

North Yorkshire Local Access Forum**17 January 2018****LAF Role and Remit****Report of the Secretary****1.0 Purpose of the Report**

- 1.1 To clarify the role and remit of the Local Access Forum.

2.0 Background

- 2.1 At the last meeting of the Local Access Forum in October 2017, questions were raised about the Forum's ability to consider issues relating to Unsurfaced Unclassified Roads (UURs). As a result the Secretary was asked to provide a report to this meeting clarifying the role and remit of the Forum, with particular regard to this area of uncertainty.

3.0 The legal position

- 3.1 Local Access Forums are established under Section 94 of the Countryside and Rights of Way Act 2000. The operation of Forums is governed by The Local Access Forums (England) Regulations 2007. Guidance on Local Access Forums in England was issued by the Secretary of State in 2007 (with modifications made in 2009 to reflect technical changes and new developments).

- 3.2 Section 94 (4) of the Countryside and Rights of Way Act 2000 states that:

"It is the function of a local access forum, as respects the area for which it is established, to advise –

- (a) The appointing authority,
- (b) Any body exercising functions under Part I in relation to land in that area,
- (c) If the appointing authority is a National Park authority, the local highway authority for any part of that area, and
- (d) Such other bodies as may be prescribed,

As to the improvement of public access to land in that area for the purposes of open-air recreation and the enjoyment of the area, and as to such other matters as may be prescribed."

- 3.3 The Local Access Forums (England) Regulations 2007 prescribed a further matter as to which advice is to be provided in Regulation 22:

“22 (1) In this regulation –

(a) Access to land by a person or persons will be for a “lawful” purpose on any occasion if he or they may access the land on that occasion without committing an offence or trespassing on the land; and

(b) ‘byway open to all traffic’ has the meaning given by section 66(1) of the Wildlife and Countryside Act 1981.

(2) Subject to paragraph (3), the following is prescribed as an additional matter in respect of which it is the function of local access forums to advise –

‘public access to land in the area for which a forum is established for any lawful purpose other than the purposes mentioned in section 94(4)’

(3) The function conferred by paragraph (2) is exercisable in relation to access by mechanically propelled vehicles only insofar as the access relates to byways open to all traffic.”

- 3.4 The Secretary of State’s Guidance on Local Access Forums in England helpfully explains this on pages 6-7:

“3.2.4 The advice which forums give to these section 94(4) bodies should fall within one (or more) of the following categories:

(a) Improvement of public access (whether on foot or by horse, cycle, canoe, mechanically propelled vehicle or any other lawful means) to land in the area for the purposes of **open-air recreation and the enjoyment of the area**;

(b) Public access to land in the area for **any other lawful purpose** (whether on foot, horse, cycle, canoe or by any means **other than by mechanically propelled vehicle**);

(c) Public access to land in the area by means of a **mechanically propelled vehicle** for **any other lawful purpose**, but only insofar as the access relates to byways open to all traffic (BOAT).

3.2.5 Sub-paragraph (a) above is concerned with recreational access. Sub-paragraphs (b) and (c) are concerned with other forms of lawful public access, and are intended to enable forums to advise on ‘functional’ or ‘utility’ access issues, which might include using land (or a right of way) to get to work, school, shops or local amenities. Well managed public rights of way will encourage people to make healthier and more sustainable transport choices, and thereby help to reduce congestion, pollution and road accidents. This means that forums should take account of the needs of both recreational **and** non-recreational

usage and potential. The Regulations are intended to make it easier for forums to do this.

3.5 Further helpful clarification is provided in Annex A on page 29 and 33 of the Guidance:

“ *Mechanically propelled vehicles*

3. Forums can give advice on improving *recreational* access to land (including public rights of way) by use of mechanically propelled vehicles. However, forums can only give advice on *functional* access by use of mechanically propelled vehicles insofar as the access relates to a byway open to all traffic (BOAT). The reason for this restriction is that without it the statutory function of forums would have expanded to include public use of the road network by mechanically propelled vehicles.”

“**Forms of access**

19. Forums should take account of the fact that public access to land can take place in different ways and for different purposes. Recreational access is important not just for walkers (ranging from ‘ramblers’ to ‘amblers’) but also for anglers, canoeists, cavers, climbers, cyclists, equestrians, motorised vehicle users, surfers, paragliding enthusiasts and many other groups.”

4.0 Roles and Responsibilities of Forum members

4.1 The Guidance also contains a section on the roles and responsibilities of Forum members (section 5.1, page 18):

“5.1.1 The role of forum members is to attend forum meetings and to contribute constructively to the advisory role of the forum by:-

- Sharing (and developing) experience, knowledge, skills and opinions;
- Valuing the contribution of other forum members, respecting minority views, engaging in constructive debate and seeking consensus where possible;
- Adopting an inclusive approach to improvement of access, which reflects local circumstances and the needs of all sections of society;
- Taking account of the needs of integrated land management, and of environmental, social, economic and educational interests;
- Engaging with the interests which they represent (and others) to explain and promote the work of the forum;
- Operating within the requirements of the law (e.g. section 94 of the CROW Act and the Regulations) and locally-set conditions of appointment or Standing Orders; and

- Having regard to Guidance issued by the Secretary of State.”
- 4.2 Copies of the LAF Regulations and the Secretary of State’s Guidance were provided to all members as part of the induction pack distributed in December 2015. Further copies are available from the Secretary on request. Links to the relevant legislation are below:

Countryside and Rights of Way Act 2000 Section 94

<https://www.legislation.gov.uk/ukpga/2000/37/part/V/crossheading/local-access-forums>

The Local Access Forums (England) Regulations 2007

<https://www.legislation.gov.uk/uksi/2007/268/contents>

5.0 Recommendation

- 5.1 That the Local Access Forum notes the report.

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Background Documents: None