

CUMBRIA COUNTY COUNCIL

WILDLIFE & COUNTRYSIDE ACT 1981

**The Wildlife and Countryside
(Definitive Maps and Statements)
Regulations, 1983**

Notes and Application Forms for a Modification Order
in respect of the Definitive Map and
Statement of Public Rights of Way

WILDLIFE AND COUNTRYSIDE ACT, 1981

The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983

EXPLANATORY NOTES FOR APPLICANTS

1. DELETION of a Public Right of Way
Read Form WCA.1 and complete forms WCA.5, 6 and 7 as appropriate.
2. CLAIMED new Public Right of Way
Read Form WCA.2 and complete Forms WCA.5, 6 and 7 as appropriate.
3. UP/DOWNGRADING of a Public Right of Way
Read Form WCA.3 and complete Forms WCA.5, 6 and 7 as appropriate.
4. VARIATION TO THE STATEMENT for a Public Right of Way.
Read Form WCA.4 and complete Forms WCA.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 County Council is unable to supply copies of maps for use with applications for Definitive Map Orders.

IMPORTANT – SERVICE OF NOTICES

The Wildlife and Countryside 1981, Section 70(A) - (Service of Notices)

Notices of Applications must be served on landowners and occupiers by one of the following methods. Failure to do so will invalidate the Application.

- (a) By personal delivery to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address; or
- (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given by that person, at that address; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

Definitions

A **footpath** is a right of way on foot only.

A **bridleway** is a right of way on foot and on horseback and bicycle, possibly with an additional right to drive animals.

A **restricted byway** is a right of way on foot, on horseback or leading a horse and a right of way for vehicles other than mechanically propelled vehicles.

A **byway open to all traffic** is a carriageway with a right of way for vehicular traffic, but one which is used mainly for the purposes for which footpath and bridleways are used.

WILDLIFE AND COUNTRYSIDE ACT, 1981**The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983**

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

- 1 If possible, please quote the Right of Way number from the Definitive Map, and provide an OS reference.

COMPLETE PARAGRAPH 1 on FORM WCA.5

Documentary evidence required:

- (a) map, not less than 1:25 000 (2¹/₂" to 1 mile). A 1/10 000 or 1/2500 scale map would, however, greatly assist the consideration of this claim.
- (b) any evidence considered relevant, e.g. photographs, old maps, sworn statements that the Right of Way has never been used, etc.

RETURN THE COMPLETED FORM WCA.5 AND RELEVANT EVIDENCE TO THE COUNTY COUNCIL AT THE ADDRESS SHOWN BELOW (See also Note 3 below).

- 2 Notify the landowner and if necessary, occupier concerned (complete paragraph 1 on FORM WCA.6)

This form must be served on each landowner and occupier affected by your application. (It is essential that the procedure described in the note for "Service of Notices" in the Explanatory Notes is followed, otherwise the Application will be invalidated). If you cannot find the landowner/occupier, after making all reasonable efforts, you should write to the COUNTY COUNCIL giving full details of the steps you have taken. The COUNTY 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 WCA.7 LISTING THE LANDOWNER(S) AND IF NECESSARY OCCUPIERS NOTIFIED AND RETURN IT TO THE COUNTY COUNCIL. If a direction under 2 above has been given, the list on Form WCA.7 should be completed by giving details of the Notices actually served and displayed on the land.

Countryside Access Team
Highways and Transport
Cumbria County Council
The Parkhouse Building
Kingmoor Business Park
Carlisle, CA6 4SJ
Cumbria

WILDLIFE AND COUNTRYSIDE ACT, 1981**The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983**

How to apply for a Modification Order to CLAIM a new public right of way.

- 1 Decide whether your claim is for a footpath, bridleway, restricted byway or a byway open to all traffic.

COMPLETE PARAGRAPH 2 ON FORM WCA.5 .

Documentary evidence required:

- (i) map, not less than 1:25 000 (2¹/₂" to 1 mile). A larger 1/10 000 or 1/2500 scale map would, however, greatly assist the consideration of this claim.
- (ii) any evidence considered relevant, e.g. photographs, old maps, sworn statements that the Right of Way has been used, etc, in accordance with this claim.

RETURN THE COMPLETED FORM WCA.5 AND RELEVANT EVIDENCE TO THE COUNTY COUNCIL AT THE ADDRESS GIVEN ON FORM WCA.1.

- 2 Notify the landowner and if necessary, occupier concerned (complete paragraph 2 on FORM WCA.6).

This form must be sent to each landowner and occupier affected by your application.

(It is essential that the procedure described in the "Notice for Service of Notices" in the Explanatory Notes is followed, otherwise the Application will be invalidated).

If you cannot find the landowner and occupier, after making all reasonable efforts, you should write to the COUNTY COUNCIL giving full details of the steps you have taken. The COUNTY 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 WCA.7 LISTING THE LANDOWNER(S) AND IF NECESSARY OCCUPIERS NOTIFIED AND RETURN IT TO THE COUNTY COUNCIL. If a direction under 2 above has been given, the list on Form WCA.7 should be completed by giving details of the Notices actually served and displayed on the land.

WILDLIFE AND COUNTRYSIDE ACT, 1981**The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983**

How to apply for a Modification order to UPGRADE/DOWNGRADE a public right of way.

- 1 Decide whether your claim is for a footpath, bridleway, restricted byway or a byway open to all traffic.

COMPLETE PARAGRAPH 3 ON FORM WCA.5.

Documentary evidence required:

- (i) map, not less than 1:25 000 (2¹/₂" to 1 mile). A larger 1/10 000 or 1/2500 scale map would, however, greatly assist the consideration of this claim.
- (ii) any evidence considered relevant, e.g. photographs, old maps, sworn statements that the Right of Way has been used, etc, in accordance with this claim.

RETURN THE COMPLETED FORM WCA.5 AND RELEVANT EVIDENCE TO THE COUNTY COUNCIL AT THE ADDRESS GIVEN ON FORM WCA.1. (See also Note 3 below).

- 2 Notify the landowner and if necessary occupier concerned (complete paragraph 3 on FORM WCA.6).

This form must be sent to each landowner and occupier affected by your application.

(It is essential that the procedure described in the note for "Service of Notices" in the Explanatory Notes is followed, otherwise the Application will be invalidated).

If you cannot find the landowner and occupier, after making all reasonable efforts, you should write to the COUNTY COUNCIL giving full details of the steps you have taken. The COUNTY 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 WCA.7 LISTING THE LANDOWNER(S) AND IF NECESSARY OCCUPIER NOTIFIED AND RETURN IT TO THE COUNTY COUNCIL. If a direction under 2 above has been given, the list on Form WCA.7 should be completed by giving details of the Notices actually served and displayed on the land.

WILDLIFE AND COUNTRYSIDE ACT, 1981**The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983**

How to apply for a Modification order to VARY THE STATEMENT for 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 and also show details of the proposed amended Statement the subject of the application.

COMPLETE PARAGRAPH 4 ON FORM WCA.5 .

Documentary evidence required:

- (i) map, not less than 1:25 000 (2¹/₂" to 1 mile). A larger 1/10 000 or 1/2500 scale map would, however, greatly assist the consideration of this claim.
- (ii) any evidence considered relevant, e.g. photographs, old maps, sworn statements that the Right of Way has been used, etc, in connection with this claim.

RETURN THE COMPLETED FORM WCA.5 AND RELEVANT EVIDENCE TO THE COUNTY COUNCIL AT THE ADDRESS GIVEN ON FORM WCA.1. (See also Note 3 below).

- 2 Notify the landowner and if necessary, occupier concerned (complete paragraph 3 on FORM WCA.6).

This form must be sent to each landowner and occupier affected by your application. (It is essential that the procedure described in the "Notice for Service of Notices" in the Explanatory Notes is followed, otherwise the Application will be invalidated).

If you cannot find the landowner and occupier, after making all reasonable efforts, you should write to the COUNTY COUNCIL giving full details of the steps you have taken. The COUNTY 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 WCA.7 LISTING THE LANDOWNER(S) IF NECESSARY, OCCUPIER NOTIFIED AND RETURN IT TO THE COUNTY COUNCIL. If a direction under 2 above has been given, the list on Form WCA.7 should be completed by giving details of the Notices actually served and displayed on the land.

APPLICATION FOR A MODIFICATION ORDER

WILDLIFE AND COUNTRYSIDE ACT, 1981

The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983 (Schedule 7)

DEFINITIVE MAP AND STATEMENT FOR THE PARISH OF

DISTRICT OF PUBLIC RIGHT OF WAY NO.

TO: CUMBRIA COUNTY COUNCIL

OF: COUNTRYSIDE ACCESS, THE PARKHOUSE BUILDING, KINGMOOR BUSINESS PARK, CARLISLE, CUMBRIA, CA6 4SJ

I/We (Name of applicant)

Of (Address of applicant)

.....
.....
.....

hereby apply for an Order under Section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statements for the area by

- 1 Deleting the *(footpath) (bridleway) (restricted byway) (byway open to traffic)

From:

To:

- 2 Adding the *(footpath) (bridleway) (restricted byway) (byway open to traffic)

From:

To:

- 3 *(Upgrading) (downgrading) to a *(footpath) (bridleway) (restricted byway) (byway open to all traffic) the *(footpath) (bridleway) (restricted byway) (byway open to all traffic)

From:

To:

- 4 *(Varying) (adding to) the particulars relating to the *(footpath) (bridleway) (restricted byway) (byway open to all traffic)

From:

To:

and shown on the map attached.

- * Please delete as appropriate

I/We attach copies of the following documentary evidence (including statements of witnesses) in support of this application:

List of Documents provided

Dated

Signed

NOTICE OF APPLICATION FOR A MODIFICATION ORDER

WILDLIFE AND COUNTRYSIDE ACT, 1981

The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983 (Schedule 8)

DEFINITIVE MAP AND STATEMENT FOR THE PARISH OF

.....

DISTRICT OF

To:

Of:

Notice is hereby given that on (insert date)

I/We

of

made application to Cumbria County Council, Countryside Access, The Parkhouse Building, Kingmoor Business Park, Carlisle that the Definitive Map and Statement for the above-mentioned Parish and District be modified by:

- 1 Deleting the *(footpath) (bridleway) (restricted byway) (byway open to all traffic)

From:

To:

- 2 Adding the *(footpath) (bridleway) (restricted byway) (byway open to all traffic)

From:

To:

- 3 *(Upgrading) (downgrading) to a *(footpath) (bridleway) (restricted byway) (byway open to all traffic) the *(footpath) (bridleway) (restricted byway) (byway open to all traffic)

From:

To:

- 4 *(Varying) (adding to) the particulars relating to the *(footpath) (bridleway) (restricted byway) (byway open to all traffic)

From:

To:

and shown on the map attached.

Dated

Signed

* Please delete as appropriate

NOTES FOR INFORMATION

This Notice has been served on you by the person(s) named overleaf, not by the Cumbria County Council. The Notice is required to be served on you in accordance with the procedure prescribed in the Wildlife and Countryside Act, 1981. It is intended to show that an application has been made to the County Council, by the person named overleaf, for a Modification Order to be made to amend the Definitive Map of Public Rights of Way, on land in which you have an interest.

When the County Council is satisfied that an Application has been made in the prescribed manner, you will then be contacted by the County Council. Until that time there is no need for you to take any action in relation to the Notice.

CERTIFICATE OF SERVICE OF NOTICE OF APPLICATION FOR A MODIFICATION ORDER

WILDLIFE AND COUNTRYSIDE ACT, 1981

The Wildlife and Countryside (Definitive Maps and Statements) Regulations, 1983 (Schedule 9)

DEFINITIVE MAP AND STATEMENT FOR THE PARISH OF

DISTRICT OF

TO: CUMBRIA COUNTY COUNCIL

OF: COUNTRYSIDE ACCESS, THE PARKHOUSE BUILDING, KINGMOOR BUSINESS PARK, CARLISLE, CUMBRIA, CA6 4SJ

I/We (name of applicant)

Of (address of applicant)

.....

.....

hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with.

Details of Modification

List of Landowners and Occupiers Notified

Method of Service of Notice

Dated

Signed

Public Right of Way User Evidence Statement

This statement should be completed and returned to the person making the application so that it can be submitted with or form part of an application seeking a change to the Definitive Map and Statement of Public Rights of Way.

This statement is intended to provide preliminary evidence about the application. When the Order-Making Authority (OMA) commences detailed research, an officer from that authority may contact you to seek further information or ask you to be interviewed about your evidence.

This statement is designed to help establish whether or not the route being claimed in the application is a public right of way. It also provides evidence of how it is used (for example on foot, on horseback, by vehicles etc.).

You should answer the questions as fully as possible and not keep back any information, whether for or against the public claim. This is important if this information is to be of real value in establishing the status of the application route. The information given may be examined at a public inquiry.

This statement should be completed by one person only and should relate to only one route. If you need more space please continue on a separate sheet which will need to be attached to this statement.

If completing the statement by hand, please ensure it is written legibly and in black ink.

Confidentiality – Please Read Carefully

The information you give in this statement cannot be treated as confidential.

- It may be necessary for the OMA to disclose information received from you to others, which may include other local authorities, the Planning Inspectorate and other government departments, public bodies, other organisations, landowners and members of the public. If the application proceeds to a public inquiry your evidence will be made available to the inquiry.
- If the OMA proceeds with the application but it is contested (for example by a landowner), there may be a public inquiry. This will be held locally and if you are unable to attend your evidence will be given in writing, but user evidence is of much greater value if you attend in person and are prepared to answer questions about it. Inquiries are kept as informal as possible and the OMA will help you with the procedure.
- The information you give in this statement will be processed in accordance with the Data Protection Statement. It is held by the OMA's Rights of Way Service for the sole purpose of processing the application for the route referred to.

DECLARATION

Data Protection Act Statement

Under the Data Protection Statement the OMA has a duty to inform you about how your personal data will be handled. In order to decide if a public right of way exists it may be necessary to disclose information received from you. The information provided on this statement cannot be treated as confidential (other than your personal contact details and signature). You should only provide us with the information requested if you are happy for it to be placed in the public domain. Do not include information about another person.

This statement and the details contained therein will be considered by the OMA to establish whether a public right of way exists and, in signing it, you are acknowledging that it may be made publically available and published on the OMA's website.

Please print your name here

Your: Home Telephone Number.....

Mobile Telephone Number

Email Address

Statement of Truth

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE AND I HAVE READ THE DECLARATION ABOVE.

Your Signature:

Date:

You should keep a copy of the completed statement.

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Personal Information in this statement will be redacted and not made publically available.

PUBLIC RIGHT OF WAY USER EVIDENCE STATEMENT

ABOUT YOU

Name

Address

.....

.....

.....Postcode

Year of Birth

Have you lived at any other addresses during the time you have used the path or way?
If so, please provide details and years [full addresses are not required].

.....

.....

ABOUT THE APPLICATION ROUTE

How do you think the application route should be recorded?

- As a footpath (public rights on foot only)
- As a bridleway (public rights on foot and on horseback or bicycle)
- As a restricted byway (public rights on foot, on horseback or any non-motorised vehicle)
- As a byway open to all traffic (public rights for all classes of use, including motor vehicles)

Describe the application route (include start and finish points and provide OS grid references if you can)

.....

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.....

.....

MAP OF THE APPLICATION ROUTE

Please attach an extract from a map of your own choice to identify the route you are providing evidence about, and annotate it with anything you provide details about in this statement. Please sign and date your map.

YOUR USE OF THE APPLICATION ROUTE

1. In which years did you use the application route?

From To

2. Were there any extended periods during which you did not use the route at all? If so, please state when and why?

.....

3. How did you use the application route and how often? [Please tick any that apply]

	Daily	Weekly	Monthly	Every few months	Once a year	Other (please describe)
On foot						
On horseback						
By pedal cycle						
By car						
Other [please specify]						

4. Has the application route always followed the same course?

- Yes
- Don't know
- No

If no – how and when was the route altered?

.....

5. Approximately how wide is the application route?
[Please give your estimate of the width across which you used the route including the width used when passing others or walking with others. Take care to consider the overall width of the route. If this varies, please describe how] [Or please state 'Don't know'].

.....
.....
.....

6. What type of surface does the application route have? (for example grass, gravel, earth)
[For varying surfaces, please describe with reference to your map]

.....
.....
.....

7. Have there ever been any of the following on the application route?

a. Stiles [state locations and show on your map]

.....
.....
.....

How long were they in place?

.....
.....
.....

b. Gates [state locations, indicate whether locked – and when - and show on your map]

.....
.....
.....

c. Other barriers [state what they were and location, how long they were in place and show on your map]

.....
.....
.....

8. Did any of the above prevent you from using the application route?

No

Yes

If yes, please give details

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.....
.....

9. Have you ever seen any signs or notices suggesting whether or not the application route is a public right of way? (for example "Private", "Keep Out", No Right of Way "Trespassers will be Prosecuted")

No

Yes

Don't know

If yes – state when and give details, including when they were present and mark their location on your map

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.....
.....

10. Have you seen other people using the application route whilst you have been using it?

No

Yes

If yes, please provide any additional information about this

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.....
.....

Land Ownership

11. Were you working for any owner or occupier of land crossed by the application route at the time when you used it, or were you then a tenant / licensee of any such owner?

No

Yes

If yes, provide details and dates

.....
.....
.....

12. Did the owner or occupier ever give you permission (or did you seek permission) to use the application route?

No

Yes

If yes,

a. From whom?

b. When?

13. Has anyone ever told you the application route was not public (including by an owner, tenant of the land or by anyone in their employment)?

No

Yes

If yes, by whom and when?

.....
.....
.....

14. Have you ever been stopped or turned back when using the application route?

No

Yes

If yes, please give details including when this happened

.....
.....
.....

15. Has anyone else ever told you that they were prevented from using the application route?

No

Yes

If yes, please give details including when this happened

.....
.....
.....

16. Have you ever had a private right to use the application route? (for example, an easement, private right of access, licence, etc)

No

Yes

If yes, please give full details, including who gave the permission, why and when

.....
.....
.....

Other Information

17. Do you have, or do you have knowledge of, any documentary evidence which is relevant to the application route or which indicates public use? (for example photographs, guidebooks, letters, sale documents, old maps, etc)

No

Yes

If yes – please provide details

.....
.....
.....

18. Please give any further information which you consider would be helpful in reaching a decision as to whether the application route should be recorded as a public right of way?

[Continue on a separate sheet if necessary]

[If you wish to provide a separate sketch map, please do so and attach to this statement]

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.....

19. During the investigation the OMA may want to interview some or all of the claimants in order to gather additional information. Would you be willing to talk to an officer from the OMA about your knowledge of the application route?

Yes

No

20. Would you be willing to attend a hearing, or public inquiry to give evidence if necessary?

Yes

No