

Guidance notes on applications for Sheffield definitive map modification orders made under the Wildlife and Countryside Act 1981

Making, or opposing, an application to change the Definitive Map

Changing the Definitive Map and Statement

Under Part III of the Wildlife and Countryside Act 1981 Sheffield City Council has the task of keeping an official record of public rights of way in its administrative area. This record is called the Definitive Map and Statement (DMS).

These notes are intended to provide basic information and guidance about the process under the 1981 Act for applying for orders to amend the DMS, as it operates for Sheffield. Therefore they do not provide any full account of relevant law and practice. Whilst the content is believed to be correct as at June 2021, no responsibility is accepted for any errors, inaccuracies or omissions. Anyone who requires legal advice on their position concerning such an application should seek advice from an independent solicitor.

The DMS can be changed if evidence becomes available which shows it requires amendment. Anyone can apply to amend the DMS if they have evidence which suggests that the Map or Statement is inaccurate or incomplete. For instance, rights may exist over a way not shown on the Map, or a path regularly used by horse riders may be shown as a footpath instead of a bridleway.

Making an application

Who can apply?

An application to amend the DMS can be made by an individual or an organisation, such as a Parish Council, or a user group.

How to apply

An application pack can be obtained from the City Council's website alongside this document. The completed forms must be returned to us, with a map or plan at a scale of not less than 1:25,000 showing the claimed route and copies of the evidence that supports the application.

Applicants must serve a notice stating that the application has been made on every owner and occupier of affected land, and certify to the City Council that this has been done. Landowners' details may be available from the Land Registry or be obtained by local enquiry. If landowners or occupiers cannot be identified, we may direct applicants to post notices at each end of the claimed path instead.

We may not be able to investigate each application immediately owing to the volume of applications we are dealing with. In order to be fair to all applicants and affected parties, applications are largely dealt with in chronological order of receipt. Applications are recorded on a register of applications published on the City Council's website.

Collecting your evidence – supporting an application

Documentary Evidence

If you believe that the claimed route is a historical right of way your evidence may include historical information such as Ordnance Survey maps, enclosure awards and maps, tithe awards and maps, title deeds, statutory orders and plans, parish council minutes, photographs, railway and canal plans, reference books and published material that refers to the route in question. All maps and written records should be copied, and references given. You will need to tell us where the original records can be found, and which parts are relevant to the application.

User Evidence

If you believe that a right of way has been enjoyed by the public over a number of years, you will need to collect evidence from people who have used the route concerned. We supply forms alongside this document on the website asking how, and when, the route was used, and what users may have seen. Witnesses are asked to give full answers to the questions and not to hold back information, whether it appears to be for, or against, the application. They should also mark the route they have used on a map, and sign and date it and attach it to the form. You should not mark the route on the map for them.

We may interview the witnesses personally, to obtain more detail about use of the path. User forms and statements can be inspected by landowners and other interested members of the public.

Opposing an application

An application to change the Definitive Map and Statement may not be supported by others in the locality. For example, a landowner or other local people might choose to oppose the application. We will ask landowners and other local authorities in the area if they have any comments or evidence relevant to the application (whether for or against) and we also welcome relevant evidence from any other parties who are interested in the matter.

Relevant evidence is that which relates to the existence, status or extent of the right of way. Matters such as privacy or suitability cannot be taken into account because they do not demonstrate whether a legal right of way exists. We do need to know, for example, if a landowner has taken steps to stop the public using a path by turning people away, or putting up signs saying 'No Public Right of Way'. There may be deeds or other documents in private papers which refer to the land over which the public right of way has been claimed. Alternatively, opponents may wish to present an alternative interpretation of the applicant's evidence.

We will take into account all material supplied both in support and opposition to the application to help us to reach a fair and balanced decision if it is given to us during our investigations.

Investigating the Application

When the claim is investigated, we will look at the evidence that has been submitted with the application, any evidence submitted in opposition to the claim, and carry out any additional research that may be necessary to assess whether the DMS needs to be amended. Once all the available evidence has been collated a report will be produced and a determination reached by the City Council which will decide whether the evidence is sufficient to justify making an Order to amend the DMS.

The decision will be based on the evidence available about the history or current or past use of the route (not on whether the change proposed is desirable), and it may not reflect the claimed status or exact route set out in the application. If the decision is that the evidence does not support the application, we notify the applicant and advise them of any right to appeal against the decision.

If the decision is that the evidence does support the application, the applicant will be notified that an Order to amend the DMS will be made.

After an Order is made

We will advertise the Order by putting notices at each end of the path affected, and in the local press. Similar notices are sent to the landowners and occupiers. Anyone may object, or make representations, to the Order by writing to the Council during the 42 days following the advertisement.

If any objection to the Order is made and not withdrawn, we must refer the Order to the Secretary of State for determination. Arrangements will then be made for the Order and the objections to be considered by an Inspector appointed by the Public Rights of Way, either at a local public inquiry, hearing, or by exchange of written representations. The Inspector will decide whether or not to confirm the Order, and will only take into account evidence that is relevant to the Order. Statutory objectors have a right to be heard in these proceedings. Other objectors, and supporters of the Order, may also be involved at this stage.

The Order must be confirmed before any change can be made to the DMS. When confirmed, it will amend the DMS to the extent specified in the order.

Access to information

Please note that documents and correspondence sent to us in connection with an application to amend the DMS may be disclosed to other people outside the Council.

Further information

If you have any questions about the applications procedure, please email prow@sheffield.gov.uk

WILDLIFE AND COUNTRYSIDE ACT 1981

Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993

**Guidance notes to accompany Application Forms
for a Modification Order in respect of the Definitive Map
and Statement of Public Rights of Way**

**(Please note W.C.A.5, W.C.A.6 and W.C.A.7
are separate from these guidance notes.
W.C.A.8 and W.C.A.9 are for information only)**

GUIDANCE ONLY – NOT FOR SUBMISSION

**Public Rights of Way
Sheffield City Council
5th Floor Howden House
1 Union Street
SHEFFIELD
S1 2SH**

WILDLIFE AND COUNTRYIDE ACT 1981 PART II

Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993

Notes for applications for Orders for modifications to definitive maps and statements

1. **ADDITION** of a public right of way.

Read Form W.C.A.1 and complete forms W.C.A.5, 6 and 7 as appropriate.

2. **UPGRADING** or **DOWNGRADING** of a public right of way.

Read Form W.C.A.2 and complete forms W.C.A.5, 6 and 7 as appropriate.

3. **VARIATION TO THE STATEMENT** for a public right of way.

Read Form W.C.A.3 and complete forms W.C.A.5, 6 and 7 as appropriate.

4. **DELETION** of a public right of way.

Read Form W.C.A.4 and complete forms W.C.A.5, 6 and 7 as appropriate.

It is recommended that maps to accompany applications for Definitive Map Orders are based on Ordnance Survey Maps, copies of which are available from all normal retail outlets and Ordnance Survey agents. Regrettably, the City Council is unable to supply copies of maps for use with applications for Definitive Map Orders.

Public Rights of Way
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5th Floor Howden House
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Revised June 2021

WILDLIFE AND COUNTRYSIDE ACT 1981

Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993

How to apply for a modification Order to **ADD** a public right of way to a Definitive Map and Statement.

1. Decide whether your claim is for a footpath, bridleway or a byway open to all traffic.
 - a. a footpath is a right of way for public use by pedestrians only, it may have gates/stiles on it.
 - b. a bridleway is a right of way for public use by pedestrians, equestrians and cyclists. It should not have stiles, unless there are also opening gates.
 - c. a byway open to all traffic is a right of way mainly used by the public as equestrians and walkers and which can also be publicly used with vehicles.

COMPLETE PARAGRAPH 1 ON FORM W.C.A.5

Documentary evidence required:-

- i. map, not less than 1:25,000 (2½" to 1 mile). A larger scale map would, however, greatly assist the consideration of this claim. The route of the claimed right of way should be clearly marked on the map.
- ii. Any evidence considered relevant eg photographs, old maps, statements that the right of way has been used etc, in accordance with this claim.

RETURN THE COMPLETED FORM W.C.A.5 AND RELEVANT EVIDENCE TO THE CITY COUNCIL AT THE ADDRESS GIVEN BELOW (see also note 3 below)

2. Notify the landowner and occupier concerned (complete paragraph 1 on FORM W.C.A.6) This form must be sent to each landowner and occupier affected by your application. If you cannot find the landowner or occupier after making all reasonable efforts, you should write to the City Council giving full details of the steps you have taken. The City Council can direct you to address the Notice to the "owner" or "occupier" of the land (describing it) and then to affix the Notice in some conspicuous place(s) or to some conspicuous object(s) on the land.
3. **COMPLETE FORM W.C.A.7 LISTING THE LANDOWNER(S) AND OCCUPIER(S)
NOTIFIED AND RETURN IT TO THE CITY COUNCIL.**

If a direction under 2 above has been given, the list on FORM W.C.A.7 should be completed by giving details of the Notices actually served and displayed on the land.

Public Rights of Way
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SHEFFIELD
S1 2SH

If you require further information or extra forms please contact Public Rights of Way via Telephone on 0114 2734448 or via email on prow@sheffield.gov.uk **W.C.A.1**

WILDLIFE AND COUNTRYSIDE ACT 1981
Wildlife and Countryside (Definitive Maps and Statements)
Regulations 1993

How to apply for a modification Order to **UPGRADE** or **DOWNGRADE** a public right of way as shown on the Definitive Map and Statement.

1. Ascertain the current identification on the Definitive Map and Statement of the right of way which you are concerned about (whether footpath, bridleway, or byway open to all traffic, number and name of Parish).
2. Decide which kind of legal status you wish the rights of way to be regarded to:-
 - a. a footpath is a right of way for public use by pedestrians only, it may have gates/stiles on it.
 - b. a bridleway is a right of way for public use by pedestrians, equestrians and cyclists. It should not have stiles, unless there are also opening gates.
 - c. a byway open to all traffic is a right of way mainly used by the public as equestrians and walkers, which can also be publicly used with motor vehicles.

COMPLETE PARAGRAPH 2 ON FORM W.C.A.5

Documentary evidence required:-

- i. map, not less than 1:25,000 (2½" to 1 mile). A larger scale map would, however, greatly assist the consideration of this claim. The route of the right of way should be clearly marked on the map.
- ii. any evidence considered relevant e.g. photographs, old maps, statements that the right of way has been used etc, in accordance with this claim.

RETURN THE COMPLETED FORM W.C.A.5 AND RELEVANT EVIDENCE TO THE CITY COUNCIL AT THE ADDRESS GIVEN BELOW (see also note 3 below)

3. Notify the landowner and occupier concerned (complete paragraph 2 on FORM W.C.A.6)

This form must be sent to each landowner and occupier affected by your application. If you cannot find the landowner or occupier after making all reasonable efforts, you should write to the City Council giving full details of the steps you have taken. The City Council can direct you to address the Notice to the "owner" or "occupier" of the land (describing it) and then to affix the Notice in some conspicuous place(s) or to some conspicuous object(s) on the land.

4. **COMPLETE FORM W.C.A.7 LISTING THE LANDOWNER(S) AND OCCUPIER(S) NOTIFIED AND RETURN IT TO THE CITY COUNCIL.**

If a direction under 2 above has been given, the list on FORM W.C.A.7 should be completed by giving details of the Notices actually served and displayed on the land.

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WILDLIFE AND COUNTRYSIDE ACT 1981

Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993

How to apply for a modification Order to **VARY THE STATEMENT** for a public right of way as shown on a Definitive Map and Statement.

1. Quote the right of way number from the Definitive Map, and provide an OS reference.

Please give details of the current Statement with the Definitive Map and also show details application.

COMPLETE PARAGRAPH 3 ON FORM W.C.A.5

Documentary evidence required:-

- a. map, not less than 1:25,000 (2½" to 1 mile). A larger scale map would, however, greatly assist the consideration of this claim. The route of the right of way should be clearly marked on the map.
- b. any evidence considered relevant e.g. photographs, old maps, statements that the right of way has been used etc, in accordance with this claim.

RETURN THE COMPLETED FORM W.C.A.5 AND RELEVANT EVIDENCE TO THE CITY COUNCIL AT THE ADDRESS GIVEN BELOW (see also note 3 below)

2. Notify the landowner and occupier concerned (complete paragraph 3 on FORM W.C.A.6)

This form must be sent to each landowner and occupier affected by your application. If you cannot find the landowner or occupier, after making all reasonable efforts, you should write to the City Council giving full details of the steps you have taken. The City Council can direct you to address the Notice to the "owner" or "occupier" of the land (describing it) and then to affix the Notice in some conspicuous place(s) or to some conspicuous object(s) on the land.

3. **COMPLETE FORM W.C.A.7 LISTING THE LANDOWNER(S) AND OCCUPIER(S)
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If a direction under 2 above has been given, the list on FORM W.C.A.7 should be completed by giving details of the Notices actually served and displayed on the land.

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WILDLIFE AND COUNTRYSIDE ACT 1981

Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993

How to apply for a modification Order to **DELETE** a public right of way.

1. Quote the right of way number from the Definitive Map and provide an OS reference.

Please give details of the current Statement with the Definitive Map.

COMPLETE PARAGRAPH 4 ON FORM W.C.A.5

Documentary evidence required:-

- a. map, not less than 1:25,000 (2½” to 1 mile). A larger scale map would, however, greatly assist the consideration of this claim.
- b. any evidence to show that there is no public right of way

RETURN THE COMPLETED FORM W.C.A.5 AND RELEVANT EVIDENCE TO THE CITY COUNCIL AT THE ADDRESS GIVEN BELOW (see also note 3 below)

2. Notify the landowner and occupier concerned (complete paragraph 4 on FORM W.C.A.6)

This form must be sent to each landowner and occupier affected by your application. If you cannot find the landowner or occupier, after making all reasonable efforts, you should write to the City Council giving full details of the steps you have taken. The City Council can direct you to address the Notice to the “owner” or “occupier” of the land (describing it) and then to affix the Notice in some conspicuous place(s) or to some conspicuous object(s) on the land.

3. **COMPLETE FORM W.C.A.7 LISTING THE LANDOWNER(S) AND OCCUPIER(S)
NOTIFIED AND RETURN IT TO THE CITY COUNCIL.**

If a direction under 2 above has been given, the list on FORM W.C.A.7 should be completed by giving details on the Notices actually served and displayed on the land.

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WILDLIFE AND COUNTRYSIDE ACT 1981

NOTICE OF ACCEPTANCE OF CLAIM

Name and Address of Claimant

PARTICULARS OF CLAIM

Date of Determination of the Claim

Claim No

Details of Claim

PARTICULARS OF DECISION

In pursuance of their powers and duties under the Wildlife and Countryside Act 1981, the Sheffield City Council have investigated the matters referred to in the Claim No, the details of which are indicated above.

Notice is hereby given that the Sheffield City Council have determined **TO MAKE** an Order to modify the Definitive Map and Statement to which the claim relates, in accordance with Section 53(2)(b) of the Wildlife and Countryside Act 1981.

A Notice of the making of the Order will follow in due course.

Dated 20.... Signed

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1 Union Street
SHEFFIELD
S1 2SH

WILDLIFE AND COUNTRYSIDE ACT 1981

NOTICE OF REJECTION OF CLAIM

Name and Address of Claimant

PARTICULARS OF CLAIM

Date of Determination of the Claim

Claim No

Details of Claim

PARTICULARS OF DECISION

In pursuance of their powers and duties under the Wildlife and Countryside Act, in accordance with Section 53(5) and Schedule 14 of the Act, the Sheffield City Council have investigated the matters referred to in the Claim No, the details of which are indicated above.

Notice is hereby given that the Sheffield City Council have determined **NOT TO MAKE** an Order to modify the Definitive Map and Statement to which the claim relates.

The reasons for the City Council's decision are:-

Dated 20.... Signed

NB IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES PRINTED OVERLEAF

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NOTES

1. Where the City Council decide not to make an Order, the applicant may, in accordance with paragraph 4 of Schedule 14 to the Wildlife and Countryside Act 1981, **AT ANY TIME WITHIN 28 DAYS AFTER THE SERVICE ON THEM OF THE NOTICE OF THE DECISION**, serve Notice of Appeal against that decision on the Secretary of State and the City Council.
2. An Appeal must be made in writing, giving the grounds for the Appeal and be accompanied by copies of the application, the map showing the path or way concerned, the supporting documentation and the City Council's decision. The Appeal should be made to:-

The Planning Inspectorate
3/25 Hawk Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN
3. A copy of the Notice of Appeal, but without accompaniments, must also be served on Sheffield City Council, Public Rights Of Way, 5th Floor Howden House, Sheffield, S1 2SH.
4. If, on considering the Appeal, the Secretary of State considers than an Order should be made, he will direct the City Council to make an Order accordingly.