

I have a little list....

Until relatively recently I had considered the list of streets to be a pretty much homogenous document. I knew that some highways were there because they were pre 1835 publicly maintainable highways, whilst others were added as a result of later 'adoptions' of one kind or another. Like many who work in the area of definitive map I had encountered a number of 'handover' documents too. I also knew that the list of streets had its origins in 1925 public health legislation and that originally there was only a requirement to hold a list for urban areas, and that the present obligations in respect of the list of streets were set out in the Highways Act 1980. For a recent case, in order to properly understand the records involved, it was necessary to look into the twists and turns that the list took between 1925 and the present day.

1925 Urban (but not rural) authorities were required by S84 (1) Public Health Act 1925 to keep a list of streets showing the streets within their district that were repairable by the inhabitants at large. S84 (2) required that the list of streets so produced was to be open for public inspection.

1929 S30 of the Local Government Act 1929 transferred the responsibility for the maintenance of highways from the rural district areas to county councils. At this time documents often known as 'handover' documents were commonly produced. These are not the "list of streets". The rural district councils (RDCs) were not covered by the requirement in S84 of the Public Health Act 1925 and they had no duty to keep such a document. There was no duty to produce 'handover' documents, whilst it seems to be common practice that this exercise was done, these documents, unlike the list of streets, are not statutory, nor open to the public and must by their nature be considered to be internal to the councils involved. Undoubtedly, prior to 1929, many RDCs had highway records but these were not statutorily open to public inspection, unlike the lists of streets held by the urban district councils (UDCs). It must be remembered that at the time many UDCs covered, in addition to an urban centre, areas that were rural in nature.

Once the county council took over responsibility for the highways in rural district areas it may (and in many cases obviously did) compile some sort of record of the highways it considered it was obliged to maintain. However, this document is not the 'list of streets' as S84 is not listed in Schedule 1 to the Local Government Act 1929 as being one of the parts of pre-existing legislation that was being extended to the county councils as they became highway authorities. Therefore from 1930 to the coming into effect of the Highways Act 1959 there was no obligation on the county council to produce and keep up to date a statutory 'list of streets'. Any records that exist from this period, and especially those that relate to rural highways in former RDC areas must be treated as "internal" rather than statutory documents open to public inspection.

1959 The Highways Act 1959 repealed S84 of the Public Health Act 1925 and enacted S38 (6) to replace it. This required that the "council of every borough and urban district" (but not counties) had to make and keep up to date a list of streets within their areas,

which are highways maintainable at public expense. This list was to be made available for public inspection.

- 1974 Local government re-organisation, and the Local Government Act 1972 transferred the 1959 Highways Act requirement from urban and borough councils to county councils. It did so by the operation of Schedule 21, principally Section 15, which also required that copies of the list of streets made by the county council for each district within the county had to be supplied to the relevant district council, to be deposited at their offices for public inspection. Schedule 21 made a number of other amendments to the Highways Act 1959 and all were authorised by S188 (7)(a) of the Local Government Act 1972.
- 1980 Highways Act S36 (6) and (7) require the county council to keep a list of highways maintainable at public expense and that such a list be available for public inspection at the highway authority offices and the section of the list that applies to each district area is to be supplied to the relevant district council and kept at their offices for public inspection. This is the law as it presently applies to county councils. For Metropolitan and Unitary Authorities the same requirement exists, usually applied by the legislation that enacted the relevant local government re-organisation.

Curiously, there appears to be a period of around 29 years when county council records that were in practical effect like the 'list of streets', were in legal terms not the "list of streets". Crucially, unlike the 1925 urban list of streets, and the later 1959, and post 1974 lists of streets, county documents from the period immediately after 'handover' were not open to public inspection as a matter of course.