

COUNTY OF HEREFORD

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949 PART IV, PUBLIC RIGHTS OF WAY.

"Arrangements" under Section 28 of the Act for the provision by County District Councils and Parish Councils of Information for purposes of survey of Rights of Way.

SUPPLY OF MAPS AND SCHEDULES

1. The County Council will supply all maps where required, without charge. These will comprise a set of 6" covering each Borough, Urban District or Rural Parish. Most Parishes will require several of these sheets, but the sheets will not be joined.

2. The County Council will supply loose leaf sheets for use as the schedule contemplated in Part 5 of the Memorandum upon the Survey of Rights of Way prepared by the Commons, Open Spaces and Footpaths Preservation Society. Enough sheets will be supplied to enable the Borough, Urban District or Parish Council to keep a copy. In Rural Parishes not having a Parish Council a copy may be retained by the Chairman of the Parish meeting. A note on procedure and a memorandum for guidance will be supplied.

BOROUGH AND URBAN DISTRICTS

3. A set of maps for the Borough or Urban District will be sent direct to the Town Clerk or Clerk of the Urban District Council, together with a supply of the loose leaf sheets.

RURAL DISTRICTS

4. Section 28 (3) of the Act draws a distinction as to the method of provision of information in Parishes which have a Parish Council and Parishes which have not. In Rural Parishes not having a Parish Council the provision of the information is the responsibility of the Rural District Council which must, as respects each such Parish, require the representative body of the Parish or a member of that body to cause a Parish meeting to be held.

5. It seems probable, however, that in a number of Parishes where there are Parish Councils the Rural District Council will have to take the initiative in securing the convening by the Parish Council of a parish meeting, and it also seems desirable that there should be some opportunity for representatives of Parishes both with and without Parish Councils to discuss the matter both with the Rural District Council and the County Council.

6. When Parishes have collected all the information and have completed the maps and schedules, they will send them to their Rural District Council, who will then have the opportunity of checking the information to such extent as they wish. The maps and schedules will then be sent on to the County Council together with any observations the Rural District Council may wish to make.

7. Parishes requiring further information or advice will in the first instance apply to the Clerk of the Rural District Council, who in his discretion will either himself give the information or advice required, or refer the matter to the County Council, although, in general, requests for legal advice should be referred to the County Council.

8. It is hoped that completed maps and schedule, together with Parish Councils' recommendations on each will be delivered to Rural District Councils before 1st December, 1950.

By 31st December, 1950 Rural District Councils, Urban, Borough and City Councils recommendations should be received by the County Surveyor, Portfield House, Hereford.

National Parks & Access to the Countryside Act, 1949.

SURVEY OF PUBLIC RIGHTS OF WAY.

Form of Procedure.

1. The Parish Council (or Parish Meeting) agrees to undertake the Survey.
 2. Notification sent to the Rural District Council, together with information as to whether copies of the 6" maps are required.
 3. The Rural District Council will notify the County Surveyor, who on receipt of this request will forward to the Rural District Councils in envelopes ready for distribution to Parishes
 - (a) 6" maps, if required by the Parish Council ; one copy for cutting up and use by walkers of paths and one copy to be kept in good condition on which to transfer and submit the completed information.
 - (b) Copies of a Schedule to be completed for each footpath. Only the parts indicated will be completed by the person making the Survey and only such other part as indicated will be completed by the Parish Council or Parish Meeting.
 - (c) A Memorandum for the guidance of Parish Councils which should be carefully studied individually by people responsible for making individual path surveys, and later by the Parish Council or Parish Meeting before determining whether any particular Way surveyed shall be passed on to the Rural District Council as a Public Right of Way.
 4. After receipt of these particulars from the Rural District Council, the Parish Council or Parish Meeting will arrange for walkers to walk over Ways in the Parish. The normal procedure will be to allocate parts of the Parish (the Parish will normally divide conveniently into 6-10 parts between main roads) each to one or two people who will undertake the physical walking over the ground and recording the Survey of Rights of Way and to re-submit them to the Parish Council within a reasonable time.
 5. After collection of these surveyed Ways the Parish Council will contact neighbouring parishes with a view to ensuring continuity of Ways which cross the boundary and to ascertain whether the neighbouring parishes consider the continuations to be Public Rights of Way or not.
 6. The Parish Council or Parish Meeting will be called to consider all the surveyed Rights of Way. Those that are approved by the Parish Meeting will be noted as such and those which are not approved will be so marked on the Schedule and the forms sent on with the Parish Council's resolution on each complete to the Rural District Council.
 7. The Rural District Council will consider the recommendations of the Parish Councils and after resolving in each particular case in favour or against, send the completed forms to the County Surveyor.
 8. County Surveyor will advertise the Ways as required in the Act.
 9. After advertisement opportunity is given for objections to be made to amend the draft plan, or to omit or to add to the plan and for the County Council to determine such objections (and to hear objections to the objections). A further provision is made for 'aggrieved persons' to appeal to the Minister of Town and County Planning.
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MEMORANDUM FOR THE GUIDANCE OF PARISH COUNCILS AND INDIVIDUALS

CONDUCTING A SURVEY OF PUBLIC RIGHTS OF WAY

Purpose of Survey. To make a permanent record of *existing* Public Rights of Way throughout the County and subsequently to determine once and for all whether each and every of such *existing* ways is or is not a public way.

It must be emphasised that we are attempting to record the existing position and not to make recommendations as to what may or may not be thought to be public ways either now or in the future. New Rights of Way, or stopping up existing, are dealt with under entirely different procedure in the Act.

Furthermore, ways used by permission (express or implied) of the OWNER for private purposes are NOT public ways as of Right.

Definitions. The definitions of Footpath and Bridleway are given in Section 27(6) of the National Parks and Access to the Countryside Act, 1949 and explained on pages 2 and 3 of the Memorandum issued by the Commons, Open Spaces and Footpaths Preservation Society—(a copy of which entitled "Survey of Rights of Way" is being supplied to all District Councils by the Clerk of the County Council in sufficient numbers to permit distribution of one copy to each parish.)

Evidence to prove a Right of Way. Evidence to prove the existence of a public right of way are :—

- (a) Documentary and/or
- (b) Right of User.

- (a) *Documents* are (i) Awards, under the Inclosure Acts or other statutes.
or (ii) Maps and statements deposited by landowners with County or District Councils under Section 1 (4) of the Rights of Way Act, 1932.

Information on these held by (or known to) the County Council will be notified to District Councils so that this information, together with that held by District Councils, may be notified and made available to Parishes.

Ordnance Survey Maps, Tithe maps and other documentary evidence are material to the existence of a way but are not, in general by themselves evidence of a *public right* of way and must be supported by evidence of user.

- (b) *Right of User.* To prove User it is necessary to have conclusive evidence of *each* of the following THREE points :—

1. Over the period of 20 years (at least) the public at large has from time to time used the way
2. User was of right, i.e. not by permission, leave or licence of the owner, during that period of 20 years
3. That the use by the public at large was without interruption or obstruction, during that period of 20 years

Names and Addresses of persons giving evidence to prove right of user are essential. Rarely will documentary evidence be available on this point, but special reference should be made of any document supporting it, where such may exist.

Schedule. The Schedule—one of which will be prepared for *each* Right of Way—has been designed to record this evidence together with a Description of the route.

Column 1. This written description should give the direction and state of the route together with a note of the stiles, gates, bridges, etc. and their condition so as not to confuse the main issue of the Map—which is to delineate the Public Right of Way. When the position of width or a path is defined in an award (or order or agreement under this Act), or other legal document, it is desirable that the Schedule should include the relevant details. Where there is no legal authority, but practical reasons make it desirable to define more accurately than is possible on the map the actual land over which the public are alleged to have rights or that a limitation or condition on the exercise of the public rights should be specifically stated, it would be advisable to include particulars of these matters on the back of the schedule, where there is not likely to be any dispute about the facts.

Abbreviations can be used and attention should be paid to the Memorandum of the Commons, etc. Society for typical records.

Column 2. This is to give the all-important information of evidence which is EITHER Documentary (a) or (b) AND/OR (c) Right of user—all three points of which must be Yes to prove a public right of way.

Column 3. This information is essential and vital to substantiate each way and to know where the information may be obtained for quick verification direct should it be necessary in isolated rare cases.

It is necessary that the persons carrying out the actual survey, and who should actually walk the path at the time the map is marked, should sign at the bottom of column 3.

Finally, space is provided for the signatures of the Parish Council/Meeting and the District Council.

Back of Schedule. Should anyone wish to add further information this should be written on the back of the form. Also a note should be made that, where applicable, the continuance of the Way into the adjoining parish as a Public Right of Way is agreed, (with the number of the Way and the name of the next Parish involved.) See also Note 2 (below).

Map. Two copies of the 6" Ordnance Survey Map will be forwarded, one for the use of the walkers which they will fill in in pencil and one for the final copy on which the proved Public Rights of Way will be shewn in *red*.

The marking of stiles, etc. as proposed in the Memorandum of the Commons, etc. Society need NOT be shewn, having been described in the Schedule. Furthermore, the numbering of the Footpaths, etc. will NOT be from each junction as mentioned in the above Memorandum, but will attempt to follow a particular Way throughout its length, or between decisive features, e.g. roads. This will cut down the amount of schedules, for there must be ONE Schedule for EACH Right of Way.

The numbering of Ways on Schedules and plans is best done after the final map to be submitted is prepared, provided care is taken to retain the original identification between each Way and its respective Schedule. See also Note 2 (below).

Note 1. The County Council, will not (until the Definitive Map is finalised) alter their present procedure with regard to works which are undertaken on known and undisputed public footpaths and bridleways.

Note 2. The Map and Schedule will be concerned only with the actual Right of Way—temporary or illegal diversions or obstructions should be noted on the reverse of the Schedule sheet.

COUNTY OF HEREFORD

National Parks and Access to the Countryside Act, 1949 - Survey of Rights of Way.

SCHEDULE OF INFORMATION. SEPARATE COPY FOR EACH WAY TO ACCOMPANY MAP.

INFORMATION IN THESE THREE COLUMNS TO BE FILLED IN BY THE PERSONS SUPPLYING THE INFORMATION AND ALL ANSWERS TO BE COMPLETED IN FULL.		
(1) DESCRIPTION OF RIGHT OF WAY	(2) REASON FOR STATEMENT THAT WAY IS PUBLIC (Delete words not applicable)	(3) DOCUMENTS & RECORDS CONSULTED AND ADDRESSES OF WITNESSES
<p>No. of Way on map 33</p> <p>Type (F.P. or H.R. or C.R.F. or C.R.R.) Please cross out 3, see Note 1 (a) below.</p> <p>From :- <u>Upper Back Farm to Walls via Back Camp</u> Via (this should be a written description of the route shown on the 6in. map, and related to recognisable points on the plan, with distances in yards and direction by compass points):</p> <p><u>Runs in an easterly direction, all gates and slides are passable with the exception of the point of exit from Back Camp.</u></p> <p><u>Length 1400 yds.</u></p>	<p>(a) Inclosure Award. <u>Yes, Not known.</u></p> <p>(b) Deposited map by owners. <u>Yes, Not known.</u></p> <p>(c) Proof of use to include—</p> <p>(i) Public use for 20 years. <u>Yes, / No.</u></p> <p>(ii) Use as a Right (e.g. not private or permitted use by owner). <u>Yes, / No.</u></p> <p>(iii) Has the public use of the Way been interrupted or obstructed? <u>Yes, / No.</u></p> <p>NOTE. The answers to (i); (ii) and (iii) above must all be "Yes", to prove the way public under (c), if neither (a) nor (b) above have been answered "Yes".</p>	<p>(a) If "yes" where is Award—</p> <p>(b) If "yes" where is map—</p> <p>(c) If "yes" to each, name and address (preferably three) who will state—</p> <p><u>J. James Stone House</u></p> <p><u>1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100</u></p> <p>To be filled in by persons completing information.</p> <p>Signed <u>J. James</u> Address <u>Stone House, Bury</u></p> <p>Signed <u>J. James</u> Address <u>Fieldgate, Bury</u></p>
<p>The <u>Parish Council Meeting</u> have considered the foregoing information and approve <u>do not approve</u>.</p> <p>Date of Meeting <u>9-4-57</u> Signed <u>J. James</u> Date <u>16-4-57</u></p> <p>NOTE 1. These abbreviations may be used :- (a) Abbreviations of Type— Footpath - F.P. Bridleway - B.R. Public Carriageway or Cart Road or Green Lane mainly used as Footpath - C.R.F., or as Bridle (or Hunting) Gate - B.G. Wic Kissing Gate - K.G. Turnstile - T. Stile - S. Direction Post - D. Hurdle - H. Post - P. Rails & Bars - R. Low Fence - F. Obstruction - O. Notice Board - N. Ba</p> <p>NOTE 2. Any information which anyone may wish to raise should be written on the back of this Form. (b) If space given above is insufficient to give any answer, continue on back.</p> <p style="text-align: center; font-size: 2em; opacity: 0.5;">ACCEPTED</p>		