

VALE of GLAMORGAN



**Application & Guidance
Pack
For Statutory
Declarations**

Under the Highways Act 1980 s31(6)

Guide to the Procedure for Submission of a Statutory Declaration (HA 1980 s31(6))

The Council records Public Rights of Way within the County on a document known as The Definitive Map. This document is a legally conclusive record of the existence and location of Public Rights of Way shown on it.

Rights of way on the map are recorded as one of the following:

Footpath	– Public access on foot only
Bridleway	– Public access by foot, horse and cycle
Restricted Byway	– Public access by foot, horse, cycle and non motorised vehicle (e.g. horse and cart)
Byway Open to All Traffic	– Public access up to and including motorised vehicle

Whilst the Definitive Map is conclusive evidence of the routes shown on it, the reverse is not true (i.e. the lack of a route on the map does not mean it is not or cannot become public). As such it is possible for the public to acquire additional rights and/or seek to have them recorded on the map.

A Statutory Declaration is one method by which landowners can make clear their intention not to dedicate additional rights and thus defeat claims that a way is public. It is subject to particular time constraints.

Dedication of Public Paths & Intention Not to Dedicate

Additional rights are typically created either by a legal process such as an order or agreement, or are acquired through dedication by the landowner. Loosely, if the public have used a route continuously and no steps have been taken to make clear that they are not entitled to do so an intention on behalf of the landowner to dedicate may be inferred.

The typical time period examined when considering deemed dedication is continuous public use of a route for at least 20 years. A number of further tests are attached to the acquisition of rights in this way including, notably, whether an intention not to dedicate the way as public was correctly made by the owner or occupier during the period examined.

If an intention not to dedicate can be shown then deemed dedication will be unsuccessful and no additional rights over the land will be acquired.

A Statutory Declaration under Highways Act (1980) s31(6) allows a landowner to submit a statement to the Council declaring that they do not wish to dedicate any additional rights during the time period for which the declaration remains current.

This is done by depositing a map and statement to the local authority showing the ways (if any) which they admit to already being dedicated as public rights of way. Alongside this map a statutory declaration that no additional ways have been dedicated since the initial deposit of the map may be made. This is then sufficient to establish that it was not the owner's intentions to dedicate during the period between the date of deposit and the date of the statutory declaration.

The landowner may continue to deposit similar declarations at intervals of ten or fewer years with the same effect.

This process has no effect on the existence of public rights of way shown on the definitive map or otherwise shown to carry public rights, including by deemed dedication by virtue of 20 years use before the statement was deposited.

Preparation of Maps, Statements and Statutory Declarations

The following steps are recommended to be taken in preparing maps, statements and statutory declarations under section 31(6) :

- **Obtain a recent or current map at the largest scale available of the entire area that you own.** (The Act specifies a scale of not less than 1:10,560. This is the minimum recommended.)
- **Examine the definitive map and statement held by the local authority to ascertain what public rights of way are already recorded over your land (including carriageways) and their precise routes.** This should avoid the need to rectify mistakes after the map, statement and statutory declaration have been submitted to the local authority.

It may also be advisable, though it is not necessary, to:

- a) *Check the status of any ways, tracks, farm roads or short cuts on your land to ascertain whether the public has been using them for 20 years or more;*
- b) *Check legal documents such as Inclosure Awards which may demonstrate that public rights of way exist that are not recorded on the definitive map;*
- c) *Consult the list of publicly maintainable highways held by the highway authority under section 36(6) of the Highways Act 1980 to*

identify unmetalled roads which may be recorded thereon and which may indicate a public right of way;

d) Consult the parish or community council or parish meeting, user groups and the local authority to see whether there are any other ways likely to be claimed which you may wish to recognise.

- **Mark on the map the precise route of all public rights of way shown on the definitive map or otherwise acknowledged by you to exist. Metalled carriageways should also be shown.**
- **Except as indicated below, you should not seek to deny the existence of any public rights of way shown on the definitive map.** As a matter of law the definitive map provides conclusive evidence of the existence and status of the ways shown on it until the map is altered by a definitive map modification order.
- **If you have made an application for a definitive map modification order to amend the map or statement in relation to a right of way shown on it, this may be referred to in your statement and statutory declaration.** For instance: "The way coloured [use a colour other than red, green, brown or purple] on the said map is recorded on the definitive map as a bridleway but I do not accept that the map and statement are correct and have applied under section 53 of the Wildlife and Countryside Act 1981 to [name of authority] for a definitive map modification order to be made to [state the effect of the order applied for]". The Countryside Council for Wales and Natural England publish information on the procedures for applying for definitive map orders.
- **You should apply to the local authority if you wish to divert or extinguish a public right of way.** Unofficial diversions should not be shown unless you intend to dedicate them as public rights of way in addition to the definitive route. The Countryside Council for Wales and Natural England publish information on the procedures for applying for diversion and extinguishment orders.
- **On tracks that cross your land but which you do not admit to be public rights of way, it may be useful to place notices to make clear your position.** For instance: "[You are welcome to use] this way [but it] has not been dedicated as a public right of way. Permission may be withdrawn at any time."
- **Do not show on the map any permitted (or permissive) ways which are the subject of a formal agreement with the local authority or other permitted ways unless it is intended to dedicate these as public rights of way.** If you wish to advise the authority of the existence of such ways you should provide a separate map showing only these ways and stating that you do not intend to dedicate them as public rights of way.

- **Do not show on the map any ways which are used solely by family members, employees or service vehicles (post vans, milk tankers, delivery trucks).** Use of this sort is by an express or implied licence and not “as of right”, Such ways should be shown on the map only if it is intended to dedicate them as public rights of way.
- **Draw up the statement and statutory declaration following the model.** Ensure that the documents are accurate and are declared before a Commissioner for Oaths, solicitor or JP. The statement should be made first and the statutory declaration shortly afterwards. The statutory declaration should be made by the land owner (i.e. the person who is for the time being entitled to dispose of the fee simple in the land). This includes the tenant for life (land held under a strict settlement) or the trustees (land held under a trust for sale). If an estate is so divided then it is important that the appropriate person makes the declaration for each sub division of the estate.
- **Submit the statement and map to the local authority.** If they have not previously checked your map, they may wish to check it against their definitive map and clarify any ways whose status is uncertain. The local authority will place a copy of your statement on the public register of statements.
- **Once you have deposited the statement and map with the local authority you should complete the statutory declaration and submit this to the authority.** The two submissions must be submitted separately, a few days apart.
- **Keep copies of maps, statements and declarations with the title deeds for the property or Land or Charge Certificate for future reference.**
- **Make a subsequent statutory declaration within 10 years of the date of the previous declaration to ensure that the rebuttal remains valid.** Further declarations should be submitted at the same interval. They should be accompanied by further maps as necessary.

Under section 31A of the Highways Act 1980, local authorities must maintain registers of maps, statements and declarations lodged with them under section 31(6). These registers must be available for public inspection.

Templates that may be useful in constructing deposits and statutory declarations are included below.

DEPOSIT OF STATEMENT AND MAP

SECTION 31(6) OF THE HIGHWAYS ACT 1980

To: Vale of Glamorgan Council

1. I am and have been since [day, month, year] the owner within the meaning of the above section of Highways Act 1980 the owner of the land known as [name of farm, etc.] more particularly delineated on the map accompanying this statement and thereon edged red.
2. The aforementioned land lies in the community(ies) of [name(s)].
3. Ways coloured brown on the said map are byways open to all traffic.
4. Ways coloured red on the said map are restricted byways.
5. Ways coloured green on the said map are public bridleways.
6. Ways coloured purple on the said map are public footpaths.
7. No [other] ways over the land have been dedicated as highways.
8. The deposit shall comprise this statement and accompanying map.

Signed (landowner)

Name (of landowner)

Address

Date

Signed (witness)

Name (of witness)

Address

Occupation

STATUTORY DECLARATION

SECTION 31(6) OF THE HIGHWAYS ACT 1980

I [name] DO SOLEMNLY AND SINCERELY DECLARE as follows:

1. I am and have been since [day, month, year] the owner of the land known as [name of farm, etc.] more particularly delineated on the map accompanying this declaration and thereon edged red.
2. On the [day] day of [month, year] I [or my predecessor in title [name]] deposited with [name] Council, being the appropriate Council, a statement accompanied by a map delineating my property by red edging which stated that [the ways coloured brown on the said map and on the map accompanying this declaration had been dedicated as byways open to all traffic] [the ways coloured red on the said map and on the map accompanying this declaration had been dedicated as restricted byways] [the ways coloured green on the said map and on the map accompanying this declaration had been dedicated as bridleways] [the ways coloured purple on the said map and on the map accompanying this declaration had been dedicated as footpaths] [no [other] ways had been dedicated as highways over my property].
- *3. On the [day] day of [month, year] I [or my predecessor in title [name]] deposited with [name] Council, being the appropriate Council, a statutory declaration dated [day, month, year], stating that no additional ways [other than those marked in the appropriate colour on the map accompanying this declaration] had been dedicated as [byways open to all traffic] [restricted byways] [bridleways] [footpaths] since the deposit of the Statement referred to in (2) above.
4. No additional ways have been dedicated over the land edged red on the map accompanying this declaration since the statement dated [day, month, year] referred to in (2) above [since the date of the statutory declaration referred to in (3) above] [other than those [byways open to all traffic] [restricted byways] [bridleways] [footpaths] marked in the appropriate colour on the map accompanying this declaration] and at the present time I have no intention of dedicating any more public rights of way over my property.

*Delete if not applicable

AND I MAKE this solemn declaration on the [day] day of [month, year] conscientiously believing it to be true and by virtue of the Statutory Declarations Act 1835.

Declared at [address]

(signature of landowner)

Before me

[Commissioner for Oaths or a Justice of the Peace or Solicitor]