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How to claim an unrecorded public right of way

Guide for local cycling campaigners

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(This guide uses legislation relevant in England and Wales)

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1. What is a public right of way?

A right of way is a path which the public has a right to pass along on foot, and sometimes by other modes. See our [guide to off-road access in England and Wales](#) for more details.

1.1. Types of rights of way

1.1.1. Footpath

A recorded right of way on foot.

1.1.2. Bridleway

A recorded right of way on foot, on horseback and/or leading a horse, and on a bicycle (introduced by the Countryside Act 1968). Cyclists must give way to walkers and horse riders if encountered.

1.1.3. Restricted byway

A recorded right of way on foot, horseback and/or leading a horse, on a bike, or on any other non-mechanically propelled vehicle (such as a pony and trap).

1.1.4. Byway open to all traffic (BOAT)

A recorded right of way on foot, horseback and/or leading a horse, on a bike, or with any other vehicle including cars and motorbikes.

2. What is an unrecorded right of way?

The '**definitive map**' shows all recorded public rights of way in an area, and is kept in each county or unitary council offices. Many are now available to view online. The maps were first drawn up in the 1950s, and highway authorities (except Inner London boroughs) have a duty to keep the map under continuous review (s53 Wildlife and Countryside Act 1981).

A route that isn't on the map could still be a right of way, however. And, just because a way is shown as a footpath, it doesn't necessarily mean that you can't cycle on it. It's vital that unrecorded ways are added to the map to protect current and future use.

3. Increasing rights of way for cycling

Bridleways and byways make up just 22% of Rights of Way in England, and 21% in Wales.

Access to land in Scotland is much more widespread, due to the Land Reform (Scotland) Act 2003, which gives the public (including cyclists) lawful access to most land and inland water there, provided they comply with the Outdoor Access Code.

Cycling UK would like to see the Government in England adopt and adapt [Scottish-style access laws](#), but in the meantime, there are a number of options for developing more countryside routes for cycling in England and Wales.

A way that is recorded on the definitive map is protected for existing and future use and it is easier to stop anyone interfering with it. Also, if you've been challenged for using a path (e.g. by a landowner, a 'keep out' sign, or locked gate), if it's not on the map, you may lose your right to ride on it.

Under the Countryside and Rights of Way Act 2000, historic rights of way which existed before 1949 and have not been added to the definitive map by 1 January 2026 [will be extinguished](#) and

the public right to use them will be lost. It's crucial that these lost ways are recorded before the cut-off date.

There are two basic methods to make a claim. They can be used together and the relevant highway authority will be able to guide you through the process in detail. These are:

Historical evidence (Section 53, Wildlife & Countryside Act)

and/or

Deemed Dedication following 20 years of cycle and/or equestrian use (Section 31, Highways Act)

This guide explains the difference between these two methods, followed by an outline of the general process for making a claim to modify the definitive map.

4. Historical evidence (Section 53, Wildlife & Countryside Act)

This is instigated when a highway authority becomes aware of evidence that a definitive route for cyclists may exist and should be on the definitive map. Historic maps can provide evidence that a route was once used as a public road, or by horses, and should therefore be recorded as a bridleway or byway.

Evidence is typically based on user testimonies, enclosure awards, tithe maps, railway and estate maps and Finance Act maps, amongst others.

4.1. Resources for researching historic rights of way

The **National Library of Scotland** has a fantastic [online tool](#) to view a wide range of historical maps of Britain and compare them side-by-side.

During spring and summer 2020, thousands of volunteers used an online tool created by Ramblers to compare old and new maps, and uncovered over 49,000 miles of lost ways. Their [interactive map](#) is a great place to start searching for unrecorded ways in your area.

The book '[Rights of Way: Restoring the Record](#)' by Sarah Bucks and Phil Wadey is the authoritative source of information on recording lost ways, and provides the basis for the British Horse Society training sessions.

4.1.1. British Horse Society resources – Project 2026

- BHS's [Project 2026](#) is designed to help groups and individuals start researching and recording lost rights of way, and is as relevant for cyclists as it is for horse riders.
- Their [Project 2026 toolkit](#) is an excellent place to start for a step-by-step guide to researching historic routes.
- Once you're ready to dive in, there is also a [more detailed guide](#) with everything you could wish to know about doing the research and making the application.
- To share information and avoid duplicating efforts, BHS has created a [mapping tool](#) to help gather evidence and mark routes that an application has been made for.
- [Financial support](#) is available to recover any costs incurred in researching and making an application, and there are also [training sessions](#) for a systematic approach to researching historic rights of way. Both of these are available for anyone researching lost routes, not just BHS members.

5. Deemed Dedication following 20 years of cycle and/or equestrian use (Section 31, Highways Act)

The landowner is 'presumed' to have dedicated the trail as a right of way on the basis of (usually) 20 years uninterrupted use by the public. Anyone can claim such ways by showing evidence, either documentary (such as photos and documents) or anecdotal (such as witness testimonies) that the way has been used continuously during the required period.

Thanks to s68 of the Natural Environment & Rural Communities Act 2006, cyclists can now make claims based on uncontested cycle use. If successful, this leads to a restricted byway.

Basically, you'll need to compile evidence that the path has enjoyed uninterrupted use by cyclists for (usually) 20 years. Although most authorities tend to accept claims if at least half a dozen witnesses can testify to this, it is best to gather as many testimonies as you can. Try asking local cycling and equestrian groups to find more people who may have used the route.

The highway authority should be able to send you their standard 'user evidence form' which you can ask people to fill in.

For statutory dedication to be satisfied, the evidence needs to show that a way over land has:

- actually been enjoyed by the public, and
- use has been:
 - as of right (ie without force, secrecy or permission)
 - without interruption, and
 - for a full period of 20 years

If you wish successfully to claim a right of way, you need to be able to show:

- use by the public at large (not just employees, tenants or licensees of the landowner etc)
- use ('enjoyment') for the full 20 years, but you will not need everyone to show they each used the way for 20 years so long as there is good evidence of use throughout the 20-year period
- use was done openly, and not by breaking down fences, or walking across a field in the middle of the night or when it was known the landowner was away on holiday
- no permission was given by the landowner

Use of the way may be interrupted by the landowner erecting a locked gate or 'no access' signs, or verbally challenging users. This is usually what prompts someone to make an application to record the right of way. The 20 years of use would be counted back from the date the use was first challenged.

All relevant landowners have to be notified, a step that might prove complicated and involve Land Registry searches. If you can't find out who the owner is, you could ask the council to put up a notice on the land.

The Deregulation Act 2015 was designed to make the process simpler and pass the duty of notifying landowners from individuals onto councils, but five years later it still hasn't been brought into effect.

The **Open Spaces Society** has an excellent [step-by-step guide](#) to claiming a right of way with user evidence.

6. Applying to have the definitive map modified

The first step is to check the existing definitive map to see if the way that interests you is on it and, if it is, what its status is. You may be able to view the definitive map online on the rights of way section of your council's website (the highway authority is usually the county council or unitary authority). If the council does not have an online map, you will need to go to the council offices.

If your path is not on the definitive map, or you disagree with its recorded status (e.g. it's listed as a footpath, but you think it should be a restricted byway), ask the authority to check.

If you think the map and/or the authority is wrong, and you want to take the matter further, you can make an official claim by applying for a 'definitive map modification order' (DMMO).

The relevant highway authority will be able to guide you through the process in detail and explain what sort of evidence you need to supply.

A key thing to remember is that a DMMO application is not about creating new rights, but about recording the rights that already exist. The purpose of the application is to supply sufficient evidence that the rights do exist.

When you're happy that you've done everything required of you, you can submit your claim. The authority then has to investigate and apply statutory tests to it. If all goes well, the authority will make the Order and advertise it, giving the public a chance to object. If you think the authority hasn't made the right decision based on the evidence you've supplied, you can appeal against it.

6.1. Objections to the Order

Anyone may object (but only on relevant grounds). If there are no objections, then the authority should confirm the Order and record the way.

If there are relevant objections, the matter must be referred to the Secretary of State for Environment, Food and Rural Affairs (or the Welsh Assembly in Wales), although in practice this is dealt with by a Government agency, the Planning Inspectorate, acting on their behalf.

The Inspectorate appoints an inspector, who decides whether to hold a public inquiry, or to ask for written representations. This is usually decided on the basis of the number of objectors; the more objectors, and the more complicated their objections, the more likely that the case will be decided through an inquiry. In either case, the Inspector will visit the site in question.

6.2. Inquiries

If the inspector decides on an inquiry, it should be held on a convenient date for everyone and near the trail. You'll be invited to submit proof of evidence and the process, including the timetable, should be properly explained to you.

Objectors and applicants are permitted to employ professional representation and to cross-examine witnesses.

Sometimes, the evidence points towards a right of way with a different status from the one advertised in the Order: for example, a claim submitted by horse riders for a bridleway may find support from cyclists or carriage drivers, indicating that the way ought to be a restricted byway.

The inspector can modify the Order, but must then re-advertise it and invite objections. This could make a new inquiry necessary.

The inspector considers the evidence and makes their decision, after which there is no right to further inquiries or representations. It is, however, possible to challenge the decision through the courts.

If the decision goes in your favour, the authority should automatically make the modification to the definitive map.

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