

Many advocates for more investment in walking and cycling infrastructure express frustration at what they perceive to be a bias of highway professionals in favour of the car-led status quo. While there may well be a problem with many professional engineers and planners, who do need to be trained in more modern approaches, I believe it is important to look further and consider the functions of highway authorities; and whether there are institutional biases that need to be overcome.

It is a fact that Highway Authorities are essentially under no legal obligation to do anything other than keep highways open and sufficiently well-maintained (when adopted) for the public to use for 'passing and re-passing' to use the historic terms. And although walking and cycling facilities could be regarded as enabling other types of 'traffic', the prevailing culture amongst many officers (and local politicians and the public) means that accommodating motor traffic is seen as the most important thing; and so often active travel facilities are resisted, mainly due to the impact they may have on motor traffic capacity, but also often on maintenance cost grounds. This reluctance also means that features that are designed to improve the quality and amenity of public space - street trees, verges, swales, better quality materials, cycle parking, places to sit – are seen as 'nice to haves' which are given less priority when funding (particularly maintenance funding) is limited.

I therefore believe that the time has come to update the legal framework within which Highway Authorities operate and are held to account.

The Road Traffic Reduction Act 1997 is still in force, which requires local authorities to prepare strategies to reduce motor traffic, but has been ignored since the Coalition government came into power in 2010. The Welsh Parliament passed the Active Travel Wales Act in 2013 which placed a duty on local authorities to prioritise walking and cycling when discharging their functions (including under the Highways Act), but has had only limited effect so far. Nevertheless, if local authorities were held to their statutory duties by central Government, I believe law changes will be effective. Prior to 2010 the then Labour Government used Public Service Agreement targets to set required outcomes for local authorities (which were applied to the RTRA) and although these fell out of favour 10 years ago the principle of setting measurable targets for local government is still used in many other policy areas.

The Highways Act 1980 is the latest in a long line of Acts relating to Highways, some of which are still partly in use (eg the Highway Act 1835) and is the principal statute governing the design and maintenance of highways. There are numerous other statutes that cover other highways and traffic functions, such as the New Roads and Streetworks Act, the Road Traffic Act and the Transport Act, but they don't go to the heart of how roads are designed.

The Highways Act gives highway authorities many powers to do things but few duties they have to carry out. Section 41 sets out the duty to maintain highways at the public expense (adopted highways), and Section 130 places a duty to enable people to use the highway (ie to travel along it without restriction). Section 66 places a duty to provide a footway alongside a carriageway – but only where the authority considers it necessary or desirable. Similarly, there is a duty under S71 to provide margins (verges) for horses and livestock but again only where considered necessary. There is no duty to provide any facilities for cycling – creating cycle tracks is a power under S65 but authorities have no obligation to do so. Similarly, S96 gives highway authorities the power to plant trees and shrubs and lay out grass verges but no such duty.

Interestingly highway authorities have a duty to have regard to nature conservation (as well as agriculture and forestry) but only when creating public paths, presumably across open land. Generally 'nature' is seen as a hazard that users of the highway have to be protected against

(S102). When it comes to water, providing for the drainage of highways is a power not a duty under S100 and there is no mention of the need to reduce the rate of rainfall run off, or enable biodiversity, when designing drainage systems.

In summary, the Highways Act places limited duties on highway authorities, which I believe are in urgent need of expansion. We are now looking for highways – particularly urban streets – to do so much more in terms of enabling sustainable modes of transport as well as be good places for people and for the environment. I therefore call for a new Highways Act, placing clear duties on Highway Authorities to deliver and maintain highways that meet the needs of the 21st Century. As with the Active Travel Wales Act, this should include obligations to improve facilities for walking and cycling whenever roads are built, improved or maintained. This could go hand in hand with the revival of the Road Traffic Reduction Act 1997. Other duties would include obligations to reduce the carbon footprint of building and operating highways, together with other desirable outcomes such as reducing rainfall run off, improving water quality and increasing biodiversity.

However, any such requirements will need to be policed; Active Travel England is showing how this can be done but its remit should be expanded (and the organisation renamed) to make sure that authorities are properly discharging these wider functions in an appropriate way.

For far too long the Department for Transport has treated local highway authorities very lightly, simply providing the funding for them to design and operate their networks in the way they see fit, even if that is wholly contrary to national policy and good practice. The challenges we face, nationally and globally, are now too great for that to be allowed to continue. Government must set clear laws and regulations in place which set out what highway authorities, highway professionals and highways themselves are for; and put in place the checks to ensure they are being followed.