



The Motoring Organisations' Land Access & Recreation Association

Motorsport Events on Public Rights of Way Good Practice in Statutory Authorisation

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This paper looks at the statutory framework through which motor sport competitions and trials (other than races or trials of speed) on public rights of way are authorised, and particularly the balance between protecting the public and environment while not imposing unreasonable conditions on event organisers.

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For an explanation of the acronyms and terminology used in this document, <https://laragborg.wordpress.com/glossary/>

1. Background

- 1.1. Every year hundreds of motor sport competitions on 2, 3 or 4 wheels use the public highway: roads (in the sense of vehicular highways); and public rights of way (footpaths, bridleways and restricted byways). These events must by law be properly authorised, and the authorisations can and often do impose conditions on the event organisers. These events pass off with very few recorded complaints.
- 1.2. Parliament has set down a two-track system for managing statutory authorisations. Events on 'roads' (including unsealed unclassified roads and byways open to all traffic) are regulated by the Royal Automobile Club Motor Sport Association (now Motorsport UK). Events on rights of way are regulated by the local authority for the area, which in practice is the highway authority or its agent. The two processes are largely independent of each other.
- 1.3. Road competitions are regulated under s.13 of the Road Traffic Act 1988, and the Regulations authorised under that provision. S.13 dates back to the early 1960s, when public disquiet about night rallies and treasure hunts resulted in a statutory scheme of regulation. The first version in 1965 was flawed, and the system did not start properly until the 1969 Regulations were commenced.
- 1.4. Motor competitions and trials on public rights of way are regulated under s.33 of the Road Traffic Act 1988. This section also dates back to the early 1960s and its introduction seems to have been a consequence of the production through the 1950s of the first 'definitive map and statement of public rights of way' for each area in England and Wales. Tracks that motor trials had used for years were being recorded as public paths for the first time, and on the face of it, the motor use was unlawful (per s.14(1) Road Traffic Act 1930). There were complaints from the public, and parliament decided that regulation was necessary. There are no Regulations prescribing the use of s.33 powers.
- 1.5. The system for road competition regulation by Motorsport UK is generally known as '*route authorisation*'. The system for trials on rights of way is generally known as '*s.33 authorisation*'. Both processes have run efficiently now for more than fifty years, with no changes other than detail updates in the 1969 Regulations.
- 1.6. No event can take place without the written consent of both the owner and occupier of the land, and the local authority's role in this tripartite process is to provide for reasonable and appropriate safety and environmental conditions. S.33 is not intended as a means to achieve a blanket 'no motor sport' policy, nor should conditions be made so onerous or expensive that the burden on event organisers operates as a *de facto* ban.

2. Governance of motor sport events

- 2.1. Motor sport has a strong ethos of self-governance and control of events. Motorcycle sport falls under the national governing body the Auto-Cycle Union (ACU), and there is also the large and national Amateur Motor Cycle Association (AMCA). Car motorsport is primarily under the auspices of the national governing body Motorsport UK, which also manages all s. 13 authorisations under the provisions of the 1969 Regulations.

- 2.2. Each of these organisations publishes an annual Yearbook or Handbook, or Rules, which sets out requirements and advice for risk-assessment, marshalling, warning signs, and safety protocols. These provisions have been evolved over many years, and are appropriate to both public safety and the level of on-the-ground regulation appropriate for each type of event and its location.
- 2.3. The ACU, AMCA and Motorsport UK regulate their events by an internal system of permits. An event organiser applies for a permit setting out the type of event, date, location, number of entrants, etc, and the issue of a permit provides public liability and third party insurance to a high amount, and imposes a requirement that the Yearbook / Handbook rules are adhered to.

3. Types of motor sport events

- 3.1. Motorsport competitions and trials cover a range of disciplines, and the degree of control of the interface between vehicles and the public varies accordingly. The ACU Handbook and Motorsport UK Yearbook each set out a detailed explanation of each type of event and these include (but are not limited to):
- 3.2. *Time Card Enduro* [ACU Handbook 2019, page 164] *Events where riders start separately (or in groups up to 4), the main part of the event is to ride the course, which is predominately off road, within time allowances which are achievable and timed to the nearest Minute. The event includes Special Tests where riders start individually and are timed to fractions of a second. The lap length is a minimum of 10 miles with Special tests up to 15% of the length of the lap. Where this paper elsewhere uses the term 'enduro' it means 'time card enduro'.*
- 3.3. *Rally* [Motorsport UK Yearbook 2019, page 60]. *A Competition that may utilise the Public Highway and where there is an imposed average speed for Competitors, but which does not meet the requirements of a Classic Reliability Trial, Navigational Scatter event, Treasure Hunt or Road Safety Rally. The greatest speed must never form a factor for the classification. All motoring events utilising the Public Highway in England, Scotland or Wales are subject to Motor Vehicles (Competitions and Trials) Regulations.*
- 3.4. *Trial* [ACU Handbook 2019, page 196] *is a test of riding skill and balance over a variety of observed obstacles with riders incurring penalties for footing or for failing to fulfil other conditions. [Motorsport UK Yearbook 2019, page 64] Trial. A number of tests on private ground with the object of bringing the car to an involuntary stop. The Motorsport UK Yearbook also lists and defines various trials sub-disciplines.*

4. The statutory framework for event authorisation

- 4.1. RTA1988 differentiates between motor racing and other events. Non-racing events come under s.13 for 'roads', and s.33 for public rights of way. The statutory provisions are:
- 4.2. RTA1988 s.12: *Motor racing on public ways.*

A person who promotes or takes part in a race or trial of speed between motor vehicles on a public way is guilty of an offence.

In this section "public way" means, in England and Wales, a highway and, in Scotland, a public road.

4.3. **RTA1988 s.12A: Motor race orders: England and Wales: overview**

Sections 12A to 12F allow highway authorities to make orders relating to the holding of a race or trial of speed between motor vehicles on a highway in England and Wales (“motor race orders”).

4.4. **RTA1988 S.13 Regulation of motoring events on public ways.**

(1) A person who promotes or takes part in a competition or trial (other than a race or trial of speed) involving the use of motor vehicles on a public way is guilty of an offence unless the competition or trial—

(a) is authorised, and

(b) is conducted in accordance with any conditions imposed, by or under regulations under this section.

(2) The Secretary of State may by regulations authorise, or provide for authorising, the holding of competitions or trials (other than races or trials of speed) involving the use of motor vehicles on public ways ...

4.5. **RTA1988 S.33 Control of use of footpaths, bridleways and restricted byways for motor vehicle trials.**

(1) A person must not promote or take part in a trial of any description between motor vehicles on a footpath, bridleway or restricted byway unless the holding of the trial has been authorised under this section by the local authority.

(2) A local authority shall not give an authorisation under this section unless satisfied that consent in writing to the use of any length of footpath, bridleway or restricted byway for the purposes of the trial has been given by the owner and by the occupier of the land over which that length of footpath, bridleway or restricted byway runs, and any such authorisation may be given subject to compliance with such conditions as the authority think fit.

4.6. **1969 Regulations. Statutory Instrument 1969 No. 414 ROAD TRAFFIC The Motor Vehicles (Competition and Trials) Regulations 1969.**

These Regulations set out a process and timetable for making applications for events held under s.13, and the granting of authorisations, and do not apply directly to s.33. The Regulations also specify ‘certain events’, which are deemed by their character to be authorised (‘Regulation 5 events’), and a list of long-standing events, which are exempted from applying each time (‘Regulation 4 events’).

The wording of the 1969 Regulations means that where an event needs s.33 authorisation, then it also needs Motorsport UK s.13 route authorisation, even if no ‘roads’ are used by the event. Motorsport UK route authorisation is carried out to a process set out by the Regulations. There are no Regulations for the s.33 process. A local authority’s timetable for application for and issue of s.33 authorisation must take account of the statutory route authorisation timetable.

5. Appropriate conditions for s.33 authorisation

5.1. Conditions for rallies and enduros

Rallies and enduros are not races but do generally involve higher speeds than trials. In general, similar conditions apply to all three types of event, but additional warning notices, additional pre-event liaison and publicity, and additional site-specific marshalling requirements, may be appropriate for rallies and enduros.

Rallies and enduros may warrant the use of road closure orders in some circumstances, but road closure orders are rarely appropriate for trials. This is considered as a separate issue below.

5.2. General Issues to consider

- Type of path affected (footpath, or bridleway or restricted byway)
- Character of the location (e.g. any conservation designations)
- Location and general level of public use (e.g. remoteness)
- Time of year and time of day
- Compliance with standing Yearbook event rules

5.3. Specific issues to consider

- Just crossing a path, or running along, and how far?
- Advance notice to other path users
- Proper authorisation and briefing of officials
- Ground surface resilience and post-event reinstatement
- Litter and tidying up, including removing signs and tape
- Basic risk assessment and adequate indemnity insurance
- Road closures. Are they appropriate?

5.4. Road closures for s.33 events

Road Traffic Regulation Act 1984 *S.14: Temporary prohibition or restriction on roads.*

(1) If the traffic authority for a road are satisfied that traffic on the road should be restricted or prohibited— (b) because of the likelihood of danger to the public, or of serious damage to the road, which is not attributable to such works; or ...

the authority may by order restrict or prohibit temporarily the use of that road, or of any part of it, by vehicles, or vehicles of any class, or by pedestrians, to such extent and subject to such conditions or exceptions as they may consider necessary.

Trials events, with no speed element, seldom require a path or road closure order for public safety. Requiring a closure order simply for a local motorcycle club trial to cross a remote footpath is completely disproportionate, and few clubs can afford the charges levied.

Some local authorities have, for many years, required and made temporary traffic regulation orders (TTRO) for rallies or enduros at some locations, but not others. This is done on a location-specific public safety basis, and for events like rallies, which would anyway require more marshalling than trials, these closures benefit the event organisers. There is a general and accepted view that bridleways and restricted byways are more likely to need a traffic order closure than do footpaths.

Even so, a rally or enduro just crossing, or travelling along a bridleway or restricted byway does not need a closure order where signage and marshalling will suffice. Traffic order closures are expensive to make, and the cost of this is prohibitive for most motor sport clubs.

A local authority exercising its s.33 authorisation function cannot lawfully impose conditions outwith the scope of s.33, which only empowers an authority to deal with footpaths, bridleways and restricted byways. Motorsport UK has the statutory function to deal with roads and BOATs in the context of authorising motor sport events. A local authority requiring the temporary closure of a road or BOAT as a condition of authorisation under s.33 would be acting *ultra vires*.

6. Summary of good practice

- 6.1. The fundamental tenet for a local authority in imposing conditions on a s.33 authorisation is to go for the least administrative and cost burden on the applicant, consistent with the nature of the event, the safety of the public, and protection of the environment.
- 6.2. The rules of ACU, AMCA and Motorsport UK as regards marshalling and signage have been developed over many years. These satisfy the stringent requirements of these organisations' insurers. A s.33 condition requiring adherence to these rules would provide all of the reassurance that a local authority needs in most cases. Additional conditions (such as a road closure for some rally venues) can be added where appropriate.
- 6.3. Many events revisit the same, or similar, course on an annual basis, and little if anything as regards appropriate conditions changes between events. Local authorities should use 'year-on-year' repeat authorisations based on previous paperwork to save time and cost for all parties.
- 6.4. Closure orders should only be required as a condition on authorisation where necessary on a case-by-case, criteria-based assessment, and not on a general policy-driven basis.