49 ensures that they should be maintainable at public expense;
 - Part V required highway authorities to set up Local Access Forums and section 60 requires them to publish Rights of Way Improvement Plans, both of which can be used to enhance the rights of way network for cyclists (see Cycling UK’s briefings on LAFs and on ROWIPs).
- The 2003 *Land Reform (Scotland) Act* gave cyclists access to most of the Scottish countryside.
www.legislation.gov.uk/asp/2003/2/contents
- The 2006 *Natural Environment and Rural Communities Act* allows cyclists to claim that a path should be a restricted byway if there is evidence of 20 years of uncontested cycle use.
www.legislation.gov.uk/ukpga/2006/16/contents

Advice for cyclists:

- *When cycling on the RoW network:*
 - Slow down and be courteous when passing walkers and equestrians.
 - Leave gates as you find them. Never leave a closed gate open after passing through.
 - Report obstructions on bridleways and restricted byways to the local authorities (some have online reporting systems).
- *Campaigning:*
 - Get involved with Local Access Forums to lobby for bridleway improvements.
 - Lobby for cycle-friendly aspects of Rights of Way Improvement Plans to be priorities.
 - Respond to bridleway / byway Map Modification Orders and Public Path Orders.
 - If the highway authority fails to respond to reasonable requests to deal with obstructed or ‘out of repair’ bridleways or restricted byway, be prepared to serve *Highways Act 1980* section 56 or section 130A orders on them.



FURTHER READING/WEBSITES

- *Rights of Way: A Guide to Law and Practice* by John Riddall and John Trevelyan (Ramblers' Association/Open Spaces Society). 2007. This is a very useful guide, with considerable detail about legislation and legal procedures relating to rights of way. ISBN 978 1 901184 99 0.
- *An Introduction to Highway Law* by Michael Orlik. 3rd edition. 2007. Published by Shaw & Sons. ISBN 978 0 7219 1332 2.

Websites covering access and rights of way:

- Natural England www.gov.uk/government/organisations/natural-england
- Natural Resources Wales <https://naturalresources.wales>
- Ramblers www.ramblers.org.uk
- The Byways and Bridleways Trust (for public access along ancient highways). www.bywaysandbridlewaystrust.org.uk/

FOOTNOTES AND REFERENCES

¹ 'Waymarking' means placing arrows or other marks along the path of a RoW to guide travellers, especially at locations where they might otherwise get lost. Section 27 of the *Countryside Act 1968*, in fact, requires highway authorities to place such signs "as may in the opinion of the authority be required to assist persons unfamiliar with the locality".

² Cyclists are allowed to use bridleways, restricted byways and byways open to all traffic (BOATS). Until recently, Natural England (NE) published the composition of the RoW network on their website, but since a new version of the site was launched, these figures are no longer there. Cycling UK has contacted NE about this, and will update this briefing as soon as we have received a response.

³ Securing the right to cycle on bridleways under the 1968 *Countryside Act* was largely the result of Cycling UK (formerly CTC) campaigning.

⁴ *Ibid.* The Act says (section 30): "The rights conferred by this section shall not affect the obligations of the highway authority, or of any other person, as respects the maintenance of the bridleway, and this section shall not create any obligation to do anything to facilitate the use of the bridleway by cyclists."

⁵ This is stipulated in Schedule 12a of the *Highways Act 1980*. Where there are narrower widths on any part of a way that is successfully claimed as a restricted byway, these are accepted as found, and may be recorded as 'limitations' on the definitive map (i.e. they do not affect the way's restricted byway status).

⁶ To convert a footpath into a cycle track, the local authority has traditionally had to make an order under the *Cycle Tracks Act 1984*. If there were objections to the proposal that were not withdrawn, the Order had to be confirmed by the Secretary of State and usually a public local inquiry followed. Only if there were no objections, or if they were all withdrawn, could the Order be confirmed by the local authority. See Cycling UK's briefing on *Public Footpaths* for updates on moves to simplify this procedure. www.cyclinguk.org/campaigning/views-and-briefings/public-footpaths-england-wales

⁷ DfT. *Red Tape Challenge – road transportation*. Dec. 2011. (p38)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2492/rtc-road-transport-summary.pdf

⁸ 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.

⁹ See note 1