

APPLYING FOR A MAP MODIFICATION ORDER

Introduction

Anyone can apply for a Map Modification Order (MMO) to change the Definitive Map and Statement - the legal record of public rights of way. Users might believe that because the public have used a path for a number of years it should be added to the map or that historic evidence supports a change; landowners and occupiers might believe that a right of way should never have been shown on the map or that it is shown on the wrong line

Before applying for an order you will need to gather sufficient evidence to persuade the County Council that on the balance of probabilities the Definitive Map needs changing. The procedure for making a formal application is set out below. The council *can* make an order without having received a formal application, but if you do not make a formal application you will not have any right of appeal if the council decides not to make an order and there is no set timescale for the council to investigate your claim.

How to make a formal application

The form in which the application must be made is prescribed by law - the Wildlife and Countryside Act 1981 and the Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 (SI 1993 No. 12) - copies of which can be obtained from HMSO or downloaded from their website <http://www.legislation.gov.uk/> Alternatively, *Rights of Way: A Guide to Law and Practice*(4th ed.), Riddall and Trevelyan 2007 - published by the Open Spaces Society and the Ramblers Association - contains useful information, including copies of the relevant legislation and advice about how to make a claim.

You must firstly submit an application to the County Council [**Form A**] together with a map showing the route, preferably based on the 1:2500 Ordnance Survey Map; and any supporting documentary evidence and completed public user evidence forms.

Documentary evidence might include:

- Inclosure Awards and maps
- Tithe Awards and maps
- Parish Council minutes
- old maps
- title deeds

If your application is based on user evidence it is not necessary for every claimant to have used the path for twenty years, but the claimants' evidence, taken together, must

show twenty years unbroken use. The use must have been by the public at large and not by employees of the landowner or visitors to the landowner or his tenants.

You must serve notice on every owner and occupier of land affected by your application [**Form B**]. If you are unable to trace the owner or occupier of the land, you may ask us to exempt you from this requirement and agree to you posting a notice on the land instead. We will normally agree to this if you can show that you have made every reasonable effort to trace the owner and occupier.

Before we can deal with your application you must send us a signed and dated Certificate of Service of Notice of Application [**Form C**], listing the names and addresses of all the people you have served notice on.

What happens next?

We will deal with your application as soon as possible, and aim to make a decision whether to modify the Definitive Map or not, within twelve months of receiving it. If we have not done so, you may ask the Secretary of State for Environment Food and Rural Affairs to direct us to deal with it within a specific time limit.

As part of our investigation we will ask the affected landowner(s) for their views and invite them to produce any evidence that may be relevant to the application. We will also consult the Parish and District Councils. All of the evidence produced will be considered and if the claim is based on user evidence, we will interview a selection of the claimants. We will then make a decision on the basis of all the available evidence.

We will notify you of our formal decision

- a) If we decide not to make an order you will have 28 days from our notice of decision for you to appeal to the Secretary of State.
- b) If we decide to make an order we will advertise it in the local newspaper and on site and notify the local councils the landowner and user groups. There will be 42 days for people to object to the order if they wish.
- c) If there are no objections we will confirm the order. If there are objections, we must send it to the Secretary of State who will appoint an independent Inspector to consider the evidence, either by written representations or by holding a Public Inquiry.
- d) When an order is confirmed, either by the council or by the Secretary of State, it will be publicised as in b). There is then a period of 42 days during which the validity of the order can be challenged in the High Court on the grounds that it was made or confirmed outside the powers of the Act or that the Act has not been complied with. The High Court may quash the order if it is satisfied that this is the case.