



Planning
Inspectorate



Public rights of way casework: best practice in opposed order written representations, hearings, and inquiries

Presented by Heidi Cruickshank and Harry Wood



Drawing on guidance from Defra and the Planning Inspectorate, and referring to the relevant legislative framework, the session will focus on best practice for preparing for and participating in the opposed order process

Key sections of the presentation:

- **Initial submissions:** role and responsibilities of order making authority (OMA) referring unconfirmed orders to the Secretary of State
- **What happens next?** Validation process, suggested procedures, exchange of submissions
- **The Event:** how these work, what should parties expect, how should they present evidence
- **The decision:** interim and final decisions, where decisions are made available, challenging decisions



Submit your questions via the “Q&A” panel in Teams.
Use the “Upvote ↑” button to vote for questions you want answered.



Initial submissions from Order Making Authority (OMA)



- Local authorities and the Definitive Map and Statement (DMS)
- DMS is official record of public rights of way



Form

Rights of way: order making authority checklist

When an order making authority submits an order for determination, they also need to provide a number of supporting documents.

From: [Planning Inspectorate](#)

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Applies to England

Documents



[Documents required by the Planning Inspectorate: please read the guidance notes before completing the checklist](#)

HTML



[Checklist for order making authorities](#)

ODT, 44.5 KB

This file is in an [OpenDocument](#) format

This file may not be suitable for users of assistive technology.



Planning Inspectorate

OMA Checklist

DOCUMENT – the documents shown in bold are those required by legislation.	Doc. Ref.	<input checked="" type="checkbox"/> / <input type="checkbox"/> comment
Use of artificial intelligence (AI) in casework evidence If you use AI to create or alter any part of your documents, information or data, you should tell us that you have done this when you provide the material to us. See the detailed guidance for further information		
Signed/sealed order in duplicate. Please note that digitally sealed orders are preferred. If they were made in hard copy, please provide in duplicate. The original document must be sent to the Inspectorate – we cannot accept photocopies or scans in their stead. (Please do not attach/staple other documents to the sealed orders.)		
Two copies of the order and associated maps (only required if submitted in hard copy)	01a&b	
OMA's submission letter. Please include, if possible, dates when your Council are not be available for a hearing or inquiry over the next 11 months.	02	
Although we will do our best to avoid any dates you provide to us, we are unable to give any guarantees.		
Statement of the grounds on which it is considered the order should be confirmed. <ul style="list-style-type: none">The statement must explain why the order meets the relevant criteria. It is not sufficient to simply repeat the criteria of the section of the Act under which the order is made.If you intend to rely on your statement of grounds and do not propose to submit a statement of case in due course, please also submit a full list of the documents/evidence¹ on which your statement of grounds is based.If your Council is not supporting the order, please submit a Statement of the grounds which explains why you have taken this stance. This	03	

- Use document reference numbers in OMA submissions
- Save documents individually
- Follow checklist closely to ensure all necessary documents are submitted



The COMMON SEAL of the ESSEX)
COUNTY COUNCIL was hereunto)
Affixed in the presence of:)



Attesting Officer

E0593



Digitally
signed by
Essex County
Council
Date:
2023.03.20
08:25:45 Z

- Orders do not need to be in hard copy, digitally-sealed documents preferred
- Original document must be sent to the Inspectorate – copies are not acceptable



What happens next?



- Validation process
- Suggested procedure (written representations, hearing, inquiry)



NOTICE OF ORDER

«SectionAct»

«OMA_NAME»

«Title_Of_Order»

Notice is hereby given that the above referenced Order(s) has/have been submitted to the Secretary of State for Environment, Food and Rural Affairs for determination. Following an earlier inquiry/hearing/exchange of written representations, the Inspector appointed to determine the Order(s) issued a letter in which he/she proposed to make modifications to the Order(s) as drafted. Following advertisement of those proposals objections/representations have been received.

The **start date** for the above Order(s) is [insert date of **INQ 6m** and **INQ7m** letters].

Consideration of the Order(s) will take the form of a public local inquiry. It is being held so that the Inspector can hear *evidence in respect of the Inspector's proposed modifications only/new evidence in respect of the unmodified part of the Order – specifically confined to [refer to statement from Inspector]/evidence in respect of the modified part of the Order **and** new evidence in respect of the unmodified part of the Order – specifically confined to [refer to statement from Inspector]. [***delete as appropriate**]

The Inquiry will be held at [insert inquiry venue] on [insert date] at 10.00am.

[In the event that a pre-inquiry meeting has been arranged, insert the details here]

The effect of the Order, if confirmed without modifications will be to [insert text taken from Order Notice].

The effect of the proposed modification(s) would be to [insert a description of the proposed modifications(s)].

[If the land to which the Order relates is not clear from the Order title, insert a fuller description here].

Any queries relating to this Order should be referred to «Case_Officer» by email: «UserEMail»@planninginspectorate.gov.uk quoting reference number «ROW_Number» on all correspondence.

Alternatively, queries may be sent in writing to The Planning Inspectorate, Rights of Way Section, Room 3/A Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Telephone: 0303 444 «Telephone_Ext».

Any person wishing to view the statements of case and other documents relating to this Order may do so by appointment at [insert details supplied by the Order Making Authority including a contact name and telephone number (take from Access if necessary)].

Timetable for sending in statements of case and proofs of evidence

Within 8 weeks of the start date [by <insert date>]

The Order Making Authority, the applicant and everyone who has made an objection or representation following the proposed modifications and anyone who wishes to give evidence at the Inquiry must ensure their statement of case¹ is received by the Secretary of State. As soon as possible after receiving it the Secretary of State will send a full copy to the Authority. Copies (excluding copies of any supporting documents - these will be available to view at the Authority's offices) will also be sent to everyone who has made an objection or representation following the modifications, the applicant and anyone else who has previously written to us in respect of the Order.

4 weeks before the date of the inquiry [by <insert date>]

The Authority, everyone who has made an objection or representation following the proposed modifications, the applicant (if applicable) and anyone who wishes to give evidence at the Inquiry must ensure their proof of evidence (together with any summary) is received the Secretary of State. As soon as possible after receiving them, the Secretary of State will send copies of:

- i) the Authority's proof of evidence to everyone who has made an objection or representation following the proposed modifications, the applicant, anyone who has submitted a statement of case and anyone else who has previously written to us in respect of the Order;

¹ If you wish to make a legal submission, this should be submitted at the same time as your statement of case. Otherwise legal submissions will have to be submitted in writing on the day of the inquiry.

- ii) the applicant's proof of evidence to the Authority, everyone who has made an objection or representation following the proposed modifications, anyone who has submitted a statement of case and anyone else who has previously written to us in respect of the Order; and

- iii) all other proofs of evidence to the Authority, the applicant and anyone else who has either submitted a statement of case or who has previously written to us in respect of the Order .

All parties must keep to the timetable set out above and ensure that statements of case and proofs of evidence are received by the Secretary of State on time. Late documents will be returned.

We cannot accept any inflammatory, discriminatory or abusive comments. Any documents containing such comments will be returned.

Notice of order for inquiry mods

Key information

-Date of event

-Contact information

-Submission deadlines

Ensure you meet these
deadlines



17. Annex E - Preparing statements of case and proofs of evidence

17.1 Statements of case

17.1.1. Statements of case should contain the full particulars of the case which the local authority, those making representations or objections, the applicant, and anyone else proposes to put forward at a hearing or inquiry, or in written representations. They should include the Inspectorate's reference number for the order. Statements should include copies of documentary evidence and a list of those documents (see paragraph 17.1.4 below). If you refer to a web-link then you must ensure that you also include copies of these documents. If you are referring to a section of a document, then you should also indicate what page number/section you are referring to. The local authority does not need to prepare a statement of case if it has nothing to add to the statement of reasons which it sent in with the order.

17.1.2. Statements may also cite the case law that a party intends to call in support of its arguments. If case law is cited, the full report reference should be given. A copy of the case report should be included as an appendix. Further information can be found in Annex J.

- Follow guidance closely to ensure documents are appropriately formatted
- Statements of case versus proofs of evidence – understand the distinction



Documents the Inspectorate will circulate

The Rights of Way (Hearings and Inquiries Procedure) (England) Rules 2007

UK Statutory Instruments > 2007 No. 2008 > PART 3 > Rule 6

Table of Contents **Content** Explanatory Memorandum ? More Resources ?

◀ Previous: Provision Next: Provision ▶ Plain View Print Options

What Version ?

✓ Latest available (Revised)

Original (As made)

Advanced Features ?

☐ Show Geographical Extent

(e.g. England, Wales, Scotland and Northern Ireland)

☒ Show Timeline of Changes

▼ Opening Options ?

▼ More Resources

Changes over time for: Section 6 ?

01/10/2007

Changes to legislation:

There are currently no known outstanding effects for the The Rights of Way (Hearings and Inquiries Procedure) (England) Rules 2007, Section 6. ?

Submission of statements of case for the hearing

6.—(1) The authority shall ensure that, within eight weeks of the start date, the Secretary of State has received their statement of case.

(2) As soon as practicable after the receipt of the statement of case mentioned in paragraph (1), the Secretary of State shall send a copy of that statement (excluding copies of any supporting documents) to the applicant (if any), each relevant person and any other person who has submitted or subsequently submits a statement of case under paragraph (5).

(3) The applicant shall ensure that, within 12 weeks of the start date, the Secretary of State has—

(a) received his statement of case; or

(b) received notice that he intends to rely on the authority's statement of case as his own.

- The Inspectorate do not circulate supporting documents/appendices, in line with 2007 Rules
- All documents (including any appendices) must be made available by the OMA



- Case management conferences (CMCs)
- OMA organise hearing/inquiries, Inspector determines how they are run
- In-person, virtual, or hybrid?



- Order decisions, interim decisions, final decisions
- Decisions cannot be appealed, but they can be challenged



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Any questions?



Thank you for attending!



Please complete the webinar
evaluation form

Further learning:

- [OMA Checklist](#)
- [Rights of way order information: Decisions and maps published in 2023, 2024 and 2025 - GOV.UK](#)
- [Complaints procedure - Planning Inspectorate - GOV.UK](#)
- [Challenging decisions: High court leaflet for rights of way casework - GOV.UK](#)
- [The Rights of Way \(Hearings and Inquiries Procedure\) \(England\) Rules 2007](#)
- [Public inquiries; Hearings and Examinations - venue and facilities requirements - GOV.UK](#)
- [Guidance for Local Planning Authorities, Order Making Authorities and anyone else hosting virtual events for the Planning Inspectorate - GOV.UK](#)
- [Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders - GOV.UK](#)

Forthcoming webinar:

