

HAMPSHIRE RAMBLERS' FPAWE BEST PRACTICE GUIDELINE NUMBER 8 - CHANGING THE DEFINITIVE MAP

BACKGROUND

Best Practice Guidelines

1. The Hampshire Ramblers' FPAWE Committee has produced a series of Best Practice Guidelines that it encourages Groups to adopt. Whilst Groups are generally free to adapt the Guidelines in order to meet local circumstances and restrictions, this Guideline explains a legal process. If Groups want to adjust the way of working recommended could they please inform the FPAWE. If any Group has suggestions to improve the Guidelines they should send them to the FPAWE Secretariat.

Changing the Definitive Map - Background

2. Hampshire's Definitive Map of public rights of way is a record of the location and status of public rights of way in the county. It is maintained by Hampshire County Council's Countryside Access Team and a copy can be inspected at their offices in Winchester. The Map is conclusive evidence of the existence of the rights of way shown on it. The Definitive Map is also available on line (see Para 21).

3. Anyone can apply to change the Definitive Map if they think it is inaccurate or incomplete. The Ramblers normally seek to either add paths or divert them. This BPG concentrates on adding unofficial paths due to regular use. See BPG 6 for information about adding lost paths, i.e. paths that were rights of way but have fallen off the definitive map, and BPG 7 for changes to paths on the Definitive Map through Path Orders.

4. The Rights of Way Act 1932 ruled that where a way had been used uninterrupted for at least 20 years it was deemed to have been dedicated to the highway¹. However, where the landowner had made it clear during the 20 year period that he had allowed the way to be used, e.g. by signing it as a permissive path, such a claim for dedication would not succeed. Equally where the landowner made it clear that the land was private, again the claim for dedication would not succeed. Claims for dedication can be initiated by interested parties, especially when the landowner wants to block off such a path or put up private signs, after the 20 year unhindered period has been achieved.

Claiming a New Path - Main Stages in the Formal Process

5. The overview of the process at HCC website should be read:
<http://documents.hants.gov.uk/rightsofway/maintainingthemap.pdf>.

6. Identification on the on-line maps. These should be download and the map marked where the path goes that needs to be recognised as a right of way.

7. The Map Review Assistant, HCC, provides the appropriate paperwork. This includes: a Notice of Application (Yellow Form); a Notice to Landowners/Occupiers (Peach Form); the Certification of Service Pink Form; and a User Evidence Form (see Annexes A - D for examples). HCC can give advice on the completion and submission of the forms.

¹ See the Blue Book page 42 et seq

8. Completed forms are submitted to HCC. Applicants and witnesses must be prepared to attend any meeting that is called to review the paperwork.

9. If HCC agree with the case an Order will be published and considered in the normal way (see BPG 7). If HCC reject the case, an appeal to the Secretary of State is possible.

HAMPSHIRE RAMBLERS' ACTIONS

10. The Ramblers Group must decide that they wish to put in a claim for a path in their area. Designate a co-ordinator to lead on the necessary actions.

11. The process for making a claim is well documented by HCC and need not be repeated in full here. It can be found on to their website:

<https://www.hants.gov.uk/landplanningandenvironment/rightsofway/definitivemap/modificationorders>

12. The co-ordinator should complete the coloured forms (see Para 7). They should seek out witnesses to the unimpeded use of the path over the 20 year period. They should collect the User Evidence Form from witnesses that prove this 20 year unimpeded use. Note that the witnesses must fill in the User Evidence Form and be prepared themselves to support what they are claiming. However, the individual User Evidence Forms should be assembled by the co-ordinator and submitted as one pack. By doing this they can judge the strength of their case. Witnesses do not have to be members of the Ramblers. Indeed many other organisations such as the British Orienteering Organisation have proved in the past to be useful contributors. Remember if you gain the support of an outside body the type of right of way should reflect that bodies interest, e.g. if you use the British Horse Society your claim should be for a bridleway.

13. If the case is rejected by HCC, Groups will need to consider whether they have grounds to appeal. If the case is approved by HCC then Groups should monitor progress via BPG 7.

OTHER PARTICIPANTS AND THEIR ROLES

Ramblers' Central Office

14. Ramblers Central Office set the Objectives towards which all our efforts should be directed. See <http://www.ramblers.org.uk/about-us/what-we-do/charitable-objectives.aspx>

Hampshire County Council

15. They are the recipients of any claim for new paths. They decide whether the case is approved as directed by the legislation. They are also a good contact if there are any questions or problems.

Parish Councils

16. They should have a keen interest in any proposals and may have good local contacts who may provide evidence of usage.

REFERENCES AND CONTACTS

17. HCC Definitive Map Officer: Harry Goodchild Harry.Goodchild@hants.gov.uk

18. Map Review Assistant: Liz Giles Liz.Giles@ hants.gov.uk. Postal Address for correspondence:

Map Review Assistant.
Countryside Service.
Culture, Communities and Business Services Department.
Hampshire County Council.
Room 0.01
Castle Avenue.
Winchester.
SO23 8UL

19. British Orienteering Organisation: Craig Anthony, email:
CAnthony@britishorienteering.org.uk.

20. British Horse Society: Gail Johnson, email: gail.johnson@outlook.com

21. On-line Definitive Map: <http://www.hants.gov.uk/rh/row/maps/definitive-maps.pdf> .

22. Ramblers Central Office Guidelines on claiming paths:
<http://www.ramblers.org.uk/advice/improve-the-path-network/how-to-claim-an-unrecorded-right-of-way.aspx>

CONCLUSION

23. Claiming unofficial paths that have been used for a number of years as a right of way both protects their future use and helps us meet the Ramblers' objectives of protecting and improving the RoW network. Groups should always be prepared to identify and claim such paths.

David Clark
FPAWE Secretariat
Approved by FPAWE XXXXXX

EXAMPLE OF THE PINK FORM

Certificate of Service - (Pink Form)



Wildlife and Countryside Act 1981

**The Hampshire Wildlife and Countryside Act 1981
Section 57(3) Definitive Map and Statement
(Dated 1st January 2008)**

Certificate of Service of Notice of Application for Modification Order

To: **The Director of Culture, Communities and Business Services**
of: Hampshire County Council
Castle Avenue
Winchester
Hampshire
SO23 8UL

I/We [name of applicant(s)].....

of [address of applicant(s)]

.....
.....

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

Dated20.....

Signed

NOTE

Notice of the application should be served on the owners and occupiers of all the land affected by the application. Please note here the names and addresses of all people given notice of the application:

Hampshire County Council fully complies with the Data Protection Act 1998. The information you enter on this form will become part of the permanent records kept on rights of way in Hampshire and will be available for public inspection. This does not affect your statutory rights.

Schedule 14: Applications for certain orders under Part III

Form of applications

1. An application shall be made in the prescribed form and shall be accompanied by:
 - (a) a map drawn to the prescribed scale and showing the way or ways to which the application relates; and
 - (b) copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application

Notice of Applications

2. (1) Subject to sub-paragraph (2), the applicant shall serve a notice stating that the application has been made on every owner and occupier of any land to which the application relates.
 - (2) If, after reasonable inquiry has been made, the authority is satisfied that it is not practicable to ascertain the name or address of an owner or occupier of any land to which the application relates, the authority may direct that the notice required to be served on him by sub-paragraph (1) may be served by addressing it to him by the description 'owner' or 'occupier' of the land (describing it) and by affixing it to some conspicuous object or objects on the land.
 - (3) When the requirements of this paragraph have been complied with, the applicant shall certify that fact to the authority.
 - (4) Every notice or certificate under this paragraph shall be in the prescribed form.

EXAMPLE OF THE YELLOW FORM

Notice of Application (Yellow Form)



Wildlife and Countryside Act 1981

**The Hampshire Wildlife and Countryside Act 1981
Section 57(3) Definitive Map and Statement
(Dated 1st January 2008)**

To: **The Director of Culture, Communities and Business Services**
of: Hampshire County Council
Castle Avenue
Winchester
Hampshire
SO23 8UL

I/We [name of applicant(s)]:

of [address of applicant(s)]:
.....

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:- [delete where appropriate]

or	<ul style="list-style-type: none">• deleting the footpath / bridleway / restricted byway / byway open to all traffic from to.....
	<ul style="list-style-type: none">• adding the footpath / bridleway / restricted byway / byway open to all traffic from to.....
or	<ul style="list-style-type: none">• 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.....
or	<ul style="list-style-type: none">• varying/adding to the particulars relating to the footpath / bridleway / restricted byway / byway open to all traffic from to..... by providing that

and shown on the map accompanying this application.

Please turn over

5

Signed.....

Version 2

EXAMPLE OF THE PEACH FORM

Notice to Landowner(s) and Occupiers(s) – (Peach Form)



Section 53(5) of, and Schedule 14 to,
the Wildlife and Countryside Act 1981

**The Hampshire Wildlife and Countryside Act 1981
Section 57(3) Definitive Map and Statement
(Dated 1st January 2008)**

To:

of:

I/We:

of:

hereby give notice that on.....20..... I/We made
application to the Director of Culture, Communities and Business Services,
Hampshire County Council, Castle Avenue, Winchester, Hampshire, SO23
8UL, that the definitive map and statement for the area be modified by :-
[delete where appropriate]

- deleting the footpath / bridleway / restricted byway / byway open to all traffic
from
to.....

or

- adding the footpath / bridleway / restricted byway / byway open to all traffic
from
to.....

or

- 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.....

or

- varying/adding to the particulars relating to the
footpath / bridleway / restricted byway / byway open to all traffic
from
to.....
by providing that
.....

Dated20.....

Signed.....

EXAMPLE OF USER EVIDENCE FORM



Public Right of Way User Evidence Form

Claim Reference No.....

This form has been prepared to enable you to give evidence of your use of a claimed public right of way. Please be aware that the information you give may be disclosed to other interested parties, including the landowner, and may be produced at a public inquiry. Please answer the questions as fully as possible and do not withhold information, whether it appears to be for or against the claim - the object of the investigation is to establish how the route has been used. A Map Review Officer may wish to interview you to obtain more information or to check details of your evidence.

**Personal
Details**

Name	Occupation
Address.....	Date of Birth
.....	Home Tel No.....
.....	Work Tel No
Postcode	Mobile Tel No.....
E-mail address.....	

**Description
of path used**

1. On the map provided, please highlight the route(s) that you have used.
Please sign and date the map in the space provided
2. The path runs from.....
to.....
3. Is the route (or any part of it) enclosed between boundaries (ie fences, hedges, ditches, walls)? **Yes / No**
Please give details, including approximate widths:
.....
.....
4. Is the whole width between boundaries used by the public? **Yes / No**
How much is used?.....

**Your use
of the path**

5. Please complete the table to show how and when you used the path.
If you are unsure of exact dates or frequency of use, please estimate rather than leaving fields blank

How did you use the path?			When did you use the path?		
			Year		Frequency
			From	To	
On foot	Yes	No			
On horseback	Yes	No			
On a bicycle	Yes	No			
With a vehicle	Yes	No			

6. Has there ever been a break in your use?

7. Have you always followed exactly the same route? **Yes / No**

If your answer is 'No', please show all variations on the map using a different colour or symbol

8. What were your main reasons for using the path?.....
.....

9. When did you last use the path?

10. Have you seen other people using the same path? **Yes / No**

If 'Yes', were they: **Locals Strangers Landowners Don't know**

(please circle all that apply) **On foot Horseback Bicycle Vehicle**

11. When using the path did you have to:

Pass through gates **Yes / No** if 'Yes', were they ever locked? **Yes / No**

Climb over stiles **Yes / No**

**Character
of the path**

12. Have there ever been any notices or signs along the path? **Yes / No**

If 'Yes', what did they say?.....

When did you first see them?.....

Are they still there? **Yes / No** If not, when did they disappear?

13. Has the path ever been obstructed? **Yes / No**

If Yes, please state when, and describe the nature and location of the obstruction.
.....
.....

Is the path obstructed now? **Yes / No**

Please mark the position of any gates, stiles, notices or obstructions on the accompanying map and provide dates where possible

Ownership
and
permissions

14. At any time when you have used the path, were you:

- a. related to the owner or occupier? **Yes / No**
- b. employed by the owner or occupier? **Yes / No**
- c. a tenant of the owner or occupier? **Yes / No**

If your answer to a, b, or c is 'Yes', please give details, including the name and address of the owner or occupier.....

.....

15. Have you ever been told by an owner, occupier or employee that the path was not public? **Yes / No**

If 'Yes', please give details.....

.....

16. Are you aware of any actions taken by the landowner to indicate use of the route was permissive (eg signs or annual closures of the path)? **Yes / No**

17. Have you ever sought or been given permission to use the path? **Yes / No**

If 'Yes', when and from whom?.....

.....

18. Have you ever been stopped or turned back when using the path, or told that the route was not public? **Yes / No**

If 'Yes', when and by whom?.....

.....

19. Has your use of the path ever been in exercise of a private right, such as visiting someone who lived along the path, going to your own land along the path or delivering goods? **Yes / No**

If Yes, please give details.....

.....

Additional
Information

20. Do you possess any maps, deeds, photographs or other documents which show or refer to the path? **Yes / No**

If 'Yes', please give details.....
.....

22. If you have any other information which you think will assist us in determining the claim, please give details:.....
.....
.....

23. If the claim is contested, are you prepared to give evidence at any local public inquiry that might result? **Yes / No**

If not, are you prepared to make a statutory declaration as to the truth of the above information? **Yes / No**

I confirm to the best of my knowledge and belief, the information given on this form is correct and complete.

Signed (Mr/Mrs/Miss/Ms/Dr/Prof)

Date

If other than the path user, this form has been completed by:

.....

The investigation of a claim can take some time, and the Countryside Access Team has a considerable backlog of applications. As a result, it may be some time before you hear more about the claim.

When completed, the forms can be returned to the person co-ordinating the claim, or returned to:

Countryside Access Team, Culture, Communities and Business Services, Hampshire County Council, Castle Avenue, Winchester, SO23 8UL

Hampshire County Council fully complies with the Data Protection Act 1998. Notice of your application will be made public in accordance with the Public Rights of Way (Register of Applications under section 53(5) of the Wildlife and Countryside Act 1981) (England) Regulations 2005 and the information you enter on this form will become part of the permanent records kept on rights of way in Hampshire. This does not affect your statutory rights.