

Providing Documentary Evidence in Rights of Way Cases

Applications to change the Definitive Map of rights of way can be supported by documentary evidence or personal evidence from people who have known the route. This guidance note will give you information about providing documentary evidence about a route.

There is a legal maxim "*Once a highway, always a highway*" which means that if there is evidence that a public right of way existed in the past, and if that right of way has not been legally extinguished or diverted, then it still exists today.

Historical documents may provide indications that a public right of way exists, or they may show that a public right of way was extinguished or diverted. They may also indicate that a public right of way did not exist in the past.

What kind of documents might contain information about rights of way?

Some documents are particularly important because they were either produced by bodies that had responsibility for roads or rights of way in the past, or they had to take roads and public rights of way into account when they were drawn up. These include:

- Quarter Sessions records
- Inclosure Awards
- Highways Board minute books
- Rural District Council minute books
- Parish Council minutes / records
- Deposited plans of turnpike roads, railway lines and canals
- 1910 Finance Act Records

Other sources of evidence would include the following:

- Tithe maps and their accompanying apportionments
- Old County maps
- Estate maps
- Old Ordnance Survey maps
- Land or property sales documents and maps

These documents can provide useful information regarding the physical existence and alignment of paths, tracks and lanes in the past, and occasionally may give some indications of public or private rights.

Most of these documents, if they survive, can be found in local archives or the national archives in Kew. Landowners may also possess documents which can provide some indications of the history of a route. Whilst deeds to a property may give useful information they do not usually refer to public rights.