



## **BUCKINGHAMSHIRE COUNCIL**

### **Application pack for a Definitive Map and Statement Modification Order**

#### **What is a DMMO?**

The Definitive Map and Statement is the legal record for all Public Rights of Way within the County of Buckinghamshire. The Council has a duty to keep this record up to date and ensure that it shows the exact route of each Public Right of Way.

Any member of the public may make an application to modify the Definitive Map and Statement if they feel it is incorrect in some way. This type of application is seeking a Modification Order (DMMO). An application can either be User Evidence based (witnesses submit evidence that they have used the route) or Documentary based (historical documentary evidence is submitted), or it can be a mixture of both.

If you are planning on making such an application, please read these guidance notes carefully and if you are unsure about anything, then please contact the Definitive Map Team at the Council who will be happy to discuss further.

Upon making an application, you must provide evidence telling us why you think the map should be changed. Such evidence could be:

- Documentary Evidence (maps)
- User Evidence forms
- Witness Statements
- Other information should in archives/libraries

Before making an application, please consider these points:

- **Has the route in question been used for a period of 20 years or more and is there substantial evidence to prove this?** (one person cannot raise the presumption that public rights have been dedicated – multiple people would be required to provide evidence)
- **If the route hasn't been used for 20 years or more, but instead for a shorter time period, do you have substantial evidence to prove this i.e. a high number of witnesses?**
- **If you are relying on historical evidence, do you have substantial documentary evidence to show that the map maybe incorrect?**
- **Are you and other witnesses willing to provide evidence at a Public Inquiry and possibly be cross-examined by a barrister?**
- **If you are relying on User Evidence (which can also include documentary**

**evidence) then only one person (or partnership) should lead on the application and co-ordinate gathering evidence so that it is delivered altogether and not by individuals**

## **The Legislation**

Whilst this guidance will attempt to explain the process and background, applicants are advised to refer also to Part III of the Wildlife and Countryside Act 1981 (in particular section 53 and Schedule 14) and “The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993” S.I.1993 No. 12 as no responsibility can be accepted by the Council for any errors or omissions from this guidance.

1. Section 53(5) of the Wildlife and Countryside Act 1981 (referred to from now on as “the Act”) enables any person to apply to the Council for an Order to be made modifying the Definitive Map and Statement as a result of any of the “evidential events” specified in paragraphs (b) and (c) of Section 53 (3). Sections 53 (3) (b) and (c) of the Act are set out further below.

The procedure for the making and determining of applications is set out in Schedule 14. It includes the right for applicants to appeal to the Secretary of State against the refusal of the Council to make an Order.

2. An application for a Modification Order must be in the appropriate form (or substantially in the appropriate form) as set out in Schedule 8 of “The Wildlife and Countryside (Definitive Map and Statements) Regulations 1993” S.I.1993 No.12 (referred to from now on as “the Regulations”) with such modifications as the circumstances may require. Application forms are available free of charge from the Definitive Map Team, Walton Street Office, Aylesbury, Buckinghamshire, HP20 1UA, ([row@buckinghamshire.gov.uk](mailto:row@buckinghamshire.gov.uk)) or maybe downloaded from the website.
3. Section 53 (3) (b) and (c):

(b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public oath

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:

- (i) That a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies
- (ii) That a highway shown on the map and statement as a highway of a particular description ought to be there shown as a highway of a different description
- (iii) That there is no public right of way over the land shown on the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification

## **Making an Application**

When making an application, there are certain requirements which need to be

followed so that the application can be considered as duly made. Please see FORM 1 which needs to be completed when making an application.

Applications must be accompanied by:

- (i) A map on the scale of not less than 1:25,000 showing the way or ways which are subject of the application
- (ii) Copies of any supporting documentation (including completed user evidence forms)
- (iii) A Certificate confirming that notice of the application has been served on the owners and occupiers of the land involved

The applicant must serve notice that an application for an Order has been made on every owner and occupier of any land to which the application relates - please see FORM 2. A certificate needs to be completed proving that notice has been served on the landowner – please see FORM 3. Please note, notice needs to be served only once (by the applicant) and not by every witness. Only the applicant needs to complete Forms 1, 2 and 3.

If you are unable to locate the landowner, you may be able to conduct a search of the land by referring to the Land Registry. All attempts should be taken to find the landowner. If you are still unsuccessful in locating the landowner, then you may apply to the Council for an exemption from the requirement to serve a personal notice and for consent to serve notice instead by addressing it to the owner or occupier of the land (as described in the notice) and attaching it to a conspicuous object on the land. The appropriate form for the notice is set out in Schedule 8 of the Regulations.

Once an application has been received, we will make an assessment that it has been duly made and it will then be added to our list of applications which are dealt with in chronological order. Schedule 14 of the Act indicates that properly submitted applications should be determined within 12 months of their receipt and the Council endeavors to comply with this wherever possible.

In order for an application to be duly made and to provide as much detail about the claim as possible, please read the following:

- A. Forms and User-evidence forms maybe photocopied as necessary.
- B. As far as possible, the witness should complete the form.
- C. Each witness should complete a separate form, even if from the same household.
- D. A plan clearly showing the claimed route must be attached to each form, and be dated by that individual with initials (do not use your full signature)
- E. The route should be described as accurately as possible on the User Evidence Form and include details of any structures, limitations, surface condition, width etc.
- F. The witness should be willing to be personally interviewed by the County Council to discuss their evidence.
- G. The details contained in the forms may be used as evidence in future proceedings and the witnesses should be prepared to support the

information by giving verbal evidence, or by providing a statutory declaration at a later date, or other written confirmation of the details supplied, at any local public inquiry that maybe held.

- H. Witnesses should indicate whether they are prepared to give evidence either in court or at a public inquiry. If a witness is unable/unwilling to give evidence in person, his/her statement will be taken into account, although the evidential value of a statement is considerably reduced if it cannot be subject to cross-examination.
- I. If a witness would be unable to give evidence at an inquiry because of ill health, age, etc. she/he should indicate this on the form.
- J. The information given on this form, maybe copied to landowners or objectors and become available for public inspection.

When we are in a position to investigate your application, we will make an assessment of all the information provided within. We will then arrange an interview with yourself to discuss the application and the evidence you provided, including your own User Evidence Form. We will also take a cross-section of User Evidence Forms and invite a selection to an interview. We will also carry out our own research into the route and look at historical documents that we feel maybe advantageous.

Once the investigation is completed, we will write a report with a recommendation and send this to you as the applicant and also the landowner for comment and further submission. Once final submissions are received, the report will be amended if necessary and then it will be presented to the Officer at the Council with delegated powers to determine such applications. If the application is rejected, you do have grounds of appeal. If the application is accepted, then an Order will be made and advertised for 6 weeks. If no objections are received, then the Order will be confirmed and public rights recorded on the Definitive Map. If objections are received, then the matter will be referred to the Secretary of State to determine either by written representations, a public hearing or a public inquiry. Please note, the Council does reserve the right to refer some applications to the Strategic Sites Committee for determination if it is considered the evidence is too finely balanced or if there is any conflict of interest.

### **Checklist**

Before submitting your application, please use this checklist to ensure everything is included:

- Form 1       Form 2       Form 3
- User Evidence Forms which are accompanied by maps of the route
- Documentary evidence (if available)
- Map of claimed route to scale 1:25,000 and no less

**Please send your application to:**

**THE DEFINITIVE MAP & HIGHWAY SEARCHES TEAM**  
**BUCKINGHAMSHIRE COUNCIL**  
WALTON STREET OFFICES  
AYLESBURY  
BUCKINGHAMSHIRE  
HP20 1UA

## **PRIVACY STATEMENT**

### **for Applications to amend the Definitive Map and Statement, and the Town/Village Green and Common Land Registers**

#### **Who we are and why you are reading this**

Buckinghamshire Council holds and maintains the legal record of Public Rights of Way (“PROW”) across the Authority area – the Definitive Map and Statement. We also hold the registers for Town/Village Greens and Common Land. When applications are made to change these records, we require certain information to process the application. You are reading this because you will be providing us with information when you make your application. Buckinghamshire Council is regulated under the General Data Protection Regulation which applies across the European Union (including in the UK). We are responsible as “controller” of that personal information for the purposes of those laws.

#### **Information collected by Buckinghamshire Council and how we use and store it**

Our lawful basis for collecting and using this data is that ‘processing is necessary for compliance with a legal obligation’. When making an application to change the legal records (detailed above), and depending on the type of application being made, you will be providing us with:

- Your name
- Your address
- Your contact details (telephone number, email)
- A statement of your history of the PROW and/or land in question (this may contain personal family history that you may volunteer in support of your application)
- Your date of birth (optional)

We will use this data to process the application that you have completed. Depending on the application type, this data may end up in the public domain and be referred to the Secretary of State for decisions to be made. The data will be securely retained by the Council indefinitely under the requisite retention policy. We have a statutory duty to process any applications made and we rely on your data to complete our investigations. As such, if you chose not to supply the required data then we will be unable to process your application.

Please refer to the Council’s Privacy Policy for more information <https://www.buckinghamshire.gov.uk/services/council-and-democracy/privacy-policy/>

You may also contact the Council’s Data Protection Officer by emailing [DataProtection@buckinghamshire.gov.uk](mailto:DataProtection@buckinghamshire.gov.uk) who can provide you with a copy of the privacy policy.

**APPLICATION FOR A MODIFICATION ORDER**

**THE WILDLIFE AND COUNTRYSIDE ACT 1981**

**THE BUCKINGHAMSHIRE COUNCIL DEFINITIVE  
MAP AND STATEMENT**

**To:** Service Director Planning Growth and Sustainability, Buckinghamshire Council

**Of:** Walton Street Offices, Aylesbury, Buckinghamshire, HP20 1UA

**I/We:**

**Of:**

**Hereby apply for an Order under Section 53(2) of the Wildlife and Countryside Act 1981  
modifying the Definitive Map and Statement for the area by:**

(PLEASE DELETE THE WORD IN THE BRACKETS WHICH DO NOT APPLY)

**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:

by providing that as shown on the map accompanying this application (to a scale of 1:25,000 or greater).

**I/We attach copies of documentary evidence including witness statements, in support of this application. Please attach a separate sheet, listing the documents/statements.**

**Dated:** ..... **Signed:** .....

**Signed (on behalf of)** .....

The Freedom of Information Act 2000 provides a general right of access to all information held by Buckinghamshire Council and the Environmental Information Regulations 2004 give a similar right of access to environmental information held by this Council. This means that the information that you supply may be disclosed to any individual making the appropriate request and will be included in the Register of Definitive Map Modification Order Applications.

**NOTICE OF APPLICATION FOR A MODIFICATION ORDER**

**THE WILDLIFE AND COUNTRYSIDE ACT 1981  
SECTION 53(5) AND SCHEDULE 14**

**THE BUCKINGHAMSHIRE COUNCIL DEFINITIVE  
MAP AND STATEMENT**

To:

Of:

I/We:

Of:

Hereby give notice that on..... [Insert date] I / we made application to the Buckinghamshire Council, Walton Street Offices, Aylesbury, Buckinghamshire, HP20 1UY that the definitive map and statement for the area be modified by:

**(PLEASE DELETE THE WORD IN THE BRACKETS WHICH DO NOT APPLY)**

**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:

By providing that:

**Dated:** ..... **Signed:** .....

The Freedom of Information Act 2000 provides a general right of access to all information held by Buckinghamshire Council and the Environmental Information Regulations 2004 give a similar right of access to environmental information held by this Council. This means that the information that you supply may be disclosed to any individual making the appropriate request and will be included in the Register of Definitive Map Modification Order Applications.

**THE WILDLIFE AND COUNTRYSIDE ACT 1981**

**THE BUCKINGHAMSHIRE COUNCIL  
DEFINITIVE MAP AND STATEMENT**

**Certificate of Service of Notice of Application for Modification Order**

**To:** Service Director Planning Growth and Sustainability, Buckinghamshire Council

**Of:** Walton Street Office, Aylesbury, Buckinghamshire, HP20 1UA

**I/We\*:**

**Of:**

**HEREBY CERTIFY that the requirements of paragraph 2 of Schedule 14 to the  
Wildlife and Countryside Act 1981 have been complied with**

**Dated:** ..... **Signed:** .....

**Signed (on behalf of)** .....

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\*Insert name(s) and address(es) of all applicant(s)

The Freedom of Information Act 2000 provides a general right of access to all information held by Buckinghamshire Council and the Environmental Information Regulations 2004 give a similar right of access to environmental information held by this Council. This means that the information that you supply may be disclosed to any individual making the appropriate request and will be included in the Register of Definitive Map Modification Order Applications.





## 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 evidence about the application. When the Order-Making Authority (OMA) commences detailed research, an officer 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.**

- The information you provide will be retained by the OMA for the purposes of undertaking its statutory obligations in accordance with The Wildlife and Countryside Act 1981, section 53. For the purposes of data protection, the OMA is the data controller. It may use an Agent to undertake certain obligations on its behalf. If so, the Agent will be the data processor.
- 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 General Data Protection Regulation. It is held by the OMA's Rights of Way Service for the sole purpose of processing the application for the route referred to, and for no other purpose.

**DECLARATION – Important, please read carefully**

**General Data Protection Regulation (GDPR)**

Under the GDPR the OMA has a duty to inform you about how your personal data will be handled. Information provided in this statement will be used so that the OMA may undertake its statutory duties in accordance with the Wildlife and Countryside Act 1981 section 53. In order to determine 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 contained on this page). 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 retained by the OMA and considered and published as part of its statutory duty to determine the application to establish whether a public right of way exists. In signing it, you are acknowledging that it may be made publically available.

Further information is available on the Privacy Notice for public rights of way services on the Council's website <https://www.buckinghamshire.gov.uk/your-council/privacy/> You may also contact the Council's Data Protection Officer by emailing [DataProtection@buckinghamshire.gov.uk](mailto:DataProtection@buckinghamshire.gov.uk) who can provide you with a copy of the privacy policy.

**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 AND THE WARNING BELOW**

**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.

**Information on this page of the 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 of locations and years [full addresses are not required]

.....

.....

**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 put your initials on your map and date it. **DO NOT ADD YOUR FULL SIGNATURE.**

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

.....  
.....  
4. 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 motor vehicle						
By horse-drawn vehicle						

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

Yes

No

If no – how and when was the route altered?

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

6. 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']

.....  
.....

.....

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

.....

.....

.....

8. 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]

.....

.....

.....

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

No

Yes

If yes, please give details

.....

.....

.....

10. 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

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

.....

.....

.....

**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

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

No

Yes

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

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

No

Yes

**Other Information**

16. 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

.....

.....

.....

17. 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]

.....

.....

.....

.....

18. 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

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

Yes

No