

- The Definitive Map and Statement may only be changed by and according to a Modification Order made by the surveying authority (the Isle of Wight Council). The authority has a duty to make such orders, on the basis of evidence, to continuously review the Map and Statement so it will form an up-to-date and accurate record of the public rights of way which exist in its area.
- In some cases, modification is an administrative exercise only, because the evidence of the change which needs to be shown is absolutely clear and certain. This happens when some legal document deals with a right of way, for example when an order has been made under the Highways Act 1980 creating, diverting or extinguishing a path. The Council then makes a Modification Order, commonly known as a 'legal event order', without advertisement and changes the Map and Statement accordingly.
- In other cases, the evidence needs to be weighed up to decide whether a right of way exists and should be recorded on the map, or whether what is shown on the map is inaccurate in some way and should be changed. A right of way is shown without prejudice to any further rights that might exist, so it might become evident for example that a footpath is in fact a bridleway. Public use of a path over a period of time may be evidence that a right of way has come into existence and must be added to the map.
- It is the Council's duty to consider such evidence and decide whether an order to modify the map should be made. Under SCHEDULE 15 such orders must be advertised to the public for a period of six weeks during which representations and objections can be made. These orders are often referred to as 'evidential orders', to distinguish them from the 'legal event' orders described above.
- If there are any objections during the statutory period of advertisement, the evidence will be tested in detail at a public inquiry. The Secretary of State will appoint an independent inspector from the Planning Inspectorate to hold the inquiry and recommend whether or not the order should be confirmed. Orders are not effective until they are confirmed.

■ APPLICATION BY MEMBERS OF THE PUBLIC ■

The Council may itself come into possession of evidence whereby a modification order should be considered. Or, under section 53(5), anyone may make an application to the Council to make an order. They must follow the procedure laid down in SCHEDULE 14 to submit their evidence. Details are available on request from County Hall in Newport.