

# Appendix C

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## Statutory Duties and Powers

## Definitive Map and Statement and related activities

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• To keep the definitive map and statement under continuous review. [Wildlife and Countryside Act 1981, (WCA 1981), section 53; modified by Countryside and Rights of Way Act 2000, (CROW 2000), section 53]</li> <li>• To re-classify roads used as public paths (RUPPs). [WCA 1981, section 54; to be repealed by CROW 2000, section 47]</li> <li>• To consider applications from certain landowners for a public path diversion or extinguishment order. [new sections, 118ZA, 118C, 119ZA, 119C and 121 A, C. D and E to be inserted into Highways Act 1980 (HA 1980) by CROW 2000, Section 57 and Sch. 6, 7-10].</li> <li>• To keep a register of applications for diversions and extinguishment orders, for modification orders and of section 31(6) depositions. [new sections 53B and 121B to be inserted into WCA 1981 and 31A to be inserted into HA 1980 by CROW 2000, Sch. 5 and 6].</li> </ul>
<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• To consolidate the definitive map. [WCA 1981, section 57].</li> <li>• To create footpaths and bridleways by agreement with compensation or compulsory purchase. [HA 1980 sections, 25/26].</li> <li>• To make an order stopping up footpath/s or bridleway/s. [HA 1980 section, 118].</li> <li>• To make an order stopping up footpath/s or bridleway/s which cross a railway. [HA 1980 section, 118A].</li> <li>• To make an order diverting footpath/s or bridleway/s. [HA 1980, s119].</li> <li>• To make an order diverting footpath/s or bridleway/s which crosses a railway. [HA 1980 section, 119A].</li> <li>• To stop up or divert footpaths or bridleways if satisfied it is necessary to enable development to be carried out. [Town and Country Planning Act 1990, (TCPA 1990), section 257]</li> <li>• To stop up or divert footpaths or bridleways temporarily if satisfied it is necessary to enable minerals to be worked and can be restored. [TCPA 1990, section 261].</li> <li>• To make a cycle tracks order under the Cycle Tracks Act 1984, (CTA 1984), section 3 to upgrade a public footpath to a cycle track.</li> </ul>

## Public Rights of Way Infrastructure

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• To assert and protect the rights of public to the use and enjoyment of any highway including a duty to prevent, as far as possible, the stopping up or obstruction of highways. [HA 1980, section 130; amended CROW 2000, section 63].</li> <li>• To maintain highways maintainable at public expense. [HA 1980, section 41].</li> </ul>
<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• Many and varied.</li> </ul>

## Maintenance of Public Rights of Way

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• To assert and protect the rights of public to the use and enjoyment of any highway including a duty to prevent, as far as possible, the stopping up or obstruction of highways. [HA 1980, section 130; amended CROW 2000, section 63].</li> <li>• To maintain highways maintainable at public expense. [HA, 1980 section 41].</li> <li>• To prosecute re: disturbance of surface where desirable in the public interest. [HA 1980, section 131A; inserted by Rights of Way Act 1990, (RWA 1990), section 1].</li> <li>• To enforce provision re: ploughing of footpaths or bridleways. [HA 1980, section 134; amended RWA 1990, section 1].</li> <li>• To remove snow or soil where it forms an obstruction. [HA 1980, section 150].</li> <li>• To erect and maintain signposts where any footpath, bridleway, byway open to all traffic, (BOAT), leaves a metalled road. [Countryside Act 1968, (CA 1968), section 27].</li> <li>• To erect such signposts if in the opinion of the Highway Authority this is required to assist persons unfamiliar with the locality to follow the way. [CA 1968, section 27].</li> <li>• To have regard to the needs of people with mobility problems when authorising stiles, etc. on footpaths. [CROW 2000, section 69].</li> </ul>
<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• To erect/maintain signposts along any footpath, bridleway, byway open to all traffic. [CA 1968, section 27].</li> <li>• To adopt, i.e. become responsible for maintenance of, highways by agreement. [HA 1980, section 38].</li> <li>• To improve highways. [HA 1980, section 62].</li> <li>• To widen highways. [HA 1980, section 72].</li> <li>• To construct a bridge to carry a public path. [HA 1980, section 91].</li> <li>• To reconstruct a bridge forming part of a public path. [HA 1980, section 92].</li> <li>• To drain highways. [HA 1980, section 100].</li> <li>• To remove unauthorised marks. [HA 1980, section 132].</li> <li>• To remove structures. [HA 1980, section 143].</li> <li>• To repair stiles, etc. [HA 1980, section 146].</li> <li>• To require cutting or felling of trees or hedges that are overhanging or a danger. [HA 1980, section 154; amended CROW 2000, section 65].</li> <li>• To provide safety barriers on a cycle track, [CTA 1984, section 4].</li> <li>• To make traffic regulation orders. [Road Traffic Regulation Act 1984, (RTRA 1984), section 1].</li> <li>• To make a temporary traffic regulation order during works. [RTRA 1984, section 14].</li> <li>• To enter land in connection with traffic signs. [RTRA 1984, section 71].</li> </ul>

## Enforcement and Prosecution

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• To assert and protect the rights of public to the use and enjoyment of any highway including a duty to prevent, as far as possible, the stopping up or obstruction of highways. [HA 1980, section 130; amended CROW 2000, section 63].</li> <li>• To prosecute re: disturbance of surface where desirable in the public interest. [HA 1980, section 131A, inserted by Rights of Way Act 1990, (RWA 1990), section 1].</li> <li>• To enforce provision re: ploughing of footpaths or bridleways. [HA 1980 section 134; amended RWA 1990, section 1].</li> </ul>
<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• To prosecute if expedient for the promotion and protection of the interests of the inhabitants of the area. [Local Government Act 1972, (LGA 1972), section 222].</li> <li>• To remove unauthorised marks. [HA 1980, section 132].</li> <li>• To remove structures. [HA 1980, section 143].</li> <li>• To repair stiles, etc. [HA 1980, section 146].</li> <li>• To require cutting or felling of trees or hedges that are overhanging or a danger. [HA 1980, section 154; amended CROW 2000, section 65].</li> <li>• To require removal of barbed wire. [HA 1980, section 164].</li> <li>• To make Traffic Regulation Orders. [RTRA 1984, section 1].</li> <li>• To make a temporary Traffic Regulation Order during works. [RTRA 1984, section 14].</li> <li>• To require removal of signs. [RTRA 1984, section 69].</li> <li>• To enter land in connection with traffic signs. [RTRA 1984, section 71].</li> </ul>

## The New Access Rights

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• Making of bylaws. [CROW 2000, section 17].</li> <li>• Appointing of wardens, [CROW 2000, section 18].</li> <li>• Erection and maintenance of notices indicating boundaries. [CROW 2000, section 19].</li> <li>• Provision of "means of access" to access land sites, including island sites. [CROW 2000, section 35].</li> <li>• Making access to island sites through legal process. [CROW 2000, sections 37,38 and 39].</li> <li>• Entering into agreements regarding the provision of means of access to land. [CROW 2000, section 33].</li> <li>• Undertaking necessary works if such an agreement cannot be reached. [CROW 2000, section 36].</li> </ul>

## Education and Awareness

<b>Duties</b>	<ul style="list-style-type: none"> <li>• Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the effect of section 47(2) and 48(8) of CROW 2000, (the blanket reclassification of RUPPs to restricted byways).</li> </ul>
<b>Powers</b>	<ul style="list-style-type: none"> <li>• An access authority may appoint wardens as respects access land in their area, for certain prescribed purposes, including to secure compliance with bylaws, to enforce any exclusion etc., and to advise and assist the public and persons interested in access land. [CROW 2000, section 18].</li> <li>• An access authority may erect and maintain notices indicating the boundaries of access land and excepted land, notices informing the public of any restrictions in place, and any other matters it considers appropriate. [CROW 2000, section 19 (1-4)].</li> </ul>

## Permissive Access in the Countryside

<b>Duties</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Powers</b>	<ul style="list-style-type: none"> <li>• The Public Health and Open Spaces Act 1906 (PHOS 1906) enabled local authorities to purchase any land as public open space.</li> <li>• Allows local authorities to purchase and provide country parks. [CA 1968 section 7].</li> <li>• Commons with no registered owner may be 'protected against unlawful interference' by any local authority, in effect acting as a substitute for a landowner. [Commons Registration Act (CRA 1965) section 9].</li> </ul>

## Land Manager Liaison

<b>Duties</b>	<ul style="list-style-type: none"> <li>• Highway authority shall contribute towards the cost incurred by owners in maintaining stiles and gates. [HA 1980, section 146(4)].</li> </ul>
<b>Powers</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>

## Partnership Working

<b>Duties</b>	<ul style="list-style-type: none"> <li>• To establish a Local Access Forum. [CROW 2000, section 94].</li> </ul>
<b>Powers</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>

## Community Safety

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• To provide footways by carriageways where necessary or desirable for the safety or accommodation of pedestrians. [HA 1980, section 66].</li> <li>• To provide adequate grass or other margins by a carriageway where necessary or desirable for the safety or accommodation of ridden horses. [HA 1980, section 71].</li> <li>• To have regard to the needs of people with mobility problems when authorising stiles etc. [CROW 2000, section 69].</li> </ul>
<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• To create footpaths and bridleways by agreement or order, with compensation. [HA 1980, section 25/26].</li> <li>• To improve highways. [HA 1980, section 62].</li> <li>• To provide on a footpath safety barriers for safeguarding persons using the highway. [HA80, section 66; amended CROW 2000, section 70].</li> <li>• To designate a footpath as a cycle track. [CTA 1984, section 3].</li> <li>• To provide safety barriers on a cycle track. [CTA 1984, section 4].</li> <li>• To serve notice on an owner of land to execute any necessary work or protection, etc. to obviate a danger alongside a street. (HA 1980, section 165).</li> <li>• To make a special diversion order or extinguishment order for the purposes of crime prevention and school security, [HA 1980, sections 118B/C and 119B/C as inserted by CROW 2000. Sch. 6].</li> <li>• To make a Rail Crossing Order to divert or extinguish a public footpath or bridleway crossing a railway. [HA 1980, section 118A &amp; 119A, as amended].</li> <li>• To make, vary or revoke gating orders, on grounds of anti-social behaviour as well as crime, to most public highways (not including trunk roads, special roads and classified roads) enabling authorities to restrict public access to these highways by gating them (at certain times of the day if applicable), without removing the underlying highway status. [HA 1980, sections 129A to 129G as inserted by the Clean Neighbourhoods and Environment Act 2005, section 2].</li> <li>• Every local authority has the power to do anything which they consider is likely to achieve any one or more of the following objects: (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area, and; (c) the promotion or improvement of the environmental well-being of their area, [Local Government Act 2000. (LGA 2000), section 2(1)].</li> <li>• Under the Health and Safety at Work Act 1974, (HSW 1974) both the authorities and landowners have a duty, as far as is reasonably practicable, that the public are not exposed to any risks to their health and safety.</li> </ul>

## Social Inclusion and Access For All

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• To have regard to the needs of people with mobility problems when authorising stiles, etc. [CROW 2000, section 69].</li> <li>• To ensure that no undue interference is caused to users by the construction of a new stile gate or other work erected across a public footpath for certain reasons. [HA 1980, section 147].</li> <li>• To have regard to the needs of disabled and blind persons in executing street works. [HA 1980, section 175A].</li> <li>• Disability Discrimination Act 1995, (DDA 1995); as amended by the Disability Discrimination Act 2005, (DDA 2005) covers all functions of public bodies, not just services, to have reasonable regard to the needs of disabled users.</li> <li>• It is unlawful for a public authority in carrying out any functions of the authority to do any act that constitutes discrimination. [Race Relations Act 1976, (RRA 1976), section 19B, as amended (1)].</li> <li>• Every body shall, in carrying out its functions, have due regard to the need to promote equality of opportunity and good relations between persons of different racial groups. [RRA 1976, section 71(1)(b)].</li> </ul>
<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• To improve highways. [HA 1980 section 62].</li> <li>• To provide on a footpath safety barriers for safeguarding persons using the highway. [HA 1980 section 66; amended CROW 2000, section 70].</li> <li>• To widen highways. [HA 1980 section 72].</li> <li>• Every local authority has the power to do anything which they consider is likely to achieve any one or more of the following objects: (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area, and; (c) the promotion or improvement of the environmental well-being of their area. [LGA 2000, section 2(1)].</li> </ul>

## Economic Development and Regeneration

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• Every local authority has the power to do anything which they consider is likely to achieve any one or more of the following objects: (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area, and; (c) the promotion or improvement of the environmental well-being of their area. [LGA 2000, section 2(1)].</li> </ul>

## Tyne and Wear Joint Local Access Forum – the legal framework

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• Appointing authority(s) to establish a Local Access Forum (LAF). [CROW 2000, section 94(1)].</li> <li>• It is the function of the LAF to advise the appointing authority(s) and the relevant authority, i.e. Natural England and the Forestry Commission, as to the improvement of public access to land in the area for the purposes of open-air recreation and the enjoyment of the area, and as to other matters as may be prescribed. [CROW 2000, section 94(4)].</li> <li>• Before giving a direction under section 24, 25 or 26, (to exclude or restrict access to access land), the relevant authority, (i.e. Natural England or Forestry Commission), shall consult the LAF. [CROW 2000, section 27(1)].</li> <li>• Access authority to consult the LAF before making bylaws regarding access land. [CROW 2000, section 17(3)].</li> <li>• Access authority to consult with LAF before appointing persons to act as wardens for access land. [CROW 2000, section 18 (2)].</li> <li>• Before preparing or reviewing a RoWIP the access authority shall consult the LAF for the area. [CROW 2000, section 61(e)].</li> </ul>
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<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• None</li> </ul>

## Development Control

<p><b>Duties</b></p>	<ul style="list-style-type: none"> <li>• To survey new paths agreed by a planning authority. [HA 1980, section 27].</li> </ul>
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<p><b>Powers</b></p>	<ul style="list-style-type: none"> <li>• To stop up or divert footpaths or bridleways if satisfied it is necessary to enable development to be carried out. [Town and Country Planning Act 1990 (TCPA 1990), section 257].</li> <li>• To stop up or divert footpaths or bridleways temporarily if satisfied it is necessary to enable minerals to be worked and can be restored. [TCPA 1990, section 261].</li> </ul>

## Biodiversity

<b>Duties</b>	<ul style="list-style-type: none"><li>• To take reasonable steps to further conservation and enhancement of the defining features of a Site of Special Scientific Interest (SSSI), where exercise of its functions is likely to affect those features. [CROW 2000, Sch. 9 Para. 28G, Natural Environment and Rural Communities Act 2006 (NERC 2006), Part 4].</li><li>• To notify Natural England before carrying out, or granting permission for the carrying out of operations likely to damage such features; and to comply with certain requirements if it then intends to act otherwise than in accordance with their wishes. [CROW 2000, Sch. 9 Para. 28H and 28I].</li><li>• Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. [NERC Act 2006, Part 3].</li></ul>
<b>Powers</b>	<ul style="list-style-type: none"><li>• To make a diversion order, on application by Natural England, to prevent damage to the defining features of an SSSI. [Highways Act 1980, section 119D and 119E, inserted by CROW 2000, Sch. 6 Para 11].</li><li>• Every local authority has the power to do anything which they consider is likely to achieve any one or more of the following objects: (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area, and; (c) the promotion or improvement of the environmental well-being of their area. [LGA 2000, section 2(1)].</li></ul>