



Rights of Way Order Guidelines

to be used when making orders under:
Highways Act 1980,
Wildlife & Countryside Act 1981,
Town and Country Planning Act 1990 etc.
which affect the
Definitive Map and Statement of Public Rights of Way

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Order Guidelines

Introduction

These guidelines have been produced as an aid to anyone involved in the production of orders (and creation agreements) which affect the legal record of public rights of way in Hertfordshire, known as the Definitive Map and Statement of Public Rights of Way in Hertfordshire. They should be read in conjunction with the 'forms of order' given by the relevant Regulations and advice notes referred to below.

Modification orders can only be made by the surveying authority - Hertfordshire County Council ('HCC') - to 'modify' what is recorded on the Definitive Map and Statement.

Public path orders and creation agreements can be made by Hertfordshire's ten district/borough councils or by HCC to create new or alter existing footpaths, bridleways and restricted byways. Routes do not need to be recorded on the Definitive Map and Statement for them to be changed. District / borough councils must send their completed orders and agreements to HCC for HCC to record the change on the Definitive Map and Statement. This is because only HCC can modify what is recorded on the Definitive Map and Statement.

Although Regulations have been made for surveying authorities to make 'combined orders' to create or alter a right of way and change the record in one order, HCC does not propose to use these at this time.

These guidelines have two purposes:

- to help ensure that orders (and agreements) are legally correct
- to produce a consistent standard across the county

In the past there have been problems of inconsistencies within orders and also where orders and, in particular, the order plans do not comply with the Regulations. References in these Guidelines to order plans are equally valid with respect to plans accompanying agreements, although there are no regulations for the latter. The Planning Inspectorate has produced [Advice Note 22](#) and HCC has altered these Order Guidelines to comply with this Advice Note.

District/borough councils making orders will need to consult HCC's Countryside & Rights of Way Service. It is recommended that draft orders and creation agreements are checked carefully prior to publication to prevent objections to the order because of technicalities, inaccuracies or inconsistencies. It is hoped that by adopting these Guidelines, situations where the Secretary of State needs to be asked to amend an order can be minimised.

This document replaces any previous editions of the Guidelines which have been distributed by HCC.

If you have any comments about these guidelines, please contact
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Procedures

The order must comply with the appropriate Regulations and Schedules to the Acts. Regulations also specify the procedures e.g. how many copies of an order need to be made and what to do with them; schedules explain the procedure for advertising and confirming orders. Guidance is given in [Circular 1/09](#) and Planning Inspectorate [Advice Notes](#)

(i) The Regulations are:

- The Rail Crossing Extinguishment and Diversion Orders Regulations 1993 (SI 1993/9)
- The Town and Country Planning (Public Path Orders) Regulations 1993 (SI 1993/10)
- The Public Path Orders Regulations 1993 (SI 1993/11)
- The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 (SI 1993/12)
- The Rail Crossing Extinguishment and Diversion Orders, the Public Path Orders and the Definitive Maps and Statements (Amendment) Regulations 1995 (SI 1995/451)
- The Highways, Crime Prevention etc. (Special Extinguishment and Special Diversion Orders) Regulations 2003 (SI 2003/1479)
- Restricted Byways (Application and Consequential Amendment of Provisions) Regulation 2006 (SI2006/1177)

Please note that when making orders HCC is not currently using

- The Public Rights of Way (Combined Orders) (England) Regulations 2008 (SI 2008/442) and The Public Rights of Way (Combined Orders) (England) (Amendment) Regulations 2010 (SI 2010/2127)

(ii) Before making an order or agreement you need to ensure that the order route joins a highway of the same, or higher, status than the order route. You cannot change the status of a route by diverting it.

(iii) When an order and order plan have been drafted, it is recommended that copies should be checked by a rights of way specialist. HCC will be happy to do this but will charge a fee for the service. This enables potential problems or conflicts to be identified before the order is sealed.

(iv) If a public path order is abandoned or withdrawn, inform the Definitive Map Team at HCC's Rights of Way Service so that the file can be closed.

(v) If an order made by a district or borough council has been to public inquiry, the order making authority must send HCC a copy of the inspector's decision report.

(vi) Once an order is confirmed (or a creation agreement is made), HCC needs to have a copy of the confirmed order (or completed creation agreement) together with any relevant certification and a copy of the confirmation notice.

A 'confirmed order' means the actual order with the words 'This order was confirmed by...on....' etc. added and it must be signed. Copies of orders as made which are not marked as confirmed, even if there is a confirmation notice, are NOT sufficient to allow HCC to show the change on the Definitive Map.

For examples of orders made by HCC please see our [A-Z of applications](#) which includes copies of orders and agreements that have been advertised.

A. Form of the Order

Regulations prescribe the 'form' each order should take and orders need to be sealed and dated at the end of the Order, before the Schedules. The legal form has a standard layout which orders need to follow. The standard form of order will need to be amended by inserting or deleting words given in the square brackets as appropriate and adding descriptions of the route(s). Slight changes to the wording of the order are permissible although regulations require them to be 'substantially to the like effect'. Orders need to be printed on engrossing paper and sewn together before sealing. Ensure the seal is not on a separate page of its own, in case it becomes detached, and make sure the layout enables the seal to be applied, along with space for signing as confirmed/not confirmed. The plan does not need to be on engrossing paper, but must be placed between the pages of the order for protection. It will need the authority's embossed seal and a signature on it, but this can be anywhere on the plan; there is no need to leave a specific space for this.

HCC recommends the use of Arial font, minimum font size 12; title font may be Arial 14 or larger.

HEADING

The form starts with the type of order being made, and the legislation being used.

TITLE

The heading is followed by the title of the order – see Section B.

LEGAL MATTERS

The first paragraph sets out the name of the authority making the order (they are the order making authority) and the legal powers (i.e. the relevant section) of the Act being used. The appropriate options need to be selected for the order being made.

- Modification orders are made by the surveying authority under section 53(2)(b) of the Wildlife and Countryside Act 1981 ('WCA'). The order will need to include the event(s) which triggered the order to be made as listed in section 53(3)(b) and (c). In addition, if a Modification Order is going to amend the description of an adjoining path, then the order will also have to specify that it is being made under section 53(3)(c)(iii)
- Legal event modification orders ('LEMOs') are made by the surveying authority under section 53(2)(a) or (b) depending on whether the event being recorded occurred before or after 28th February 1983. The order will need to refer to events which triggered the order to be made as listed in section 53(3)(a)
- Public path orders can be made by councils under the Highways Act 1980 ('HA') or by the planning authority under the Town and Country Planning Act 1990 ('TCPA'). Where applications are made to divert paths under the HA the paragraph relating to payment of costs and in particular compensation, will normally need to be included. Councils (county, unitary, district or parish) are given powers to make orders under section 120(2) of the HA for highways in their area, after consultation with all other councils in the area; or for highways outside their area but only with the consent of every council in whose area it is; and in National Parks after consultation with Natural England/Countryside Council for Wales (now Natural Resources Wales). Consultation may also include other authorities such as Natural England or the Police and Fire Authority etc.

If works are required to bring a new path into a fit condition for public use

- for HA diversion orders these will need to be specified in a separate agreement made under section 119(5) of the HA;
 - for TCPA orders the works will need to be specified in the order.
- Works will need to be approved before the order processing can be completed and will need to be certified by an officer with delegated authority.

BACKGROUND (e.g. 'BY THIS ORDER')

These numbered paragraphs will also need to be completed. Where a numbered paragraph is shown in square brackets (such as TCPA orders) the relevant paragraphs will need to be chosen – or omitted – as appropriate.

- Avoid describing the colour of symbols used on the plan as this can lead to problems if the order is photocopied in black and white. Describe the route 'as shown by a bold continuous line' rather than 'as shown by a continuous purple line' (this does not apply to TCPA orders which describe the line as black).
 - In modification orders, the 'relevant date' needs to be specified. This is normally the date of drafting, but the order must be sealed within 6 months of the relevant date given.
 - In public path orders, there will need to be clear reference as to when the order, if confirmed, will take effect. This will depend on the form of the order, but might be on the date of confirmation or a given number of days afterwards. Sufficient time should be allowed for any works required to be completed, or for any works to be certified by an officer with delegated authority via a certificate of completion. If any statutory undertakers have rights over the land they will need to be specified in the order.
- (i) **Where the order refers to a single plan**, the first reference should refer to '*the Plan contained in this Order ('the Order Plan')*'. Subsequent references should read '*point A on the Order Plan*', '*point B on the Order Plan*' etc. (N.B. this replaces the wording from the Regulations which refers to the '*map attached to this Order*').
- (ii) **Where the order has multiple plans** the first reference should refer to (for example, where there are 4 plans) '*Parts 1 to 4 of the Plan contained in this Order ('the Order Plan')*'. Subsequent references should refer to '*Point A on Part 1 of the Order Plan*' etc.

SCHEDULE (See sections C-G)

The schedule is divided into sections to describe the path and how it is affected by the order. The appropriate sections will need to be selected. It needs to include details about grid references (section E), widths (section F), and limitations (section G). Modification orders also include the description of the updated Definitive Statement describing the path (section D)

PLAN (See sections H-I)

A plan will need to be produced showing the order route and adjoining rights of way. It does not need to be printed on engrossing paper but should be placed between the pages of the order so the engrossing paper will protect it.

Please ensure that the order does not purport to change any details of any part of the route which is not subject to the order (i.e. status, widths, limitations, path description).

Form of an Agreement

There are no set forms for agreements to create paths (creation agreement s25 HA) or for requiring landowners to pay for costs in connection with diversion orders (s119(5) HA agreements).

Agreements will need to include the following information:

- a title page (section B)
- the date on which the agreement is made
- 'Between' - to identify the parties to the agreement (including mortgagees)
- a 'Background' section stating that the parties to the agreement have title to the land over which the route runs; any charges on the property; where necessary the names of the local authorities (such as district and parish councils) consulted and the status of the route to be dedicated etc. A Plan showing extent of the Title(s) will need to be included. If there is more than one Title, all titles will normally be shown on the same plan (ensuring no gaps)
- a 'Definitions' section – to define the expressions used
- a 'Statutory Authority and Effect' section stating the powers under which the agreement is made
- a section on what the parties agree to do. Where works are required, this will include details of timescale for works, bonds, indemnity, costs and certificate of completion signed by an officer with delegated authority
- a 'Schedule' - to describe the path's location, width, status and any limitations on the route (see sections C, E-G) together with a Plan. Where works are required, this will include the specification of the works to be carried out and if necessary a Works Plan
- the agreement will need to be executed as a Deed. This means it will need to be signed or sealed as appropriate by all the parties. Before drafting, check with all the parties to the agreement how they wish to execute the agreement. This will be either by signing or sealing the agreement; depending on whether the party to the agreement is an individual or a company. The [Land Registry website](#) gives guidance as to what is required. The options are
 - **Individuals** must sign the agreement and their signature will need to be witnessed;
 - a **Company** can either sign an agreement (by 2 directors or 1 director + company secretary) OR seal an agreement by affixing the company seal in the presence of the appropriate officer/s of the company who will sign the agreement.

Creation Agreements - once a creation agreement is completed the path dedicated will be the liability of the highway authority. HCC has drafted two types of agreement to reflect whether works or are required or not. If a creation agreement has been made as part of a larger scheme it can be 'held to order' i.e. signed by parties but not completed until agreed.

Highways Act s119(5) agreements - where a landowner, lessee or occupier has applied for a diversion, the council may require an agreement to be made before deciding to make the diversion order. The order and the section 119(5) agreement need to be consistent with regard to the number of days within which works have to be carried out and the number of days after confirmation when the order will come into effect.

B. Title of Orders or Agreements

(i) The title of the order should reflect the content of the order, but it is preferable not to mention the status of a route in the title. This will minimise the possibility of errors.

(ii) The following convention should be used for naming orders:

[Name of Authority] [Parish and Number of path] [Type of Order] [Year]

Illustrative Examples

'Hertfordshire County Council (Offley 48 and Offley 49) Modification Order 2010'

'East Hertfordshire District Council (Ware Town 76) Creation Order 2011'

'Hertfordshire County Council (Eastwick 31) Temporary Diversion Order 2012'

(iii) Exceptions to the convention

In the circumstances given below it may be acceptable to use the following format for the title

[Hertfordshire County Council] [Name of scheme or path, (Parish)] [Type of Order] [Year]

Public path orders: where a path is not already on the Definitive Map (and therefore does not have a path number) it is acceptable to use the name of the path. The parish should also be named.

Legal event modification orders: where the LEMO will affect more than 5 paths (or where the legal event is a side roads order or a change to the county boundary) it is acceptable to use a name of a scheme in the title of the LEMO rather than the parish and path number.

Illustrative Examples

'Stevenage Borough Council (Ellipsis, Magpie Crescent, Stevenage) Diversion Order 2010'

'Hertfordshire County Council (M25) Legal Event Modification Order 2011'

'Hertfordshire County Council (Cambridgeshire Boundary Changes) Legal Event Modification Order 2008'

(iv) Creation agreements

The title of the agreement should reflect the location of the agreement followed by details about the status of the route and parish.

[Name of scheme or path] Creation Agreement [Year] pursuant to Section 25 of the Highways Act 1980 relating to a [status] in the Parish of [parish]

Illustrative Examples

'*The Goldings Creation Agreement 2011 pursuant to Section 25 of the Highways Act 1980 relating to Public Footpaths in the Town of Hertford and Parishes of Bramfield and Stapleford*'

'*The Stocks Hotel Creation Agreement 2006 pursuant to Section 25 of the Highways Act 1980 relating to a Public Bridleway in the Parish of Aldbury*'

C. Drafting the Schedule

For orders you will need to comply with the form of the order as set out in the relevant Regulations. For agreements there is no prescribed form.

Modification orders

- in Part 1 of the schedule describe the path affected by the order, referring to grid references on the order plan (see section E). Divide the description of the path into sections as required depending whether it is to be deleted, added, upgraded or downgraded. This will need to include the width (see section F) and any limitations (see section G).
- in Part 2 of the schedule describe the new definitive statements to be added and/or amend the existing Definitive Statement (see section D)

For public path orders

- describe the path affected by the order in sections, referring to grid references (see section E), as required depending whether it is the existing, new, alternative or to be improved route. This will need to include the width (see section F) and any limitations (see section G).
- if the order diverts part of a route, state e.g. ‘that part of Bishop’s Stortford BR10’.
- where the new route to be added runs along an already existing right of way you will need to describe this e.g. ‘continues along the line of Great Gaddesden FP13’.

(i) **Describing the path**

- The description should not refer to any stiles, gates or barriers – see section G. This is to ensure that there can be no misunderstanding over whether a stile mentioned in this way is an obstruction or a limitation.
- Grid references should be given at each end of the route, which is affected by the order, at any other significant points and, if possible, where a route changes direction – see section E. If an order affects current paths, check the Definitive Statement and use the same grid reference when referring to the same point.
- Distances are to be described as ‘approx. x metres’ and should be rounded up to the nearest 5 metres.
- Use as many features as possible to help identify the exact route. Try to use fixed features, e.g. ‘crossing the bridge’; refer to ‘field boundary’ rather than ‘hedge’ or ‘fence’ and specify which side of the boundary the path runs.

(ii) **Describe the route affected by the order from its start to finish** as ‘a public [footpath / bridleway / restricted byway / byway open to all traffic] commencing from [the highway] at [grid ref] (point [A] on the Order Plan) {and then running [compass direction e.g. north-east / generally north-east / north-easterly / north-eastwards]}...for approximately [y] metres to [feature] at [grid ref] (point [B] on the Order Plan)}{*repeat as necessary starting ‘continues’*} [crossing/ to a junction with/to re-join] [specify highway joined] [at parish boundary]’. Identify where the path crosses other routes, or crosses or runs along a parish boundary or other feature.

(iii) **Refer to existing rights of way** as [parish] [status][number]
e.g. Aldenham FP9, St Stephens BR5

(iv) **Include the width of the route** (see section F) **and any limitations** (see section G)

- (v) **If the order route is an already existing right of way**, describe and label the order route in the same direction as the current definitive statement
- (vi) **Ensure order routes are described in the same direction as labelled on the plan**
- (vii) **If more than one order or agreement is to be made**, use the same reference for the same point on all plans, and label each new point consecutively throughout both – do not restart at point A on the second order plan.
- (viii) **Ensure the line style used in the plan** is reflected in the order/agreement.

D. Drafting the Statement - modification orders only.

Each path is identified by the name of the parish through which it runs, and a path number (e.g. Hertford 21). The Definitive Map will need to be modified by either adding a new statement or amending an existing statement for each parish the route passes through.

- (i) **Identify** if the statement is being deleted, amended or is a new statement
- (ii) **List parishes alphabetically and paths numerically**, particularly where more than one parish or path number is affected
- (iii) **Include the Definitive Map sheet number** e.g. 'HCC 54'
- (iv) **When amending an existing statement** aim to retain the original path number (or allocate the next Definitive Statement path number for that parish). Make sure the amended statement describes the path running in the same direction as the original statement (to keep it aligned with the digitised information on the map).
- (v) **Amend the statements of any existing rights of way** affected by the modification order route to record where they join or cross the modified route. Where a change only affects part of a route the statement should only be changed for the part which has been affected.
- (vi) **Write a statement for each path**
 - If the route has a name e.g. 'Green Lane', include the name, preferably at the beginning of the description. This helps to identify the route.
 - Describe the route running from highway to highway (or if not to a highway, the place of interest). Where the highway is not one recorded on the Definitive Map, give its road name if known followed by '([road number e.g. A602] or [public highway])'.
 - Where the path (or part of the path) runs along a parish etc. boundary, describe the path and where it runs along the parish boundary between [parish] and [parish]." If necessary, use the same statement for both parishes or divide as appropriate between parishes. (see 'Section F – Widths' for description of moiety)
 - If the path changes status, the description should clearly identify the position at which the status changes, giving a grid reference.
 - The description should not refer to any stiles, gates or barriers. This is to ensure that there can be no misunderstanding over whether a stile mentioned in this way is an obstruction or a limitation.
 - Grid references should be given at each end of the route affected by the order and at any other significant points such as where it crosses other rights of way or changes direction.
 - Directions should be stated as 'NW' rather than 'north westerly' in the interest of keeping the statements as short as possible.
 - Distances are to be described as 'approx. xm' and should be rounded up to the nearest 5m.
 - Use as many features as possible to help identify the exact route. Try to use fixed features, e.g. 'crossing the bridge' and refer to 'field boundary' rather than 'hedge' or 'fence', specifying which side of the boundary the path runs.
- (vii) **Describe the route** as it runs through the parish listing its correct status, 'commences from [the highway] at [grid ref] then runs {[compass direction e.g. NE/generally NE including which side of any boundary/feature]}... for approx. [y] m [to join/to a junction with/to re-join/crossing/] [specify highway joined] at [grid ref] [at parish boundary]'. Repeat { } as necessary starting 'continues'. If path changes status include {continues as [new status] from [grid ref]}
- (viii) **Specify the width of the path affected by the order.** If this is only part of the route, define the section affected using grid references (see sections E & F)
- (ix) **Specify whether there are limitations** giving grid references (see sections E & G).

E. Grid References

- (i) **Conventions.** The Ordnance Survey (OS) has two conventions regarding grid references. The leading letters (TL, TQ etc) are used on the published OS Landranger (1:50,000) and OS Explorer (1:25,000) maps, and the leading numbers (52, 51 etc) are used in digital mapping. Leading letters are also used to define the sheet numbers on the 1:10,000 series mapping used as a base for the current Definitive Map.

For example the grid reference

TL 45335 12094 (using leading letters) \equiv 545335 212094 (using leading numbers)
and would appear on O.S. sheet TL 41 SE \equiv DM sheet number 62)

- (ii) **HCC prefers the use of leading letters in orders**, as most people will have access to OS Landranger and OS Explorer maps (and possibly the Definitive Map), but not to digital mapping. Using the leading letters may mean that you will need to delete the first digits from your eastings and northings if you use a digital mapping system to determine your grid references.

- (iii) **For orders, grid references should be in the format ;**

LL EEEE NNNN ← HCC's preferred format or
LL EEEENNNN or
LLEEEENNNN

where LL represent the letters identifying the O.S. grid square
EEEE represents a four-figure easting
NNNN represents a four-figure northing

For example TL 0575 1328 (or TL 05751328 or TL05751328).

When using grid references it is important that the whole grid reference is kept together for example 'TL 0575 1328'. If part of a grid reference spills over into the next line it could be wrongly read. Grid references can be kept together by using 'ctrl+shift+spacebar' instead of just using the 'spacebar' when typing.

- (iv) **The letters 'OS' and 'GR' should not form any part of the grid reference.** It is not necessary to write 'Ordnance Survey' or 'grid reference' before the reference itself, as it is clear what it represents.
- (v) **Measuring your grid references**
These should be measured to the west and south corners of the smallest grid square you are using, not to the nearest point. If you are using the 1:2500 scale and 8 figure grid references the smallest grid square will be 10m x 10m. See page 4 of the OS booklet '[Map Reading](#)' for more guidance.
- (vi) **The accuracy of your grid references** depends on the scale of your order plan. It is recommended that 8 figure grid references are used where the plan is at 1:2500 or smaller. It is acceptable to use 10 figure grid references if you are using a plan at 1:1250, but better to keep the final digit to the nearest 0 or 5.
- (vii) **Check, double check and triple check the grid references.**
Look for transcription errors
- between the statement and order
 - between the order and the plan
 - where the same point is referred to more than once
 - if changes are made to either statement / description, make sure the description / statement is also changed.

F. Widths

A width should be clearly defined as 'x metres'. N.B. The terms minimum and maximum should not be used. If a width is not constant it may be described as 'varies between...metres and ... metres'.

The Planning Inspectorate's [Rights of Way Advice Note 16](#) together with Defra's letter of additional guidance sets out what the Planning Inspectorate requires when they determine an order.

Widths for modification orders, especially variable widths, should where possible be measured on site, rather than scaled from OS plans, which can only be measured to the nearest whole metre. You will need to keep on file a copy of the plan showing the measurements and where they were taken. (See section C for more details about the drafting of the order).

Widths for public path orders and agreements will need to be agreed and specified as part of the process (and checked on site).

In the order schedule

- (i) Widths should be recorded as accurately as possible, but only for the path (or section of path) affected by the order. If the whole route is affected it may be possible to record '4 metres'. If only part of a route is affected, show this with grid references. Refer to the order plan where this would be helpful.

Examples:

'4 metres between LL EEEE NNNN (point A on the Order Plan) and LL EEEE NNNN (point B on the Order Plan)'.

'varies between 4 metres and 8 metres from LL EEEE NNNN (point A on the Order Plan) to LL EEEE NNNN (point B on the Order Plan) as shown shaded grey on the Order Plan'.

'xm from LL EEEE NNNN (point A on the Order Plan) and [increasing][decreasing] to ym by LL EEEE NNNN (point B on the Order Plan) as shown shaded grey on the Order Plan'.

- (ii) Where a path is being deleted or extinguished in the order, describe the width as 'The full width of [that part of] Great Munden FP31'.

- (iii) In modification orders where a width in **Part I** is, for instance, based on the area shown uncoloured on the 1910 Finance Act Map, the description should include reference to the area '..... as shown excluded from hereditaments on the 1910 Finance Act Map and shown shaded grey on the Order Plan'.

In **Part II** (the Definitive Statement) the width should refer to 'varies between xm and ym between [grid ref 1] and [grid ref 2] as shown in the [title of Order]'.

Where the **parish boundary** runs down the length of the path, describe the full width of the path in **Part I**.

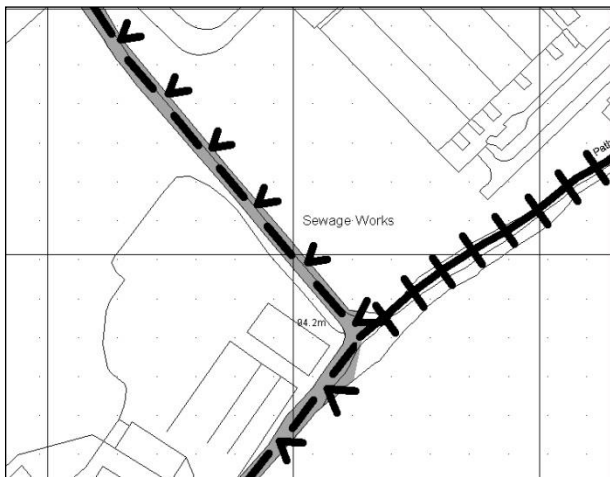
The path can then be recorded in either one or both parishes. When describing the width in **Part II** describe the width as "Varies between xm and ym between [grid ref 1] and [grid ref 2] and includes the [parish b] moiety of the route as shown in the [title of Order]".

- (iv) In LEMOs, **Part I** will need to record the width as described in a public path order (or agreement). e.g. 'Varies between xm and ym between [grid ref 1] and [grid ref 2] as shown shaded grey on Part 2 of the Order Plan in the [title of Order]'. **Part II** (the statement) will need to refer back to the original order e.g. 'Varies between xm and ym between [grid ref 1] and [grid ref 2] as shown in the [title of Public Path order]'.

- (v) Where the parish boundary runs along the path, specify the width of the whole path. (It will be made clear in the statement that the path is running between two parishes).
- (vi) Where there are trees within the width of the path to be created state that the new width is “subject to mature trees”.

On the order plan

- (vii) If the width of a route is variable (other than in a simple way e.g. ‘4 metres between A and B, 6 metres otherwise’), this must be indicated on the order plan by the use of ‘unbounded shading’. [Where GIS systems are used, the outline of the polygon needs to be the same shade of grey and overlain by the current OS mapping lines so that the OS detail can be seen]. The appropriate line style must be shown overlaying the shading and OS detail. A constant width does not need to be shown shaded and can be just quoted in the order. See section I and Appendices 1-3 for details of the line styles to be used.



Shading should be used to indicate the width of an order route where that width is variable, and where the width is great enough to be shown in such a manner. You need to ensure that the

- OS detail appears on top of the shading so that it can be seen
- the outline of the polygon must be the same grey colour as the shading

The appropriate line style should be superimposed on top of the OS details and shading.

G. Limitations

A stile, gate or barrier is not necessarily a limitation. It may be one of four things:

- 1) a structure which can be shown to have been there when the route was dedicated to the public and which has remained there ever since *i.e. a limitation*. **This is the only case in which a limitation e.g. a stile, gate or 'pinch point' should be recorded in the Definitive Statement.**
- 2) a structure authorised under section 147 of the HA for stock control
- 3) a barrier erected under section 66 of the HA for public safety
- 4) if none of the above, any structure is an illegal obstruction

Do not include any stiles, gates or barriers merely as descriptive features. Please note that surface conditions and bridges should not be recorded as limitations.

If you are making a modification order, any limitations should be specifically recorded in Part II (the statement) under the heading 'Limitations'. Grid references should be included for each limitation. If there are no limitations, please state '**None**'. (If the modification order only affects part of a path or way, please give grid references to define over which stretch of the route there are no limitations.) See also sections C&D. Do not attempt to describe a limitation in detail unless you have details dating from when the path came into existence. *A modification order cannot create a limitation but may record those which have been there continuously since the path came into existence.*

If you are making a public path order or creation agreement, limitations should not normally be included unless they meet HCC's Rights of Way Policies. You will also need to consider the [Defra's Guidance on Structures](#) which complies with the [Equality Act 2010](#). A grid reference should be included for each limitation (if any) and it should be made clear that the inclusion of limitations is part of the PPO or creation agreement. If there are no limitations, please state '**None**'. If there are no limitations over a section of the route, please give grid references for the section to which 'None' applies.

- If limitations are to be included, specify 'gate' for a footpath (stile should only be used in exceptional circumstances). Detailed specifications of any limitations should not be included in the order, but you will need to refer to the British Standard 'BS 5709'. If you are specifying a gap, it is appropriate to record the width of that gap. e.g. 'a structure to BS5709, initially a bridle gate', 'A gap to BS5709 of 2 metres'.

Although the Public Path Order ('PPO') Regulations allow for the inclusion of limitations, HCC prefers that PPOs do not create new limitations (especially structures) because:

- a) **Once a limitation is recorded in the Definitive Statement, the entry cannot be removed from the Definitive Statement except by making and confirming another legal order.** This is regardless of whether a structure is removed as a result of any changes in farming practices or land use.
- b) **the authorisation procedure under s.147 of the Highways Act** is more appropriate to use in most cases, particularly in rural areas to deal with the need for structures on rights of way. This allows tighter control of the specification and standard of any particular structure. However, these will not be recorded in the Definitive Statement.

The only circumstances in which HCC would accept the inclusion of limitations in a public path order would be circumstances which could not be adequately dealt with under other existing legislation and which had the support of all the interested parties.

N.B. Currently there is no provision for the inclusion of limitations in orders made under TCPA.

H. The Plan

Regulations prescribe the scale required for the plans depending on the type of order made. HCC has standardised its requirement for what should be shown on order plans as described below. HCC normally uses OS information for the base map of the order plan thereby enabling grid references to be produced. The line styles at section I and Appendices 1-3 sets out how HCC applies the Regulations to the various orders. Do not use red on the plan because the Planning Inspectors use red ink to alter orders and plans.

- (i) **The plan should be titled** ‘*This plan forms part of the {title of Order/Agreement}*’. Do not rely on drawing numbers/issues etc. to identify the correct plan. If using multiple plans label each plan ‘Part 1’, ‘Part 2’ etc. See section A(ii).
- (ii) **In orders refer to it as the ‘Order Plan’** (rather than map or drawing). In agreements refer to it as the ‘Plan’. This makes it easy to identify. Be consistent in referring to it as the Order Plan/Plan.
- (iii) **The base map** should always be taken from the OS, except where new development is not yet shown. If you must use another map, ensure that it uses the National Grid system and is at a recognised scale. You should not use any plan at a scale greater than 1:1250 unless you can be sure that it was surveyed at that scale. Distances and positions which are accurate at the published scale are not accurate if a plan is enlarged (for example OS 1:1250 plans will not be accurate if enlarged to 1:500).
- (iv) **Scale – this should normally be at a scale of 1:2500**. Regulations state that:
 - Modification order plans must not be at a scale of less than 1:25,000.
 - Public path order plans must not be at a scale of less than 1:2500.Orders in urban areas may warrant the use of 1:1250 scale, and it may be acceptable to use a smaller scale for modification orders (1:5000, 1:10,000) which affect particularly long routes. Photocopies should not be used.
- (v) **It is essential to state the scale used and show a scale bar**. Do not state the paper size e.g. “1:2,500 @ A3” as this might not be printed at true scale.
- (vi) **The plan must include a legend (or key)** to the line styles used on the plan. This should show the labels used. Where a route is being diverted, the key must clearly show if it is to be diverted onto an existing right of way.
- (vii) **Gridlines:** It is essential that gridlines are shown on the plan (and labelled). At least one grid square (i.e. 2 lines in each direction) should be shown.
- (viii) **It is essential to show a north arrow**.
- (ix) **Show and label** all definitive public rights of way within the area of the plan.
- (x) **Label the order route A-B-C etc on the plan**. If an order route is an already existing right of way, describe and label the order route in the same direction as the current Definitive Statement. Where a diversion is onto a route which is already a right of way, this must be shown on the plan.
- (xi) **Show all parish boundaries with a coloured line** and where appropriate, name the parishes.
- (xii) **Reference should be made to the DM sheet affected**. i.e. ‘Appears on DM sheet No...’
- (xiii) **O.S. copyright and licence number** should be included.

- (xiv) **Draw the order route** ensuring there are no gaps where paths (or sections of paths) meet each other.
- (xv) **Use of an 'Inset Plan' to illustrate areas in greater detail** is acceptable, and may be hand drawn. If the scale of the inset is greater than 1:1250 then it should be labelled 'not to scale' and have no gridlines, unless it has been surveyed at the scale shown. Measurements can be written on the inset plan in metres or centimetres using an arrow to indicate the measured extent. Make sure you do not use a dashed line to show the extent of the path, and where appropriate shade the width of the path in grey. Ideally they should be inset into the order plan.
- (xvi) **Colours:** HCC has adopted the use of colours on WCA and HA orders plans to depict the routes to be deleted. These are purple (footpaths); green (bridleways); and brown (BOATs). Where restricted byways are to be deleted they are shown by a broken green line in WCA orders, or by a solid black line in HA orders. Other routes should not be shown in colour. In this way, the plans attached to the original orders are clear (particularly where the diversion is very slight) and black and white photocopies are still decipherable.
- Do not use colour in TCPA orders as all lines must be shown in black in these orders.




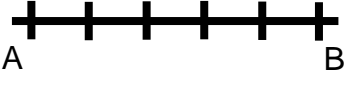

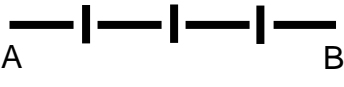






I. Line styles for Plans (see Appendices 1-3)

The line styles that are shown on order plans for modification orders, public path orders and Town & Country Planning Act orders are taken from the relevant Regulations (see Procedures). The Planning Inspectorate has produced [Advice Note 22](#) explaining how they expect line styles to be applied.

NB. It should be noted that the line styles are inconsistent between the different regulations.

At Appendices 1-3 HCC shows the line styles which have been adopted to distinguish between rights of way which already exist, and those to which changes are being made. Where a path is described as 'currently shown on the DM', it means a definitive right of way which is unaltered by the changes. Other wording is taken from the various forms of orders.

DEFINITIVE MAP MODIFICATION ORDERS (including LEMOs) and Highways Act 1980 Section 25 Agreements

<u>LINE STYLES</u>	<u>USED FOR PATH</u>	<u>DESCRIBED AS</u>
<u>Footpaths</u>		
	currently shown on the DM	'continuous line with short bars at intervals'
	to be deleted	'continuous purple line'
	to be added/downgraded	'broken black line with short intervals'
<u>Bridleways</u>		
	currently shown on the DM	'continuous line with cross bars at intervals'
	to be deleted	'continuous green line'
	to be added/upgraded/downgraded	'broken line with cross bars in the intervals'
<u>Restricted Byways</u>		
	currently shown on the DM	'broken line and small arrowheads'
	to be deleted	'broken green line'
	to be added/upgraded/downgraded	'broken line and small arrowheads'
<u>BOATS</u>		
	currently shown on the DM	'continuous line with arrowheads alternately above and below the line'
	to be deleted	'continuous brown line'
	to be added/upgraded/downgraded	'continuous line with arrowheads alternately above and below the line'

HIGHWAYS ACT 1980 PUBLIC PATH ORDERS

LINE STYLES

USED FOR PATH

DESCRIBED AS

Footpaths



currently shown on the DM

'continuous line with short bars at intervals'



to be extinguished or stopped up

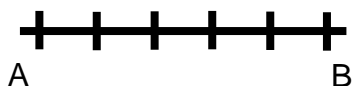
'bold continuous line'



to be created

'bold broken line'

Bridleways



currently shown on the DM

'continuous line with cross bars at intervals'



to be extinguished or stopped up

'bold continuous line'



to be created

'bold broken line'

Restricted Byways



currently shown on the DM

'broken line and small arrowheads'



to be extinguished or stopped up

'bold continuous line'





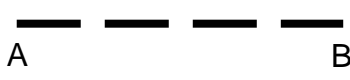
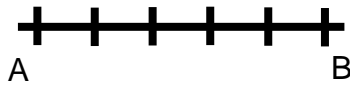





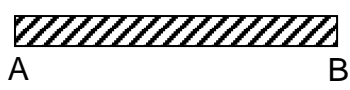
to be created

'bold broken line'

BOATs

Creation agreements and public path orders do not apply to BOATs. If using the HA, only an order made in the Magistrates Court under section 116 could divert or extinguish a BOAT.

TOWN & COUNTRY PLANNING ACT 1990 PUBLIC PATH ORDERS

<u>LINE STYLES</u>	<u>USED FOR PATH</u>	<u>DESCRIBED AS</u>
<u>Footpaths</u>		
	currently shown on the DM	'continuous line with short bars at intervals'
	to be extinguished or stopped up	'bold black line'
	to be created	'bold black dashes'
<u>Bridleways</u>		
	currently shown on the DM	'continuous line with cross bars at intervals'
	to be extinguished or stopped up	'bold black line'
	to be created	'bold black dashes'
<u>Restricted Byways</u>		
	currently shown on the DM	'broken line and small arrowheads'
	to be extinguished or stopped up	'bold black line'
	to be created	'bold black dashes'
<u>OTHER</u>		
	to be improved	'hatched black'
<u>BOATs</u>	Secretary of State	S247 ORDERS ONLY