



Country Land Management

Scope

Note: the term Manager, is used to indicate a Land Owner, Land Manager, Forester, Husbander, etc. it may also apply to Local Authorities, Open Cast Mine or Quarry Managers etc.

When moving about in the countryside people tend to behave in predictable ways. As a rule they tend to prefer to make use of existing paths or tracks to reach viewpoints or other places of interest. Having some understanding of how the public behave and working with them in a positive way can be very effective for managing access.

It is also important to understand the likely changes in patterns of countryside visits that could arise from a new right of access and the impact of the DDA rights of disabled and older people. Many walkers and local people will want to make use of their new access rights under the CROW Act, however, it seems unlikely that the overall level of countryside visits will increase dramatically – it is more likely that regular walkers will spread out to make the most of new access opportunities and there by reducing the impact on the older rights of way.

The CROW access rights are unlikely to have a great impact on older and disabled people's use of the paths. It is likely that these paths will be along 'challenge routes' where inclines and path infrastructure will be less suitable for people with physical and sensory impairments.

There is a booklet about the formal restrictions under the CROW Act, available from the Agency, Statutory restrictions on access land, CAX 150-4.

Terms & Abbreviations

DDA Disability Discrimination Act 1995

CROW Act Countryside and Rights of Way Act 2000

LAF Local Access Forums (statutory voluntary body providing advice and guidance on access issues)



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Access

The 'access' issue has never been just about wheelchair access, the issue has always been to make the whole world accessible to the greatest number of people; where ever it can be done in a reasonable manner and at a reasonable cost. This means that some areas will always remain beyond the reach of some people. But where access can be improved land owners and managers should take the time and make appropriate efforts to make their property as universally accessible as is reasonable.

Modern battery powered wheelchairs and trikes can go much further and get to places that a few years ago were almost impossible to reach a few years ago. However, uneven paths, woodlands, river and lake sides didn't just exclude wheelchairs; young families with buggies and older people found it just as difficult to reach their favourite picnic spot and enjoy the local countryside. Today understanding and acceptance of the need to make the world more accessible is finally spreading to the rural landscape this paper addresses the ways and means by which this may be achieved.

Access in the country can be limited by nature but often it is manmade obstructions which can cause the final exclusion of people with disabilities. This paper looks at some of these obstructions and proposes alternatives or modifications which will enable universal accessibility.

Improving access is all about understanding barriers then removing or minimising them. To enjoy the places and experiences to which paths give access, people with disabilities need to:

- ◆ obtain accurate, honest and accessible information
- ◆ be able to travel to the area and, if need be, park their own vehicle
- ◆ find the path when they arrive and not get lost while following it
- ◆ physically travel on a path and negotiate any gates or barriers
- ◆ be able to use facilities provided.

The suggestions included in the text apply to planners, designers and managers of the countryside including foot & bridle ways, walk, sport and event organisers and how they can prepare for groups which include people with disabilities and their carers or companions.

While the legal aspect of 'Rights of Way' is mentioned where applicable, the controversies arising from the poorly thought out and bias of the UK legal structure is not a part of this guide.

Certain other legislation related to wildlife is noted and briefly explained to provide guidance to those who are new to the countryside as part of a visitors responsibilities.



Many people with disabilities never get to see the countryside or take coastal walks due to barriers which can be avoided or with modification removed. People who live in rural settings face the barriers daily and as they are separated with little chance of gaining rectification. It is tourists and other visitors who have the muscle to pressure rural councils to and landowners to take action in making the country accessible to all.

Things are changing (slowly) with a number of government and organisational campaigns but many of these are driven by people without or little appreciation of the barriers those with disabilities need to counter.

It must be recognised that a balance must be found between the need for accessibility, landowners cares for animals and property, and the nature of the existing landscape. These factors may at first glance appear antagonistic, however, with care and forethought many of the barriers can be removed to the satisfaction of visitors and landowners while preserving the essence of the existing picture visitors travel to see. The aim must not be to tame the countryside it is to enhance access in harmony with the environment.

The Disability Discrimination Act (DDA) 1995 makes it illegal to discriminate against disabled people on grounds of their disability. This means that service providers, including path providers, must make reasonable adjustments to allow disabled people to use their services. This does not mean that all paths must be constructed to full accessibility standards, the path's intent must also be considered. Many paths are routes intended to provide a challenge to users (this does not mean it can be unsafe) so that making the surface and inclines suitable for a wheelchair users would destroy the reason for the path in the first place. But wheelchair users are a relatively small group and making provisions for other forms of disability are often no more than fulfilling the duty of making the route safe and taking care of due maintenance.

Managing People

People can be managed unobtrusively if the land owner/manager thinks and plans ahead. Generally people will tend to follow established routes if these serve their purposes and are adequately maintained.

In managing people consider

- what experience will the visitor/user expect?
- What would be of interest to see?
- What is an obvious attraction when seen from the parking area or public highway?



- What might attract people to a neighbouring land owner's property?
- What are the routes people are likely to want to take? (often referred to as desire lines)
- What are the land use needs or the land management?
- What hazards and dangers exist on the land?

The more the land manager considers the experiences available and understands their attraction for others the easier it becomes to manage where people will go.

If it seems likely that a new desire line will conflict with the work you are doing on your land, you may want to consider creating a new, more acceptable path before any desire lines become established.

People will usually follow the easiest route, providing that it is clearly marked and reasonably direct. You can steer people through non-access land and sensitive areas by providing a sensible route, with gates and other suitable barriers. (see our guide 'Country Barriers')

Providing identifiable access points reduces the chance that people will make their own route damaging fences and hedgerows, it also guides people to places which are less sensitive and where their presence does not interfere with land use.

Managers can reduce the risk of gates being left open by:

- use of self-closing gates;
- ensuring that gates are well-hung and that catches are easy to use;
- installing 'dog flaps' to reduce the risk of fences being damaged.
- avoiding the use of stiles and kissing gates which are barriers to many and likely to cause people to make alternate routes.

Many visitors do not tend to venture very far from their cars, so the careful siting of a car park can be an extremely effective way of encouraging visitors towards one area and away from another.

Providing information can be the most effective form of controlling where people will go. Where people understand why the land manager does not want them to use a particular area they will generally take note and avoid that location. It is therefore in the land manager's interest to provide a sign giving information about the property and any restrictions they wish visitors to observe. Providing a map showing path routes, view points, places of interest will help guide people where the manager wishes them to go while conserving areas where interference is not wanted. Blocking paths or denying access with notices is unlikely to deter visitors if there are no other reasonable visible alternative access opportunities available. Positive messages and signs are much more likely to be heeded than negative



ones. Provide invitations rather than stern warnings and refusals, in some cases these may be illegal.

People will tend to use existing paths and tracks. Managers should make use of existing features where possible, e.g. exploiting rides and fire breaks in woodland or access tracks in moorland areas. Often these will avoid sensitive areas and provide low cost routes.

By carrying out simple repairs or maintenance to critical points (rather than along the whole length of the path) at an early stage you can prevent or reduce the extent of damage. For example, it may be worthwhile building steps or switchbacks on steep sections, laying boardwalks across wet areas, or providing an appropriate surface at a point of heavy wear. To be successful, management will be needed to ensure that they are properly designed, constructed and well maintained.

The Physical Environment

It would not be appropriate to pave all paths with tarmac or concrete but removal of erosion ditches, potholes and rocks will improve passage and safety immediately.

Cutting back overgrown hedgerows or low hanging tree limbs and removal or covering roots which encroach on the walkway surface provide another aid to accessibility.

On single lane roads provision of occasional cut outs/notches in embankments or wider spaces at drainage ditches permit pedestrians, mobility vehicle riders and cyclists to more readily get out of the path of motor and horse traffic.

Gates are another major obstacle and the need to exclude some groups motor cyclists, horse riders and animals has to be balanced with the need for pushchairs and baby buggies as well as mobility aid and vehicle riders to pass. This subject is developed in the section Design for Accessibility-Gates.

The height of hedgerows, walls and rails often blocks the view of people riding mobility vehicles or are short of stature. These heights are often dictated by the need to contain or exclude animals, but portals or windows at lower heights could be introduced to provide a view while retaining the closure.

Distances between places where individuals can take a rest are another hindrance to enjoying the country and can be especially dangerous on narrow roads where pedestrians share the carriageway with motor vehicles. Many people lack the stamina to keep moving over more than a few metres without rest. As noted in single carriageways above providing nooks to avoid motor vehicles is



advisable these could be combined with the provision of informal seats, cuts tree trunks or stone benches, set in a level area.

Bridges, fords and embankments provide other hazards and form barriers to free movement these are discussed below.

Mile stones are useful way guidance although many were removed during World War 2 and have never been replaced.

Rights of Way

Note: rules are slightly different and less restrictive in Scotland to other parts of the UK.

The Definitive Map is the record of all public rights of way within the county. The County Council is legally required to keep the Definitive Map of public rights of way under continuous review and to make modifications where it appears that routes should be added, re-graded or deleted. A way shown on the map is conclusive evidence that the public had those rights as of the relevant date of the map.

The definitive map is prepared under the provisions of the National Parks and Access to the Countryside Act 1949.

The marking on the definitive map of a path is conclusive evidence of the minimum status of the public right of way over the path. Section 56 of the Wildlife and Countryside Act 1981 states that a definitive map and statement should be conclusive evidence as to the particulars contained therein.

Under the provisions of the Wildlife and Countryside Act, 1981 the county council is obliged to formally record changes to the definitive map as and when necessary

By virtue of section 30 of the Countryside Act 1968, riders of pedal cycles also have a right to use ways shown as bridleways and roads used as public paths.

The CROW Act 2000 - There will be a new right of open air recreation on foot (at its most basic this means 'to walk'), to most land mapped as open country – mountain, moor, heath or down – or registered common land. This will come into force during late 2004 and 2005.

This table shows when the new statutory rights of access will begin across England and Wales.



England	
South East	19 September 2004
Lower North West	19 September 2004
Central Southern	14 December 2004
Upper North West	May 2005
North East	May 2005
South West	August 2005
West	October 2005
East	November 2005
Wales	May 2005

On some land that fits these criteria, where the land is classified as 'excepted', the new right will not apply – types of excepted land include golf courses and land immediately around buildings. The biggest difference concerning these new access rights is that the public will not be required to stay on rights of way or other paths and tracks, but can go anywhere in these areas.

The CROW Act does not prevent any landowner permitting higher rights of access to the public, such as horse riding or cycling, should such agreements already exist or be planned in the future.

Footpaths - on foot only (this includes mobility vehicles)

Bridleways - on foot, horseback and pedal cycle

Byways open to all traffic - on foot, horseback and pedal cycle. They may also be used by vehicles, but don't expect a metalled surface.

O.S. maps record physical features on the ground. The fact that a public right of way is not shown as a physical feature on an O.S. map does not effect its legal existence. The Pathfinder, Explorer, Outdoor Leisure and Landranger series of OS maps include information taken from the county council's definitive maps. Ordnance Survey Explorer, Leisure and Landranger maps show most public rights of way but there may have been changes since the map was published. The Definitive Map is the most reliable local guide

Be careful to distinguish between public rights of way and private rights of way. The Highway Authority only deals with public rights of way issues and usually has no involvement in private rights of access, wayleaves, or easements. Different rules and legislation apply and if you are encountering difficulties with private rights you should seek your own legal advice.

A public right of way is a highway which anybody may use at any time. A public right of way usually passes between two other highways e.g. between a road and a public footpath.



A private right of way is for an individual, or any group other than the public, to gain access to a particular feature e.g. to gain access to a house or a field.

Signs It is an offence under the CROW Act to place false or misleading signs. Signs and recognisable symbols can play an important role in conveying important site-specific information and messages to the public. Work with your access authority to plan the content and siting of any signs carefully; visitors will probably pay less attention to an array of signs than they will to one or two carefully worded and sited ones. Signs should be located in the most appropriate place, where the message is most likely to be understood, and be sympathetic to the surroundings. Signs should be clear and unambiguous, positive rather than negative, use standard symbols and colour schemes, be in tactile readable form where necessary.

Authority There are several authorities with responsibilities for access to the countryside. The local highway authority (normally your county, unitary or metropolitan borough council) is responsible for public rights of way. It will also be the 'access authority', together with National Park authorities, responsible for some types of area-wide access.

In some cases the Countryside Agency and Nature and Natural Heritage Agencies may have some responsibility.

Local Access Forums (LAFs) are independent of the local authorities but specifically intended to offer balanced and informed advice on access issues to the local authorities (including prioritisation of access management work needed).

Restrictions are where a limit is placed on the right of access under the CROW Act, eg, excluding dogs or allowing access only along a designated linear route. An exclusion means that the statutory right of access is removed completely for the period concerned. It is important to note that that these restrictions cannot be applied to public rights of way or land that is not open access land under the CROW Act. In other locations voluntary access restrictions may be put in place with agreement of the LAF and user groups e.g. to protect a bird species during its breeding season. These voluntary agreements have proved that responsible access users are willing to adhere to voluntary agreements, particularly if the reasons for restrictions are explained.

28 Day Discretionary Restrictions (CROW Act Section 22). Land owners or farm tenants may restrict the access under CROW for any reason for up to 28 days per year. These 28 days may not be Christmas Day, Good Friday, Bank Holidays or more than four Saturdays or Sundays in total, any Saturday in the period starting 1st



June to 11th August, any Sunday in the period starting 1st June to 30th September.

Discretionary Restrictions for Grouse Moors and Lambing Enclosures (Section 23). Land owners or farm tenants may also restrict the right of access so that you may not take dogs with you: - onto moors managed for breeding and shooting grouse (for up to five years), or into fields or enclosures of not more than 15 hectares used for lambing (for not more than six weeks in any calendar year). These do not apply to guide dogs for blind persons or hearing dogs for deaf persons.

Restrictions for Land Management (Section 24). Anyone with a legal interest (eg. owners, commoners, tenants, those holding 'sporting' rights) on CROW access land may apply to the relevant authority for a restriction if it is necessary for management of the land. The relevant authority will then decide whether to grant the restriction or exclusion.

Restrictions for Public Safety (Section 25). Anyone with a legal interest may apply to restrict access to CROW access land for reasons of danger to the public. The relevant authority will then decide whether to grant the restriction or exclusion. Relevant authorities may themselves make such restrictions without receiving an application from a land owner, but this is unlikely except in extreme circumstances.

Restrictions for Fire Risk (Section 25). Anyone with a legal interest may apply to restrict access to CROW access land for reasons of risk of fire. The relevant authority may also make such restrictions - the decision in these cases is based on a fire risk model developed by the relevant authorities and the Met Office.

Restrictions for Nature Conservation and Heritage Preservation (Section 26). A relevant authority may restrict or exclude access to conserve important flora, fauna, geological or physiographical features or to preserve scheduled Ancient Monuments and other heritage sites. The relevant authorities will seek advice from English Nature, English Heritage or Countryside Council for Wales as appropriate.

Restrictions for Defence or National Security (Section 28). The Secretary of State may restrict or exclude access to CROW access land for the purposes of defence or national security.

On Rights of Way you can:

- Take a pram, pushchair, wheelchair, but expect to encounter stiles on footpaths.
- Take a dog, preferably on a lead or under close control.
- Take a short alternative route around an illegal obstruction.
- Remove an illegal obstacle sufficiently to get past

There is an ancient Common Law right to pass and re-pass along the highways at all times. Footpaths, bridleways and byways are highways. They only differ from other forms of highway such as roads, by the type of traffic entitled to use them.

Lack of use has no effect on the legal existence of a right of way.

Widths of Rights of Way - the Definitive Map kept by the County Council sometimes specifies the width of a path, but where this is not so the assumption is that a footpath crossing open ground or fields should have a width sufficient for two walkers to pass in comfort.

A bridleway across open land should allow one horse to pass another horse safely.

On roads used as public paths or 'byways', the accepted width is normally the feature that exists on the ground.

Public rights of way are not affected by the new access rights or by any restrictions that may be in place relating to these new rights. The land owner must still ensure that any rights of way on their land are clear of obstructions and that they ask for permission before they alter or install any gates or stiles.

Classifications

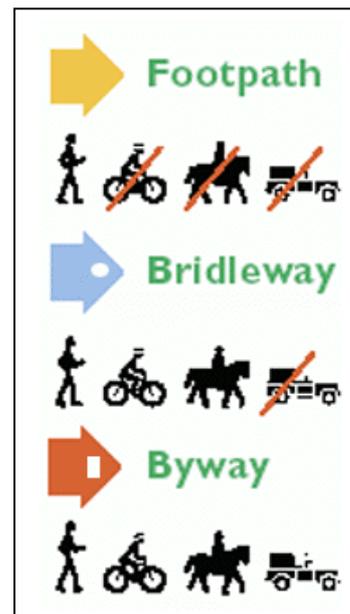
RUPPs: These are roads used as public paths. - RUPPs are of at least bridleway status and may or may not have vehicular rights. (Under the Wildlife and Countryside Act 1981 these have to be reviewed). These were all redesignated as 'Restricted Byways' under the Countryside and Rights of Way Act 2000.

Bridges Foot: dependent upon whether the County has 'adopted' them these are the responsibility of the landowner (who may be the council). Some foot bridges may be supported by the Councils.

Bridges Road: These are the responsibility of the County Council

Bridleways: On Definitive Map - Blue arrow. Rights on foot, on a horse and on a cycle. Each user must respect the other, especially when the track is narrow or muddy. Be prepared to find poached surfaces in winter.

Byway: On Definitive Map - Red arrow. Rights on foot, on a horse, on a cycle and by motorised vehicle. Each user must respect the other, especially when the track is narrow or muddy. 4x4s should cause as little damage as possible as others will also want to use the track in safety. Be prepared for ruts on popular routes. County





Council maintenance can normally only be provided legally to bridleway standards, so much of the joint use depends on careful use by motorised vehicles. Motorised vehicles should avoid those very wet areas and those subject to serious erosion. For alternatives see unclassified roads below.

Cycleways: Rights are complicated, with the overriding principle that cyclists have the priority. Some are part of a joint but segregated track alongside a footpath or road carriageway, some are individual. Maintenance is generally the responsibility of the County Council. Mixing cycle and pedestrian traffic imposes an increased hazard for people with disabilities and older people.

Footpaths: On Definitive Map - Yellow arrow. Rights on foot, along with other normal accompaniments, such as prams, dogs etc. Dogs must be under close control i.e. at the heel and when stock is in the same field should be on a lead. You must also clear up after your dog as some fouling may cause severe problems with farm animals. Be prepared for the footpaths to be wet and muddy in winter, and stock or crops in the field, and annual weeds around the edges in summer.

Restricted Byway: On Definitive Map - No colour yet. A new class of right of way replacing the old RUPPs. Rights on foot, on a horse, with or without cart or carriage, and on a cycle. "Mechanically propelled" vehicles are specifically banned.

Stiles and gates: These are the mostly the responsibility of landowners, but often supplied by the County Council or Forestry Commission in the past. In some sites landowners may claim part of the costs of stiles and gates from the Council.

Tarmac/Concrete roads, tarmac and paved footways, estate roads and footways: are all the responsibility of the County Council. Some new estate roads and footpaths are still owned by the developer.

Unclassified Roads (some white roads on the OS maps): (OS = Ordnance Survey) same rights as a Byway, but most were at one time surfaced with compacted stone or tarmac. Many have not been maintained for years and appear as old sunken un-surfaced lanes. Strictly these are the responsibility of the County Council but these roads provide an important facility off busy country roads and as councils may take interest in their maintenance.

White roads: These occur on OS maps but some may actually be private. However many are public but the public rights may have to be researched and claimed. This is an interesting and rewarding job, but the eventual adoption is the responsibility of the County Council.

Arable Fields

Arable fields which have been ploughed or planted with crops should not be crossed.



Keep off market garden plots and plant nurseries.

Where a public route crosses a field the land owner should ensure that there is a suitable signed pathway edging the planting.

Working Fields

Where spraying (machine or Ariel) is underway, managers must give warning to visitors who may use recognised rights of way adjacent to or crossing the area under spray. These should be in large clear text and give information about the timing, risk and any precautions in case of accidental contamination. Chemical drums should not be left obstructing the right of way or where children or those with low vision may inadvertently come into contact with them.

It may be reasonable for the manager to close a route for short periods otherwise a suitable temporary alternate route should be signed and prepared. The alternative route should be no more difficult to navigate than the original route.

Where ploughing, harvesting etc. are undertaken alongside public rights of way it is in the manager's interests to provide warning and where necessary guarding or alternate routes.

At Ploughing Time

If it is necessary you can plough footpaths and bridle-ways that run across fields. They must be reinstated within 14 days. Please note that you must not plough field edge paths at all nor must you plough up any RUPPs or byways.

Reinstatement must be to the minimum width set out by the Rights of Way Act as listed below.

- The line of the path must also be made apparent on the ground. Running your tractor once up and down the path is the easiest method and, if done immediately after ploughing and before leaving the field, will last until the crop gets away.
- Additionally, use canes or stakes at sufficient intervals so that the path's route is obvious to users. Please make sure that your tractor driver is aware of all paths over your land and knows how to deal with them.
- Paths must also be compacted and made visible after cultivation and drilling.
- Where paths have been constructed to specific standards, i.e. accessible widths and surface the width and surface plus any safety features must be reinstated to the same standard.

Tree Felling

If there is a path through the area where trees are being felled, the manager should make sure that the safety of people is protected or



indicate an alternative route. Entrances to areas where felling is being undertaken should always have suitable notices advising visitors that felling is taking place and what if any alternate routes may be in use.

Where there are no fixed paths, managers should put up notices at the main entrances to the wood.

Routes should be positively blocked by use of suitable rigid fencing; plastic tapes may be missed by those with low vision being mistaken for plant life.

Signs should indicate the alternative route giving information regarding its accessibility and condition.

Open Cast Mining & Quarries

These locations form a hazard to all right of way users. Managers have a responsibility to ensure that people and animals cannot wander inadvertently into danger areas.

Blasting operations are dangerous up close but can also be a hazard at a distance. People with low hearing or sight and horse riders, need to be warned in advance that the sudden noises may occur so that they are not startled into causing other dangers to themselves or others.

Shooting & Hunting

Where these activities occur signs should be posted on all routes where people may pass near the activity.

Signs should be both large text and tactile on well sighted notice boards.

Maps and advertising literature for the area should always indicate areas at risk.

Land Access and Management Duties

When deciding what duty of care is owed by the occupier in respect of access land, the following factors are taken into account:

- The fact that the existence of the right of access ought not to place an undue financial or other burden on the occupier
- The importance of maintaining the character of the countryside, including historic or archaeological features
- Any relevant guidance given in codes of conduct by the Countryside Agency or the Countryside Council for Wales.

Occupiers, eg, an owner or farm tenant, owes a duty of care to people on their land under two Occupiers' Liability Acts, those of 1957 and 1984. The 1957 Act relates this duty of care to those invited or

permitted to be on the land. The 1984 Act extends this to people other than visitors (including trespassers) if:

- the occupier knows, or ought to know, of a danger on his or her premises, and he or she knows or suspects that people might come near that danger
- and the risk is one against which he or she might reasonably be expected to offer protection

As the occupier of land you are responsible for ensuring that any rights of way across your land are kept free of obstruction. You must:

- Cut back hedge growth alongside rights of way
- Maintain stiles and gates across paths to standards agreed with the highway authority*
- Maintain certain bridges and culverts under rights of way (largely those ones crossing those ditches which came into existence after the path)
- Restore the surface of cross-field paths after ploughing

You must not:

- Erect new fences, requiring stiles or gates, across rights of way without the prior permission of the highway authority
- Plough field edge paths
- Allow any prohibited bull in a field through which a right of way passes
- Erect misleading signs likely to deter use of rights of way
- Remove or alter the direction of rights of way signs and waymarks
- Allow barbed wire or electric fencing to interfere with the public's use of a right of way

The CROW Act reduces occupiers' liability by removing the duty of care in respect of risks arising from:

- natural features of the landscape (including crags) and any river, stream, ditch or pond
- negotiating walls, fences or gates except by proper use of the gate or by a stile

Although you cannot legally require visitors to remain on a particular path or track on new CROW access land (in the absence of a formal restriction from the relevant authority), you can provide options that are appealing for the public and are in line with your existing management requirements. People will tend to follow existing paths



so providing a defined route will help channel them where you want them to go.

Insurance

Land Managers should ensure that their public liability insurance covers them adequately, by making a risk assessment where necessary.

Reference

ACT - The Access and Conservation Trust

[Http://www.accesstrust.org.uk/](http://www.accesstrust.org.uk/)

BMC – The British Mountaineering Council <http://www.thebmc.co.uk/>

CA - Countryside Agency (England)

<http://www.countrysideaccess.gov.uk/>

CCW - Countryside Council for Wales. <http://www.ccw.gov.uk/>

HSE – Health and Safety Executive <http://www.hse.gov.uk>