



Llywodraeth Cymru
Welsh Government

Guidance

Guidance for Local Authorities on Rights of Way Improvement Plans

July 2016

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Rights of Way Improvement Plans
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GLOSSARY OF TERMS

AONB	Area of Outstanding Natural Beauty
Authorised structure	A structure, such as a gate or stile, that is not recorded in the definitive statement but that has been authorised legally; usually under section 147 of the Highways Act 1980
CROW or CROW Act	The Countryside and Rights of Way Act 2000
Definitive Map and Statement	The legal record of public rights of way. A public document held by the Local Highway Authority
DMMO	Definitive Map Modification Order – A legal order made to amend the definitive map and statement based on evidence. They may be used to add, delete, or amend rights of way where evidence supports it.
GIS	Geographical Information System; a digital mapping tool.
LAF	Local Access Forum; the Countryside and Rights of Way Act 2000 placed a duty on Local Highway Authorities and National Park Authorities to establish a LAF to cover their area. They must consist of members who represent users of local access land and local rights of way, owners and occupiers of access land and land with rights of way, and other interests especially relevant to the area.
LDP	Local Development Plan; each Local Planning Authority in Wales must produce a Local Development Plan (LDP) for its area. LDPs include planning policies and site allocations which, when adopted, are used to determine planning applications.
Limitation	A structure, such as a gate or stile, that is recorded in the definitive statement
Local Highway Authority	The body responsible for the maintenance of the highway network in an area. Usually the County Council or Unitary Authority.
NPA	National Park Authority
NRW	Natural Resources Wales
PPO	Public Path Order - A legal order made to amend the definitive map and statement based on preference. Public Path Orders may be used to create, extinguish or divert a public right of way.
Protected characteristic	Expression used in the Equality Act 2010 to refer to characteristics that might be triggers for direct or indirect discrimination. See paragraph 2.10 for further information.
ROW or PROW	Public Right of Way
ROWIP	Rights of Way Improvement Plan
SMART	Specific, Measurable, Agreed, Realistic, Time based
SoNaRR	State of Natural Resources Report
UCR	Unclassified County Road - Term used to describe many unsurfaced minor roads or 'green lanes'
WORS	Welsh Outdoor Recreation Survey

1. INTRODUCTION

- 1.1. This document is issued to support the first decennial review of Rights of Way Improvement Plans [“ROWIPs”] in Wales. It is guidance to which authorities must have regard under s 61(4) of the Countryside & Rights of Way Act 2000 [“the CRoW Act”] and replaces the previous guidance issued in 2002.
- 1.2. The Welsh Government expects local highway authorities to use ROWIPs to plan strategically for the management, development, integration and promotion of their local rights of way network.
- 1.3. Evaluations of the development, content and delivery of the first ROWIPs have highlighted their strengths and the benefits that have resulted. They have also identified potential improvements and some areas that were not consistently addressed as intended. This guidance has been guided by that evidence and by consultation with stakeholders. It is hoped it will help authorities build on the positive foundation which the first ROWIPs have provided.
- 1.4. Twenty three ROWIPs were published in Wales between 2007 and 2008 and whilst some authorities have revisited their plans since publication, no authority has carried out a review under s60 (3) of the CRoW Act. As such, all ROWIPs in Wales are expected to undergo a statutory review.
- 1.5. The public sector in Wales has seen significant change since the first plans were produced; in particular, the legislative context following the Government of Wales Act 2006 and subsequent Acts in Wales and the current economic climate and associated budget pressures.
- 1.6. There is now even greater need to have a clear, evidence-based, and prioritised plan to target limited resources whilst giving the greatest public benefit by delivering across multiple policy areas and integrating with other services.
- 1.7. The importance of recreational access for health and wellbeing is widely acknowledged. The annual report of the Chief Medical Officer for Wales¹ draws clear associations between activity and health stating:

¹ <http://gov.wales/docs/dhss/report/140929cmoreporten.pdf>

“It has been estimated that the cost of physical inactivity to Wales is around £650 million per year. Regular physical activity such as walking and cycling has significant benefits for health including lowering the risk of cardiovascular diseases, diabetes, colon and breast cancer, and depression.”

- 1.8. Evidence from the Welsh Outdoor Recreation Survey suggests that, when compared with the other outdoor activities, the levels of intensity associated with many of the pursuits and landscape types typically accessed by the rights of way network might be particularly beneficial to health: *“Looking at all outdoor visits in 2014, those where running, off-road cycling/mountain biking and/ or road cycling were the main activities undertaken were more likely than the average to have caused those taking the visit to state that they had been out of breath and/or sweating (96%, 94% and 88% respectively). This was also the case for visits where the main destination visited was hills, mountains or moorland (73%). Health benefits were less likely to be reported for visits where sightseeing/ visiting attractions (33%), picnicking (48%) or visiting children’s playgrounds/ other outdoor areas (50%) were the main activities and for visits where other local open spaces (46%) or villages (46%) were the main destination.”*²
- 1.9. The economic opportunities provided by access to the countryside should not be underestimated, for example, it has been estimated that the Wales Coast Path alone accounted for an additional £33.2M of direct spending in Wales in 2011/12 and a further £32.31M in 2012/13, and has led to the creation of 28.2 FTE jobs³.
- 1.10. ROWIPs are the prime means by which local highway authorities should identify, prioritise, and plan for improvements to local rights of way and set out how they will approach their day to day management—and in doing so make better provision for the public to enjoy a range of outdoor recreational activities. Authorities may also extend the scope of their plans to include Access Land and other access provision that is important in their area.

² <https://naturalresources.wales/media/4757/wales-outdoor-recreation-survey-2014-final-report.pdf>

³ <http://www.walescoastpath.gov.uk/media/1153/wales-coast-path-end-of-project-report-2007-2013.pdf>

2. THE CONTEXT AND SCOPE OF RIGHTS OF WAY IMPROVEMENT PLANS

The statutory framework

- 2.1. Under section 60(1) of the CRoW Act, each local highway authority was required to publish a ROWIP for all of their area within 5 years of commencement⁴. Authorities were required, under subsection (2), to assess the extent to which local rights of way met the present and likely future needs of the public; the opportunities provided by local rights of way (and in particular by footpaths, cycle tracks, bridleways and restricted byways) for exercise and other forms of open-air recreation and the enjoyment of their area; and the accessibility of local rights of way to blind or partially sighted persons and others with mobility problems.
- 2.2. Section 60(5) defines 'local rights of way' as the public footpaths, cycle tracks, bridleways and restricted byways, together with the ways shown in definitive maps and statements as restricted byways and byways open to all traffic within each highway authority's area⁵. Cycle tracks with or without a right of way on foot other than those in or by the side of a highway consisting of or comprising a made-up carriageway come within the scope of ROWIPs.
- 2.3. Section 60(1)(b) requires that any ROWIP includes a statement of the action the local highway authority proposes to take for the management of local rights of way, and for securing an improved network of local rights of way; with particular regard to the matters included in the assessment.
- 2.4. Under section 60(3) and (4) of the CRoW Act local highway authorities are required to make a new assessment, review their ROWIP and decide whether or not to amend it not more than ten years after publishing their previous plan. Although not a statutory requirement it is anticipated that most amended plans will also be published within the 10 year timeframe. Those that are not finalised within the 10 years

⁴ Commenced in Wales on 1st November 2002 <http://www.legislation.gov.uk/wsi/2002/2615/made/data.pdf>

⁵ The complex wording of the definition is believed to reflect the uncertainties at the time the CRoW Act was drafted arising from the automatic reclassification of remaining Roads Used as Public Paths as Restricted Byways subject to the determination of any outstanding modification or reclassification orders.

will be expected to be published not more than 12 months from the decision to amend. In Wales this means that reviewed plans will be expected to be published between 2017 and 2019; although authorities are free to produce them earlier if they are able. On completing the new assessment the law allows authorities to decide that their plan does not need to be updated, in which case they are required to publish a report of their decision and the reasons behind it. However, given the significant changes to legislation and the availability of resources it is anticipated that all authorities in Wales will require a revised plan.

Arrangements for National Park Authorities

- 2.5. Under section 61(5), where parts of an authority's area are within a National Park, the local highway authority may make arrangements to carry out their ROWIP functions jointly with that National Park authority. The provision does not allow for the park authority to produce its own independent ROWIP but rather to work jointly in developing the highway authority's plan. Where there is a strong case for a dedicated plan for a National Park, such as where it is comprised of many different highway authorities, any such plan will technically be an amalgamation of the relevant parts of each of the constituent highway authority plans. Those highway authorities must take an active role in its development beyond simply being consultees. All the affected plans will need to include a clear statement regarding the relationship between their plans. The duty to carry out reviews will remain with the highway authority even where a dedicated plan has been produced for a National Park; therefore, fresh arrangements will need to be made with the National Park authority at each review.
- 2.6. Where applicable, references to 'local highway authorities' in this guidance should be interpreted to include National Park authorities who have arranged to carry out these functions jointly under this section.

Other statutory duties and responsibilities

- 2.7. Local authorities, and other public bodies, are under a number of other duties and responsibilities which are relevant to ROWIPs. Some of these duties existed at the time of the first ROWIPs, but others have been introduced more recently and will need to be incorporated into new plans.
- 2.8. Part 2 of the Well-being of Future Generations (Wales) Act 2015 ["the WFG Act"] establishes seven well-being goals and places a duty on each

public body in Wales to carry out sustainable development. Authorities are required to set and publish objectives [“well-being objectives”] designed to maximise its contribution to meeting those goals and to take reasonable steps in the exercising its functions to meet those objectives. ROWIPs will present opportunities to contribute towards the goals, which are further defined in section 4 of the WFG Act:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

- 2.9. The Active Travel (Wales) Act 2013 [“the 2013 Act”] places a duty on Local Authorities to secure new Active Travel routes and related facilities, to secure improvements to existing routes and facilities in every year, and to promote active travel journeys⁶. Section 9 of the 2013 Act requires local authorities to take reasonable steps, as far as it is practical, to enhance the provision for walkers and cyclists in the exercise of specified functions including those relating to creation, improvement, maintenance and enforcement of highways (including public rights of way) under parts 3, 4, 5, 9, and 12 of the Highways Act 1980.
- 2.10. The Equality Act 2010 [“the Equality Act”] drew together a range of discrimination legislation and largely replaced the Disability Discrimination Act 1995. The Equality Act specifies a number of ‘*protected characteristics*’: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. The Equality Act makes it unlawful to directly or indirectly discriminate against someone on the grounds of those characteristics. Section 149 also introduces a ‘public sector equality duty’ requiring that, in the exercise of its functions, authorities to have due regard to the need to—eliminate discrimination, harassment, victimisation, and any other conduct that is

⁶ <http://gov.wales/topics/transport/walking-cycling/activetravelact/implementation/?lang=en>

prohibited by or under the Equality Act; advance equality of opportunity between persons who share a relevant *protected characteristic* and persons who do not share it; and foster good relations between persons who share a relevant *protected characteristic* and persons who do not share it. Authorities should ensure they are familiar with the requirements of the Equality Act and have due regard to the wealth of guidance available. The principles of the Equality Act should be fully incorporated into ROWIPs, and must be considered at every stage of the process.

- 2.11. Section 3 of The Local Government Act 1999 requires local authorities to make arrangements to secure continuous improvement in the way in which their functions are exercised, having regard to a combination of economy, efficiency and effectiveness. In doing so, authorities must consult, among others, representatives of persons who use or are likely to use services provided by the authority. The requirement will apply to the preparation and implementation of ROWIPs.

Links to other plans

- 2.12. Local authorities may have in place, or be in the process of developing, other plans and strategies for related areas of work, such as planning, communities, healthy living, education, leisure, countryside, recreation, sport, tourism, landscape, and transport. These related plans and strategies should help provide the context and overarching aims for ROWIPs which should, in turn, influence these areas of local authorities' responsibilities.
- 2.13. In particular, local authorities should make every effort to integrate their ROWIP with Active Travel mapping, and any Well-being Plans, LDPs, the local transport plan for their area, and Area Statements developed under the Environment (Wales) Act 2016. Authorities should also ensure that the implementation of these plans are linked as far as possible.
- 2.14. Integration with other plans and agendas may provide the opportunity to tap into new sources of funding or to develop constructive partnerships for delivering ROWIP outputs. Further guidance on integration with other plans is provided in chapter 4.

Funding & Resources

- 2.15. The requirement to prepare and review ROWIPs was a new duty under the 2000 Act and since 2001 Welsh Government have provided funding

to local authorities in recognition of this through the annual settlement. If there are joint working arrangements between a NPA and a local highway authority for the production and implementation of the ROWIP, there needs to be liaison between the parties to agree any funding arrangements.

- 2.16. Whilst Welsh Government has provided additional funding to support the implementation of the first round of ROWIPs it should not be assumed that a similar fund will be available in the future.

3. DEVELOPING THE NEW RIGHTS OF WAY IMPROVEMENT PLAN

- 3.1. It is recognised that authorities may not have the same resources available for the review of ROWIPs that they had for the development of the initial plans. Authorities will therefore have to reasonably interpret the requirements according to their own circumstances. Authorities must meet the statutory requirements, should address the supplementary matters, and should ensure that their plans are based on good evidence. However, it will be for each authority to decide how they will meet these requirements.
- 3.2. A ROWIP must include two statutory elements:
- An **Assessment** of local rights of way; and
 - A **Statement of Action** for the management and improvement of local rights of way.
- 3.3. Feedback from authorities highlighted a need to make ROWIPs more flexible and responsive to changing circumstances. So, in addition to the statutory elements authorities are asked to include '**Delivery Plans**', as an annex to the main plan. These will provide the opportunity to regularly review progress and any changes in circumstances and, in response, set out how the objectives in the Statement of Action will be implemented over a specified length of time.
- 3.4. Delivery Plans can be renewed periodically without the need to review the entire ROWIP but will still form part of the plan from the perspective of the public; meaning they only have to consider a single document to understand how the authority manages its network and why. Delivery Plans should consist of:
- An evaluation of the degree to which the previous Delivery Plan was achieved⁷
 - A review of key policies for Rights of Way work
 - SMART Action plans and detailed work plans

⁷ Not required for the first Delivery Plan in a ROWIP

Detailed guidance on the development and renewal of Delivery Plans is included in chapter 6.

Joint ROWIPs

- 3.5. Whilst the CRoW Act made specific provision for authorities to work jointly with District Councils (in England) and National Park Authorities it was generally anticipated that each local highway authority would produce an individual plan covering its area.
- 3.6. Nothing in the legislation, however, prohibits more than one neighbouring highway authority working together to develop a joint ROWIP. Whilst this approach has not been followed in Wales some authorities in England did successfully produce a joint ROWIP in the first round⁸.
- 3.7. Some Welsh authorities may wish to consider joining with one or more neighbouring authority to produce a shared ROWIP. Whilst there may be challenges associated with this approach there are also potential benefits; both in terms of resourcing and integration. The recommended Delivery Plan approach will make joint ROWIPs easier to manage with the ability to carry out a combined assessment, and set strategic long-term goals jointly in the Statement of Action, but allowing more detailed policy and work planning to be left to Delivery Plans, which may be produced and revised individually according to each authority's resources and requirements.

The role of Local Access Forums

- 3.8. Local Access Forums are one of the bodies prescribed in section 61(1) who must be consulted prior to the review of a ROWIP and there is an expectation that they will be involved throughout the process and kept informed of progress with the development and subsequent implementation of the plans.
- 3.9. The involvement of the Local Access Forum should cover:
 - Assisting with dialogue through contacts with national, regional and local organisations;

⁸ <http://www.tyneandwearltp.gov.uk/documents/rowip/>

- Informing the data gathering exercise including the extent to which local rights of way meet the present and likely future needs of the public;
- Advising on how the network could be improved for the public and where there are particular land management concerns;
- Advising on the related issue of access to open countryside especially where new linear routes may be desirable;
- Providing advice on prioritising implementation;
- Commenting on published draft plans; and
- Assisting in the resolution of conflicts between different representations when plans are issued for consultation.

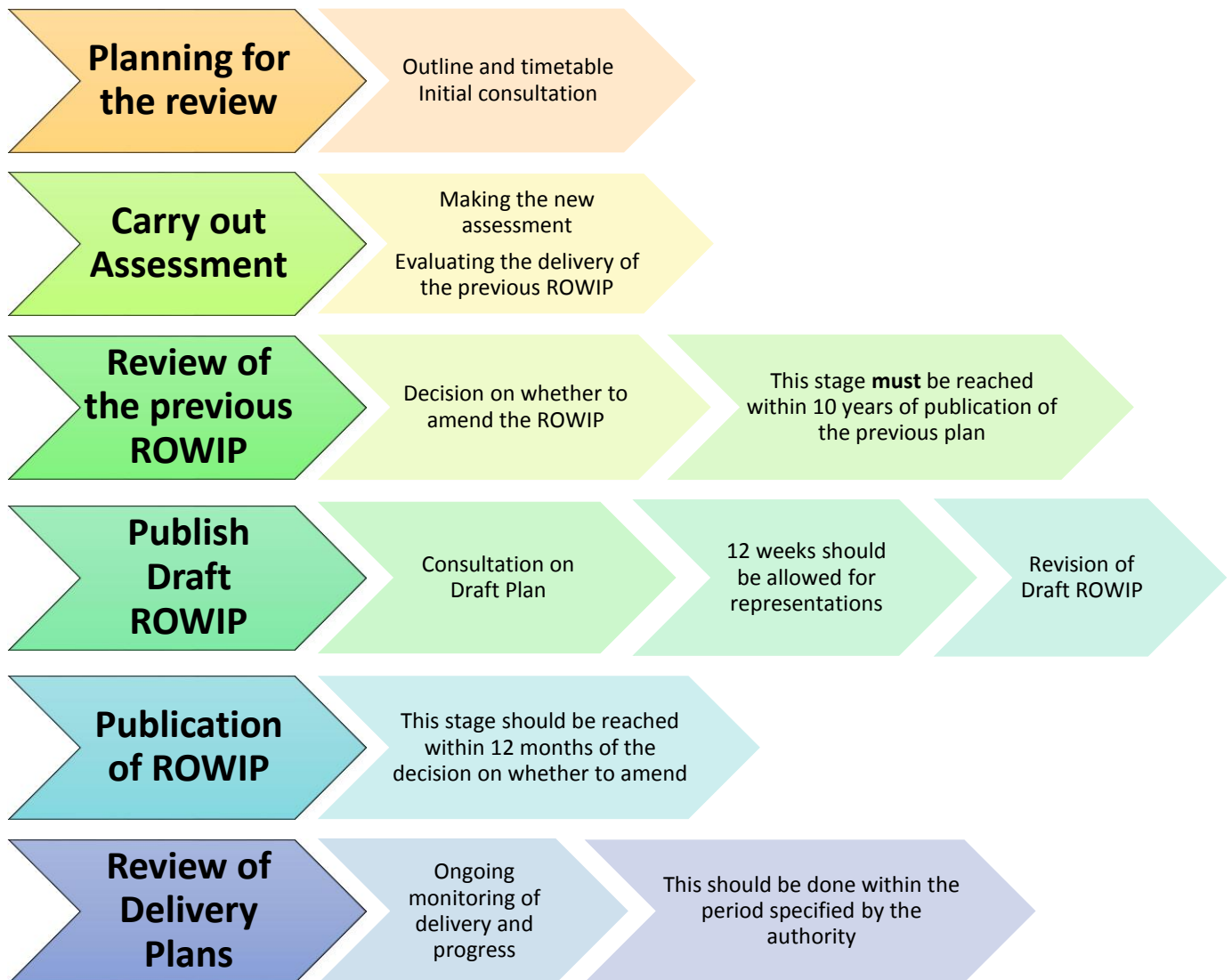


Diagram 1: Summary of the ROWIP process and timetable

Developing Accessible Documents

- 3.10. ROWIPs serve as strategic plans, bidding documents, and as guides for prioritisation of resources, but they are also a means of engaging local communities and other partners in local rights of way.
- 3.11. Clear and reasoned ROWIPs can help the public understand why decisions are made and well-structured plans will help the reader understand why the authority has taken, or declined to take, particular actions. The aim will be to produce a document that demonstrates a clear progression, with the needs identified in the Assessment informing the strategic commitments in the Statement of Action, which are then translated into the work plans & policies addressed within the Delivery Plan.
- 3.12. The use of plain language and clear maps, diagrams, and illustrations will make the content more accessible and easier to understand. Local highway authorities are reminded to have due regard to the needs of people, with particular reference to the *protected characteristics* outlined in the Equality Act 2010, when producing their plans.
- 3.13. Authorities must ensure that their ROWIPs are produced in compliance with their Welsh Language Scheme. It is expected that ROWIPs will be made available in both Welsh and English.

Naming your authority's ROWIP

- 3.14. If an authority wishes to use an alternative name for their plan, for instance to reflect a decision to consider broader access provision in addition to local rights of way, they will need to make it clear that the document forms their Rights of Way Improvement Plan for the purposes of the CROW Act. They may do this either by way of a subtitle or a prominent statement within the introduction. Authorities must ensure that a member of the public looking for the ROWIP will be able to easily locate it and identify it as such; for instance when carrying out an internet search.
- 3.15. Every ROWIP should clearly and prominently state the date it was published. The most effective way of doing this will be to include it in the title.

4. PREPARING THE NEW ASSESSMENT

Initial consultation

- 4.1. Before undertaking the review, section 61(1) requires a Welsh local highway authority to consult:
- each local highway authority whose area adjoins their area;
 - each community council, whose area is within their area;
 - the National Park authority for a National Park any part of which is within their area;
 - any Local Access Forum established for their area or any part of it;
 - Natural Resources Wales
 - such persons as the National Assembly for Wales may by regulations prescribe in relation to the local highway authority's area; and
 - such other persons as the local highway authority may consider appropriate.
- 4.2. Whilst there is no intention to exercise the regulation-making power under section 61(1)(g) to add further statutory consultees, it is suggested that authorities also consider consulting the organisations in their area that are consultees for rights of way orders.
- 4.3. Where the ROWIP will cover an area that is designated as an AONB it is recommended that the relevant managers or committee should also be consulted.
- 4.4. This consultation should be carried out as early as possible and should set out the terms of reference for the review and highlight any significant differences from the approach taken in the earlier ROWIP. It would be advisable to also contact relevant internal stakeholders at this stage.

Making the new assessment

- 4.5. The legislation prescribes certain matters that must be considered in an assessment. The 2002 Statutory Guidance provided further detail on the expected content of the first ROWIPs by requiring assessments to

be undertaken of the condition of the rights of way network and its legal record, publicity, and management, together with the resources available and required to meet peoples' needs.

- 4.6. New assessments will need to address both the statutory matters and the revised supplementary matters specified below.

Statutory matters

- 4.7. Section 60(3)(a) and 60(2) require authorities make a new assessment of the following:

- The extent to which local rights of way meet the present and future needs of the public;
- The opportunities provided by local rights of way for exercise and other forms of open air recreation and the enjoyment of the authority's area; and
- The accessibility of local rights of way to blind or partially sighted people and others with mobility problems.

Supplementary matters

- 4.8. In addition revised ROWIP assessments should ensure that they address the following:

- An evaluation of the degree to which the previous ROWIP has been delivered
- An evaluation of the present condition of the network and its record
- Opportunities to contribute to Active Travel objectives
- Opportunities to contribute to Well-being objectives
- Opportunities to contribute to the delivery of other plans and priorities

Evaluating the delivery of the previous ROWIP

- 4.9. The first part of the new Assessment should include a summary of the key matters identified in the previous Assessment, how the initial Statement of Action proposed to address them, and the extent to which those actions were delivered. Any outstanding actions should be itemised for consideration in light of the new Assessment.

- 4.10. Whilst authorities are encouraged to integrate ROWIPs with other plans and agendas it is also acknowledged that access managers will also have their own priorities specifically related to the local needs of

recreational users; some of which might contribute towards long-standing targets and lead on from existing ROWIP action plans. Where those priorities and targets are still supported by evidence of public need they should not be excluded from the new ROWIP.

Evaluating the current condition of the network and its legal record

- 4.11. The 2002 guidance required a wide-ranging review of the network, the associated management arrangements, the Definitive Map and Statement, the condition of the local rights of way network, priorities and practice for the enforcement of the network, and the provision of promotional material.

- 4.12. Authorities should make a new assessment of the current condition of local rights of way and, where the authority wishes, wider access provision⁹. The assessment should also consider the accuracy and completeness of the Definitive Map and Statement, the current volume of outstanding applications for DMMOs and PPOs held by the authority, and how information about the network and advice regarding responsible use is made available to the public. Authorities should ensure they provide information about the current position of any key issues that were highlighted in the previous assessment.

- 4.13. As part of the assessment authorities are asked to include a brief evaluation of the completeness of their record of limitations and authorised structures on the public rights of way network and the processes they have in place for their authorisation. It is not anticipated that authorities will carry out a comprehensive review but rather provide a short summary considering the extent to which limitations are recorded on the Definitive Statement and how new or otherwise unrecorded structures are managed when erected on, or proposed to be erected on, public rights of way; whether as part of legal orders or independently. The appropriate management of structures is critical to the public's enjoyment of the network, particularly those with mobility problems, and to the ability of landowners to manage their land without undue disruption. The inclusion of this section in ROWIPs will serve three key functions:

⁹ Such as minor roads, Commons and CROW Access Land and any other land to which the public enjoy access.

- to inform the public of the local arrangements for their regulation;
- to provide a picture of current practice across Wales; and
- to provide an opportunity for authorities to consider their procedures and, if necessary, address any issues identified.

4.14. Provisions under the CROW Act to implement a cut-off date in 2026 for recording highway rights over paths that existed prior to 1949 have not yet been commenced in Wales. However, as the provisions remain on the statute books authorities should continue to bear them in mind when considering their network.

Addressing the statutory and supplementary matters

4.15. Authorities will need to make an objective assessment of current and likely future public need, giving due consideration to the *protected characteristics* listed in the Equality Act 2010, and a review of other plans and priorities, before considering the extent to which the network may provide opportunities to meet the needs of the public.

Assessing public need and identifying opportunities

4.16. Authorities should identify any relevant studies, assessments and plans that were not available at the time of the first ROWIPs which can provide information when assessing the present and future needs of the public.

4.17. The first ROWIP assessments, as directed by the 2002 Statutory Guidance, tended to focus on the needs of “users”. Revised Assessments will need to ensure that they take account of the needs of the wider public including those who do not currently participate in outdoor recreation on a regular basis. Authorities should be careful when using evidence to demonstrate public need that it is reasonably illustrative of the population and does not over-represent particular interest groups.

4.18. User groups will be well placed to advise on the needs of their members and will have an important role to play in ensuring that any proposed works to the rights of way network intended to deliver other agendas, such as Active Travel, also deliver benefit for recreational users and, at the very least, do not reduce the opportunities currently available to those they represent.

4.19. Due to the availability of new data sources it is not anticipated that authorities will need to commission their own public surveys. Targeted

consultation and stakeholder engagement may, however, be appropriate to further inform regarding the specific needs of groups who have been identified; such as particular local communities or groups of people who share relevant *protected characteristics*, or potential partners in delivery.

- 4.20. If authorities still feel there is a need to commission a survey or consultation for use in the ROWIP they should ensure that supporting information is included, as an appendix, sufficient to demonstrate its reliability. Whilst the contents will be dependent on the nature of the consultation, matters such as methodology, sample size, means of participant selection, and examples of any set questions used should be included. Authorities should critically assess the reliability of any evidence they rely on and should ensure that any conclusions drawn from it are used in an appropriate context. Check, for instance, that any survey questions are not leading or ambiguous.
- 4.21. When considering existing provision, rather than focus on gaps in the rights of way network *per se*, or areas where there are a lack of a particular status of highway, authorities should identify areas where evidence identifies a public need that is not being met, or where an associated plan or priority has highlighted such a need, and consider how local rights of way might provide opportunities to meet those needs.
- 4.22. Authorities may find it helpful to use the available evidence to draw out specific factors such as; geographical areas, groups of people, or types of improvement that promise the greatest opportunities to meet public need. At the action planning stage these may then be used to assess proposed projects or policies and highlight potential partners or funding sources. Where an area-based approach is used clear maps will be invaluable in communicating evidence and conclusions to readers.
- 4.23. Authorities should look beyond administrative boundaries when assessing public needs and opportunities to meet them as the needs within one authority area may be most appropriately met by the access opportunities within another.

The Welsh Outdoor Recreation Survey

- 4.24. The Welsh Outdoor Recreation Survey (WORS) measures participation levels and behaviours in outdoor recreation by adults living in Wales, including the associated health and economic benefits. It also covers

public attitudes towards biodiversity, along with actions that people take to protect the environment.

- 4.25. It is the largest survey of public engagement with the environment by people living in Wales, with around 6000 people interviewed throughout the year over each full 12 month period. It includes adults of all ages and backgrounds who live in both rural and urban areas.
- 4.26. To date the survey has been undertaken in 2008, 2011 and 2014 and comparison year on year has been used to identify any statistically significant trends in recreational behaviour or demand over that time¹⁰.
- 4.27. The survey provides detailed results on:
- Overall levels of participation in informal outdoor recreation
 - Places visited on land and water
 - Types of activities
 - Levels of physical activity
 - Economic expenditure
 - Motivations for using the outdoors
 - Barriers to visiting the outdoors
 - Future demand for outdoor recreation
 - Attitudes towards biodiversity
 - Pro-environmental behaviours
- 4.28. NRW use the results to produce a number of publications all of which are publicly available on its website¹¹. These include raw data tables, detailed technical reports, and condensed 'key facts' documents aimed at policy makers.
- 4.29. The WORS provides a unique insight into the activity levels, behaviour and attitudes of the people of Wales and it is anticipated that it will provide a keystone of ROWIP assessments.

¹⁰ The next manifestation of this survey will be part of the broader 'National Survey for Wales'. The new methodology is still in development so it is yet to be established to what extent it will be directly comparable with WORS. The data is not expected to be published until mid-2017 so is unlikely to be available for use in developing assessments. It is anticipated however that the new data will be available to inform ongoing Delivery Plans.

¹¹ See <https://naturalresources.wales/our-evidence-and-reports/welsh-outdoor-recreation-survey/?lang=en>

- 4.30. The sample size does not enable results to be interpreted at local authority level but it can be used either at a whole Wales level or broken down into more local areas which may provide more regionally relevant results.
- 4.31. The 2008 and 2011 surveys may be broken down by Welsh Government Spatial Planning Area (SPA) which are as follows:
- North West Wales
 - North East Wales
 - Central Wales
 - Pembrokeshire
 - Swansea Bay
 - South East Wales

A key feature of SPAs were “*fuzzy boundaries*” that did not adhere to administrative boundaries and some authorities will fall into more than one area¹². The 2014 survey was changed to use the three Welsh Local Government Association Regional Board areas; North Wales, Central and South West Wales, and South East Wales.¹³

Natural Resources Wales’ Good for People Toolkit

- 4.32. NRW have developed a GIS based tool designed to help inform decisions around the use and targeting of resources in areas where they have the best chance of meeting the greatest public needs. The system currently brings together around 140 separate datasets into a single tool and enables area-based comparisons between levels of social, health, environmental and economic well-being with levels of access and green-space provision.
- 4.33. Local information derived from the tool is expected to be made available to Public Service Boards and authorities should seek opportunities to make use of it to inform the assessment.

Making use of local plans and assessments

¹² See <http://gov.wales/topics/planning/development-plans/wales-spatial-plan/?lang=en> for more information on SPAs.

¹³ <http://www.wlga.gov.uk/regional-boards-networks> for more information on Regional Board areas

4.34. Since the first round of ROWIPs the Welsh Government has introduced legislation setting out a number of national priorities for the improvement of well-being, sustainability, and the environment, in Wales. Each piece of legislation includes mechanisms for the delivery of these new priorities to be focussed and adapted to local needs and circumstances.

Active Travel Maps

- 4.35. The 2013 Act aims to make active travel the most attractive option for shorter journeys in designated areas of Wales with benefits for health, the environment, the economy and the tackling of poverty and disadvantage. It places authorities under a duty to map existing and potential Active Travel routes in areas designated by the Welsh Ministers and to deliver improvements to provision year on year.
- 4.36. Although the 2013 Act is primarily concerned with functional travel rather than recreation, the associated statutory guidance recognises that the two are not mutually exclusive and that a route used for Active Travel will often also provide opportunities for leisure.
- 4.37. Authorities have produced Existing Routes Maps for designated areas, identifying which routes are currently considered to meet the requirements for Active Travel, and were instructed in the associated statutory guidance to consider ROWIPs in their development.
- 4.38. Authorities are now required to produce Integrated Route Maps, which will identify where new or improved Active Travel routes are needed. They are likely to be in production concurrently with the ROWIP review so engagement with colleagues involved in this work will be vital. Working with Active Travel planners may highlight potential partnerships for the resourcing or delivery of improvements to local rights of way in designated areas.
- 4.39. Authorities should consider any maps produced under the Active Travel Act for their area and identify the following within the Assessment:
- Any local rights of way that are also identified as Active Travel Routes;
 - Any local rights of way that have the potential to become Active Travel Routes;
 - Areas where the creation of new local rights of way would be an effective method of meeting local needs identified in an Integrated Route Map; and

- Local rights of way that may provide useful links to Active Travel Routes.

Local Well-being Assessments and Plans

- 4.40. The Well-being of Future Generations (Wales) Act 2015 [“the 2015 Act”] received Royal assent on 29th April 2015, however, it is expected that most of the relevant provisions will be triggered, by regulations, before the deadline for the publishing of the first reviewed ROWIPs in Wales.
- 4.41. The 2015 Act requires the establishment of Public Services Boards (PSB) (replacing current non-statutory Local Service Boards) who will be required to produce Assessments of Local Well-being and Local Well-being Plans. The new boards are expected to be established towards the end of the first quarter of 2016 and will be made up of representatives the local authority, any relevant local health board, any relevant Welsh Fire and Rescue Authority, and NRW.
- 4.42. Assessments of Local Well-being are expected to be progressed and published during the period when reviewed ROWIPs are being drafted but the associated plans are unlikely to be produced until after ROWIPs are published. It will therefore be desirable for planners to engage with their Public Services Board during core ROWIP development to ensure integration.
- 4.43. Local Well-being Assessments may include analyses of the well-being of particular categories of persons within the area, such as those possessing a common characteristic as defined by Chapter 1 part 1 of the Equality Act 2010. Those that do so may prove particularly valuable to authorities in assessing the matters specified in section 60(2)(c) of CROW.
- 4.44. Local authorities will also be required to develop their own well-being plans and ROWIP planners are encouraged to engage with colleagues to ensure integration.

Area Statements

- 4.45. The Environment (Wales) Act 2016 received Royal Assent on 21 March 2016. It puts in place the legislation needed to plan and manage Wales’ natural resources in a more proactive, sustainable and joined-up way.
- 4.46. Part one of the 2016 Act is concerned with the promotion of sustainable management of natural resources. The key objective is

outlined in Section 3(2); *“to maintain and enhance the resilience of ecosystems and the benefits they provide and, in so doing, meet the needs of present generations of people without compromising the ability of future generations to meet their needs.”*

- 4.47. This part of the 2016 Act includes a three stage process beginning with the preparation and publishing of a State of Natural Resources Report (SoNaRR) by NRW which in turn informs the preparation of a Natural Resources Policy by the Welsh Ministers. A duty will be placed on NRW to produce an Area Statement for locations where it considers it to be appropriate in order to facilitate the implementation of the Natural Resources Policy.
- 4.48. Area Statements will specify the priorities, risks, and opportunities for sustainable management in the area and state how NRW proposes to address them. NRW is expected to then take reasonably practicable steps to implement the Statement and encourage others to do the same. Prior to publishing an Area Statement, NRW will be required consider whether another plan, strategy, or similar document should be incorporated into it or whether the Area Statement should be incorporated into another plan.
- 4.49. The development and publication of the SoNaRR, the Natural Resources Policy, and the first Areas Statements, will occur between the issuing of this statutory guidance and the deadline for the completion of the first ROWIP reviews.
- 4.50. Whilst statutory timescales for the production of the SoNaRR and Natural Resources Policy are included in the 2016 Act (4 and 10 months respectively from the date of coming into force) there is no such defined timescale for Area Statements. The primary purpose of the Statements is to facilitate the implementation of the Natural Resources Policy therefore it is to be expected that, notwithstanding the three pilot schemes, the first Statements will not be produced until after 10 months from the coming into force of that part of the 2016 Act (i.e. from April 2017).
- 4.51. Authorities will need to consider any Area Statements, whether in development or published, affecting their area and should aim to be involved in their development so as to identify opportunities for integration with ROWIP at an early stage. There may be opportunities for joint working with other authorities where an Area Statement crosses administrative boundaries. The 2016 Act proposes reciprocal

duties for NRW and public bodies to provide information and assistance, to assist in the production of the SoNaRR or development and delivery of Area Statements, and for the minister to direct public bodies to take steps to do so. Any such requests or directions may need to be accommodated in a ROWIP and it may be possible to ask NRW to provide information under this legislation where it might assist in the delivery of an Area Statement through the ROWIP.

- 4.52. There are currently three 'Natural Resource Plan' pilots being undertaken in the Dyfi, Tawe, and Rhondda river catchments. These will inform the development of future Area Statements. Access and recreation have been identified as important considerations for community stakeholders involved in these pilot schemes, and those authorities in whose area one of the pilots is occurring will have the opportunity to take account of their contents. As it is likely that Area Statements will, in time, be introduced across Wales so all authorities are encouraged to take an interest in their development.

Other plans

- 4.53. ROWIP planners should also consider other relevant plans within their own authorities, the plans of partners (particularly those that provide recreational opportunities within the area), and the plans of neighbouring authorities. Opportunities for joint working should be sought.

Accommodating the interests of land managers, heritage, and nature conservation

- 4.54. While ROWIPs are concerned with improving rights of way for the benefit of the public, it is recognised that the interests of land holders, including those engaged in agriculture, forestry, heritage, and nature conservation need to be taken into account. The effective delivery of good public access relies on cooperation between local authorities and landholders. Therefore, land management representatives should be consulted at an early stage. Early consultation may help to identify where there are mutual benefits. A co-operative approach developed at the start of the process will also help in the implementation of the plan. Local Access Forums may provide a useful means to identify and consider some of these matters.
- 4.55. Consultation with a broad range of land managers, particularly where access provision is developed in designated areas or over land that is subject to stewardship schemes, may reveal new resource

opportunities or partnerships that can be utilised to deliver ROWIP objectives.

Conclusions of the Assessment

4.56. In summary, whilst the exact nature of assessments will vary between authorities, it is expected that every ROWIP Assessment in Wales will contain the following:

- An overview of the achievements of the first ROWIP and how the matters considered in its assessment have progressed since it was published;
- A thorough assessment of the available evidence relating to current and likely future public need;
- An assessment of the extent to which local rights of way meet the present or likely future needs of the public or provide opportunities for doing so;
- A fresh evaluation of the condition of the network, the completeness and accuracy of the Definitive Map & Statement, the management of applications for changes to public rights of way and the promotion of outdoor recreation; and
- An overview of potential crossover between the ROWIP and other plans and priorities and potential partnerships that may arise from them to deliver maximum benefits to the public.

4.57. Authorities should be mindful that the assessment should specifically consider communities or groups of people who do not currently regularly participate in outdoor recreation. Particular consideration should be given to blind or partially sighted people and those with mobility problems. Authorities should also be mindful of the protected characteristics referred to in the Equality Act 2010.

5. PREPARING THE NEW STATEMENT OF ACTION

What should be included?

- 5.1. The CRoW Act requires local highway authorities, to prepare a statement of the action they propose to take for the management of local rights of way, and for securing an improved network of local rights of way, with particular regard to the matters dealt with in the assessment¹⁴.
- 5.2. The Statement of Action will set out the authority's broad strategic commitments towards meeting the needs and developing the opportunities identified in the assessment, but may also include other matters relevant to the management of local rights of way.

Statements of Action and Delivery Plans

- 5.3. The 2002 guidance encouraged authorities to use the Statement of Action to develop more detailed work plans outside of the ROWIP, but with references within the ROWIP to where they could be found. However, this approach was only partly successful and many found that parts of their Statements still lost relevance before the end of the ten year period.
- 5.4. For this round of ROWIPs, authorities are asked to produce Delivery Plans where they can set out their shorter-term commitments and work plans. These should be included as an annex to the ROWIP, and should set out how authorities will meet their long term goals over a specified period of time. Delivery Plans will complement the Statement of Action and allow ROWIPs to be more responsive to changing circumstances without losing the advantages of setting out the authority's commitments in a single document.
- 5.5. It is recommended that new Statements of Action should include only those actions that are sufficiently long-term and strategic to be unlikely to become obsolete during the 10 year term of the ROWIP. Short and medium term actions and those arising from other specific plans or legislation should be incorporated in the Delivery Plan, or in rights of way policies.

¹⁴ Countryside and Rights of Way Act 2000, section 60(1)(b)

- 5.6. Delivery Plans will need to be reviewed on a regular basis and it is recommended that authorities review them annually. Reviews of Delivery Plans need not involve a comprehensive overhaul every time. Authorities may, for instance, develop 3 year action plans but consider each year whether those plans are still suitable or need to be amended or replaced.
- 5.7. Schedule 6 of Part 1 of the CROW Act amended the Highways Act 1980 to require local highway authorities and the National Assembly for Wales to have regard to any material provisions in a ROWIP for an area when determining whether to confirm orders proposing the diversion, creation or extinguishment of public paths. Furthermore, where NRW considers making an application to the National Assembly for Wales under section 58(1) seeking the creation of a footpath or bridleway for the purposes of establishing entry on to access land created under Part 1 of the CROW Act they are required to first have regard to the ROWIP produced by any highway authority.
- 5.8. Planning Inspectorate Wales have indicated that contents of Delivery Plans, not having followed full statutory process, are unlikely to be considered as 'material provisions' under *sections 118(6A) or 119(6A) of the 1980 Act*. Therefore authorities should ensure content they wish to be considered as such is included in the core ROWIP.

Content of the Statement of Action

- 5.9. Statements of Action should be informed by, and demonstrate clear links to the Assessment and include:
- Key aims and priorities arising from the Assessment;
 - Long term strategic commitments;
 - Details of what will be deferred to Delivery Plans, how, and when, they will be renewed and published, including how their implementation will be evaluated and reported as part of that process; and

- Details of the process that will be followed to make any changes to key policies relating to local rights of way should the need be identified¹⁵.

(See chapter 6 for more information on the development and review of Delivery Plans)

6. DEVELOPING & RENEWING DELIVERY PLANS

- 6.1. Delivery Plans will provide more detailed and responsive direction and commitments for the management of local rights of way over the specified period¹⁶. Actions or commitments that authorities feel are likely to need to be revisited within the ten-year lifespan of the ROWIP should be included in a Delivery Plan rather than the Statement of Action.
- 6.2. Delivery Plans will consist of three parts:
- **An Evaluation of Progress** in delivering the ROWIP and previous Action Plans
 - **A Review of Policies** for the management of local rights of way
 - **SMART¹⁷ Work Plans** identifying and setting out the component tasks required to deliver the main aims in the Statement of Action for the better management and improvement of the network over the delivery period including:
 - The specific description of the output
 - How progress will be measured, monitored & reported
 - The resources required and their availability
 - Who will deliver and key partners for delivery
 - The Statement of Action objective(s) that it is delivering
 - Timetable

¹⁵ Such as whether they will need to be considered by committee or may be achieved through delegated powers, how the LAF will be involved and whether they will include any consultation with other stakeholders or the public.

¹⁶ The period covered by the Delivery Plan should be clearly stated in a prominent place

¹⁷ Specific, Measurable, Agreed, Realistic, Time based

- 6.3. Renewing Delivery Plans should not be an onerous task and it is anticipated that the necessary processes, with relevant committee involvement, will largely be in place already. Including these procedures as part of the ROWIP process will make it easier for the public to access and understand this part of the planning process and provide the opportunity for matters that were previously part of the Statement of Action to be more easily reviewed and amended.
- 6.4. Delivery Plans will need to clearly state when they will be due for review.

Evaluating progress in the delivery of the ROWIP

- 6.5. Regular monitoring and evaluation is important in order to demonstrate the benefits of investment and to provide evidence to inform future planning. The first Delivery Plan for the ROWIP will be informed by the Assessment in the core ROWIP but all subsequent Delivery Plans will require an evaluation of progress.
- 6.6. The evaluation of progress will consider the extent to which
- The previous work plans have been delivered;
 - The public have benefitted as a result; and
 - The degree to which each of the commitments in the Statement of Action have been delivered, to date, in the life of the current ROWIP.

This will help inform the next set of work plans and may also provide the opportunity to report on the delivery of other statutory duties such as Active Travel or Well-being goals.

Reviewing rights of way policies

- 6.7. The 2002 ROWIP guidance asked authorities to review their main policies for Public Rights of Way work and to bring them together in a clear statement.
- There is value in being able to access an authority's policies, and the evidence and reasoning behind them, from a single publicly-available document. Whilst this requirement will be retained in this round of ROWIPs authorities are asked that the review of these policies be carried out as part of Delivery Plans rather than in the core Assessment.
- 6.8. All key policies for the management of local rights of way should be reviewed and will include:

- Maintenance, improvement, and enforcement of public rights of way;
 - Managing the Definitive Map & Statement;
 - The authorisation and recording of limitations; and
 - Dealing with changes to the network such as diversions, extinguishments, and creations of public rights of way.
- 6.9. Some authorities may also wish to include related policies concerning other public access such as open access land.
- 6.10. When each Delivery Plan is reviewed authorities should consider whether their rights of way policies still reflect current needs, legislation, and priorities. Where an existing policy does not require amendment this should simply be stated. Where changes are required the reasons should be given and how this has been, or will be, addressed should be specified.
- 6.11. Where the authority considers that one or more of its policies requires renewal they will need to follow the process set out in the Statement of Action to revise them. Any renewed policies will, insofar as they relate to discretionary matters, be expected to be consistent with the strategic commitments set out in the Statement of Action.
- 6.12. Each Delivery Plan should include copies of the latest relevant policies and/or a link to where they may be viewed online. They may also indicate where physical copies may be viewed or acquired.
- 6.13. Members of the public should be able to easily identify and access current policies which should state when they were last reviewed and when they are due for the next review. Copies of superseded policies should be kept and made available to the public, either through the authority's website or by some other means on request (see Chapter 7 for further guidance).

Setting SMART Work Plans

- 6.14. Authorities will be used to developing annual work programmes and will already have processes in place to do this. It is envisaged that these existing processes will largely be incorporated into the ROWIP process rather than being completely reinvented.
- 6.15. As the Delivery Plans will not be a part of the core ROWIP, and will be reviewed and amended throughout its life, it will be important to ensure that the actions they propose remain consistent with the aims

and commitments set out in the Statement of Action. Authorities should aim to present their SMART Work Plans in such a way as to clearly identify which of those aims and commitments each proposed action will contribute towards.

- 6.16. As referred to in previous sections, it is important that ROWIPs integrate with other plans and priorities and that the integration also carries over into the action planning stage and eventual delivery.
- 6.17. SMART Work Plans should clearly identify actions that contribute towards other plans and priorities, particularly (but not exclusively) Active Travel, Well-being Plans and any Area Statements. How this is achieved is at the discretion of the authority, although they will need to ensure that as part of their monitoring and reporting any actions contributing to other statutory plans and priorities are reported in accordance with their particular requirements¹⁸.

¹⁸ For example the requirement under section 7(3) of the Active Travel (Wales) Act 2013 for authorities to report on the costs incurred in delivering its duty for continuous active travel route improvement in each financial year.

7. PUBLICISING AND PUBLISHING THE AMENDED PLAN

Publishing the draft ROWIP

- 7.1. The CRoW Act requires local highway authorities to publish a draft of their new ROWIP and place notices in two or more local newspapers circulating in their area detailing how a copy can be inspected, or obtained, and how representations on it can be made.
- 7.2. A copy of the draft must also be kept available for inspection, free of charge, at all reasonable times at the authority's principal offices. A copy must be supplied to any person who requests one, either free of charge or on payment of a reasonable charge determined by the authority. Having a copy of the draft available on the authority's website is likely to satisfy most requests.
- 7.3. Local highway authorities should actively seek representations from neighbouring authorities (in particular those that they are most likely to be combined in the event of local government reorganisation), other local councils, National Park authorities and AONB management teams where applicable and national and local organisations representing users, land managers, tourism businesses, and others as appropriate. LAFs should be consulted at this stage.
- 7.4. As with the results of the assessments, local authorities should seek to make their new draft plan as widely available to the public as possible.
- 7.5. The draft plan and notices inviting representations should state clearly where comments should be sent and by when. A minimum of 12 weeks should be allowed for representations.
- 7.6. Local highway authorities must consider any duly made representations¹⁹ and they should be acknowledged on receipt. At the end of the consultation period, the highway authority should write to all consultees, and others who have submitted representations, with a summary of the comments made and any amendments that they

¹⁹ Representations made in accordance with the notice

propose to make to the draft plan as a result. Correspondence should also state when the finalised plan is expected to be published.

- 7.7. If there are significant objections to draft plans, authorities will need to consider how to address them and Local Access Forums should be invited to advise on potential resolutions.

Publishing the finalised ROWIP

- 7.8. When representations have been considered, and any amendments made, the finalised plans should be agreed and published. Local highway authorities are required to keep a copy available for inspection free of charge at all reasonable times at their principal offices; and supply a copy to any person who requests one, either free of charge or on payment of a reasonable charge determined by the authority.²⁰
- 7.9. Authorities may wish to produce paper copies of the plan or may publish it electronically on the Council's website. If published electronically it should be in a downloadable format.
- 7.10. Whilst there is no statutory requirement to publish notices in local papers at this stage, authorities are encouraged to make efforts to inform the public that their new plan has been published. This may be achieved by issuing press releases, through the authority's website and social media outlets, and via local interest groups.
- 7.11. Local highway authorities should ensure that they inform those who contributed to their ROWIPs that they have been published.

Publishing Delivery Plan renewals

- 7.12. The renewal of Delivery Plans will essentially be an internal process. It is non-statutory and will not change the principles developed and communicated through the statutory ROWIP process.
- 7.13. LAFs should be involved as advisors during the renewal of Delivery Plans and will also be in a position to disseminate information about the process.

²⁰ Countryside and Rights of Way Act 2000, section 61(3)(b)

- 7.14. Whilst authorities should draw the attention of the public to renewals via the Council's website and social media, there is no obligation for specific public consultation to be carried out, although authorities are free to do so if they choose.
- 7.15. Once a new Delivery Plan comes into force it should replace the preceding one as the annex to the ROWIP made available on-line, and to any further paper copies made available or provided. Previous Delivery Plans should still be easily obtainable as they may help the public understand earlier decisions. Authorities may find it easier to publish their ROWIP and Delivery Plan online as separate PDF documents to make the updating process easier, although they should be made available together in the same place.
- 7.16. Drawing attention to the Delivery Plan renewal process will also serve as a periodic reminder, to the public and stakeholders, of the existence and relevance of the ROWIP.

8. IMPLEMENTING THE ROWIP

- 8.1. Having prepared and published their ROWIPs, local highway authorities are expected to manage their networks in accordance with them and, as far as possible, deliver the commitments in the Statement of Action and Delivery Plans.
- 8.2. Implementation will involve a combination of the prioritisation of existing core work and the delivery of specific work programmes and projects.
- 8.3. Both capital and revenue funding are likely to be required to put the improvements into practice and to ensure long term maintenance. Highway authorities are encouraged to be innovative in sourcing funds to support improvements. Authorities should consider seeking funds from lottery bodies, local transport plans, health bodies, European schemes, agri-environment schemes and some charitable trusts. To be successful the right funding partnerships will normally need to demonstrate that they are making improvements to the public right of way network for reasons which link into broader policy objectives, such as health, reducing dependence on cars, tourism, safe routes to school/work or for other vulnerable road-users, accessibility for those with limited or restricted mobility or for those who are socially excluded.
- 8.4. Rights of Way managers should be open to considering a variety of partnership arrangements, including partnerships with land owners, community councils and other authorities, or with local liaison or volunteer groups.
- 8.5. Rights of Way managers should also explore the possibility of innovative internal working arrangements. For example, some rights of way teams have successful reciprocal arrangements with their Highways Departments, with or without an associated budget transfer, whereby they take on the management of the unsealed minor road network (UCRs) and Highways colleagues maintain surfaced, urban rights of way. Reciprocal arrangements with highways teams may be particularly useful where urban public rights of way require upgrading to become Active Travel routes.
- 8.6. The regular monitoring and evaluation provided as part of the review of Delivery Plans will enable authorities to highlight, and capitalise on,

particular successes, and to identify and address any areas where expectations are not being met at an early stage.