



KNOWSLEY METROPOLITAN BOROUGH COUNCIL

SECTION 53(2) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

USER EVIDENCE FORM AND STATUTORY DECLARATION (GUIDANCE NOTES)

1. **FORM E** is referred to as a User Evidence form. It should be completed by people who have used the route being claimed. **FORM E (Stat)** is very similar, except that it is called a Statutory Declaration and will need to be witnessed by either a Commissioner for Oaths, Solicitor or Magistrate. Inspectors at Public Inquiries will generally place greater weight on a Statutory Declaration than on un-sworn User Evidence Forms. Both forms should be personally completed by the witness.
2. **All questions must be answered.**
3. The usual method of providing evidence for the addition or upgrading of a claimed way, is for witnesses to testify their use to help comprise 20 or more years of uninterrupted use of the way prior to the date that public right was brought into question, believing that they had the right to do so, pursuant to Section 31 of the Highways Act 1980, which states:-
 - (1) *“Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as a right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.*
 - (2) *The period of 20 years referred to in sub-sub-section (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by notice or otherwise”.*
4. It is important that the way is shown to follow a defined route and not be an area over which the public have wandered at large.
5. The witness may be personally interviewed in connection with the information given in the forms.
6. The details contained in forms may be used as evidence in future proceedings, and the witness should be prepared to support the information by being willing to attend to give verbal evidence read from a prepared statement, at a later date, at any local Public Inquiry which may be arranged.
7. A landowner can successfully refute a claim for the addition of a way if he/she can prove that either the way was used with his/her express permission only, or that he/she has prevented access to the way, or that he/she has erected notices to counter any suggestion that there had been intention to dedicate the way as a public right of way.
8. A map clearly showing the route of the alleged way should be attached to the forms. The map should preferably be at a scale of 1:2,500 or 1:10,000 and should be signed by the witness to confirm that it has been seen and understood.



Knowsley Council

PLEASE ATTACH A SEPARATE SHEET WITH ANY OTHER INFORMATION WHICH YOU CONSIDER WOULD BE HELPFUL IN REACHING A DECISION AS TO WHETHER OR NOT A MODIFICATION ORDER SHOULD BE MADE.



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Please phone Customer Services on 0151 443 3197

