

ISSUE	SUPPORTING EVIDENCE	COMMENTS
<p>s.13 RTA88 defines “public ways” as highways. Is a public right of way a highway?</p>	<p>Yes.</p> <ul style="list-style-type: none"> <li>• This is courtesy of s.329 Highways Act 1980 and also a ‘road’ as stated in 192 Road Traffic Act 1988. Consequently all of them will also be streets within the meaning of the New Roads and Streetworks Act 1991.</li> <li>• s.13 Road Traffic Act 1988 (where the 1969 regulations originate from) are for “public ways” and defined as highways in England and Wales.</li> <li>• <i>Lang v Hindhaugh 1986; Suffolk County Council v Mason 1979, Barrett v DPP 2009</i> stipulate that a footpath is a highway and a road.</li> <li>• <i>Clark and Others v. Kato, Smith and General Accident Fire &amp; Life Assurance Corporation Plc (1998)</i> was a House of Lords decision that footpaths and bridleways are ‘roads’ under s.192 Road Traffic Act 1988.</li> <li>• Institute of Public rights of Way (IPRoW) confirm that footpaths and bridleways are highways and roads.</li> <li>• Schedule 2, 14(ix) Motor Vehicle (Competition and Trial) Regulations 1969 (as amended) states “...lengths of any public highway which are footpaths and bridleways. This has been amended to include restricted byways under the Restricted Byway (Consequential Amendment) Order 2006.</li> <li>• As such the Motor Vehicle (Competition and Trials) Regulations 1969 (as amended) are the relevant regulation for motor events on public rights of way, not the Motor Vehicle (Off Road Event) Regulations 1995 (as amended).</li> </ul>	

<p>Is a special stage event a trial of speed?</p>	<ul style="list-style-type: none"> <li>• It is Council’s legal opinion that a “trial of average speed” is still a trial of speed.</li> <li>• MSA regulations state special stages must have “exclusive access” which they cannot with open public rights of way (public highways) coinciding with the event.</li> <li>• MSA paper to the Rights of Way Review Committee stating that new legislation will allow special stages on bitumen roads.</li> <li>• Dept Culture Media and Sport (DCMS) consultation on “closed road” legislation included special stages in Executive Summary and it is therefore the opinion of the DCMS that special stages are trials of speed.</li> <li>• A race or a trial of speed is an offence under s.12 Road Traffic Act 1988.</li> <li>• Providing the competitive speed element of any event does not involve any public highway (incl. public rights of way), the Council has no issue with special stage rallies.</li> </ul>	
<p>Should organisers approach the Council directly?</p>	<p>No.</p> <ul style="list-style-type: none"> <li>• Under Schedule 2(14)(viii)(ix) 1969 Regulations (as amended), organisers must mark with an “X” where public highways leaves or re-joins the route, but more importantly organisers mark up with “F” and “B” lengths of footpaths and bridleways forming part of the route. This should really now include “RB” and should be amended as such.</li> <li>• Currently organisers expect that the Council will mark PROW on their maps for them, which is contrary to the Regulations.</li> <li>• The Council has never seen a route marked up with</li> </ul>	

	<p>“F” and “B” for an event.</p> <ul style="list-style-type: none"> <li>• Under Provision 10(2) 1969 Regulations (as amended) the MSA shall consult with the highway authority for “public paths” as already defined as footpaths and bridleways.</li> </ul>	
<p>The MSA have expressed that a special stage event is a “trial of average speed”.</p>	<p>The closest that can be found is contained in Provision 4 of the 1969 Regulations (as amended):-</p> <ul style="list-style-type: none"> <li>• “overall average speed on the public highway” in relation to a vehicle driven by a competitor in an event means the average speed calculated by reference to the interval between the time when the competitor commenced to drive that vehicle on the public highway in the event and the time when he finished so to drive and the total distance travelled on the public highway, but there shall be excluded from such interval any period during which the vehicle driven by the competitor was off the public highway or at a rest halt between such times;</li> <li>• This is acceptable as of course footpaths, bridleways and restricted byways are indeed highways. However, my interpretation is that since the MSA define a special stage as a trial of average speed; it must be acceptable to the MSA for a competitor to not be able to achieve average speed of more than 65 mph on a highway. Is this assertion correct? This is contained in current MSA regulations within para 28.2.2.</li> </ul>	
<p>Does s.13A Road Traffic Act 1988</p>	<p>Yes.</p> <ul style="list-style-type: none"> <li>• They are highways/roads/public ways and in law</li> </ul>	

<p>apply on footpaths, bridleways etc</p>	<p>have the same status as any road.</p> <ul style="list-style-type: none"> <li>• s.1-3 Road Traffic Act 1988 (death by dangerous driving etc) is not exempt for an event coinciding with a footpath, bridleway or restricted byway as part of the s.33 Road Traffic Act 1988 as these highways are roads.</li> <li>• A byway of course, although is a public right of way is not part of the s.33 process as it already has motor vehicular rights.</li> <li>• S.33 RTA88 is only there to provide a defence to a s.45RTA88 prosecution as driving a motor vehicles on a FP, BW or RB would otherwise be a criminal offence.</li> </ul>	
<p>Can an Enduro for example, such as the Welsh 2 Day do laps?</p>	<p>No.</p> <p>This does happen but this is prohibited under Schedule 3, Condition 6 1969 Regulations (as amended) as traversing a highway more than once. There are modifying powers, but they are limited. There is a specified event called the Welsh 3 day trial, but I am assuming it is not the same event.</p>	
<p>How do the MSA ensure that your own Regulations are complied with?</p>	<p>1. Travelling at speeds of more than an “average speed” of 20mph on highways (or 30mph between certain times) (which includes public rights of way) on special stages is contrary to MSA regulations. On a special stage event on unsealed surfaces (non-bitumen surfaces), no competitor should be able to achieve an average speed of more than 65mph for any rally, or 70 mph for international events. All public rights of way are highways as stipulated by s.329 Highways Act 1980 (para 2.3.2 MSA regulations 2014 and 28.2.2 MSA</p>	

regulations 2014).

2. It should be noted that the 1969 Regulations that the maximum average speed allowed on a public highway is 30mph, and this should be applied to public rights of way, not the average speed of 65mph that the MSA regulations allow competitors in special stages to achieve.

3. Powys County Council on average authorises under s.33RTA 12 special stage events every year, including the Wales Rally GB.

2. The very matter of a trial of average speed is still a trial of speed and contrary to s.12 RTA 1988. Any reckless or dangerous driving is not exempt from the law on any road, as stipulated by s.13A RTA 1988. This also includes public rights of way, as a public right of way is a highway (s.329 Highways Act 1980), and all highways are jointly considered as roads for the purposes of the Road Traffic Act (s.192 RTA 1988). Blue Tape used by motorcycle events to slow vehicles for example, would be acceptable and an example of controlling speeds and driving behaviour on the highway.

3. It is the Council's view that it is not acceptable for 'Warning notice A' to be erected where public rights of way interact with a motor vehicle event. This has happened on at least one known occasion. The act of driving recklessly and dangerously where interacting with a public highway is unlawful, and would negate any insurance or other defence should an accident take place involving a user of a public right of way. The MSA

	<p>insurance excludes road traffic liabilities, including s.13 RTA88.</p> <p>This type of notice is considered no less inappropriate that for a farmer to erect a 'Dangerous Bull in field' notice on land cross by a public footpath.</p>	
--	--	--