

## Rights of Way Frequently Asked Questions (FAQ)

This page contains a selection of FAQs about how the Planning Inspectorate deals with rights of way cases.

### General

**Question:** Who is the Planning Inspectorate?

**Answer:** The Planning Inspectorate is an Executive Agency of the UK Government. We report to the Department of Communities and Local Government (DCLG) in England, and the Welsh Assembly Government.

We operate under the "Franks" principles of openness, fairness and impartiality.

**Question:** What role does the Planning Inspectorate have in the Rights of Way process?

**Answer:** The Planning Inspectorate acts as an impartial body to determine rights of way orders made by local councils (or other relevant authorities) that have outstanding objections/representations or require modification.

**Question:** When does the Planning Inspectorate get involved with the order making process?

**Answer:** We only become involved with an order once it has been submitted to us for determination. We only have jurisdiction whilst the order is with us or until a final determination is made. If an issue arises outside of this period, you will need to contact the order making authority.

**Question:** Who determines rights of way orders?

**Answer:** Orders are determined by suitably qualified Inspectors who have been appointed by the Secretary of State to act on his behalf. We require that they are members of a professional body and have sufficient experience in the rights of way field. They receive extensive ongoing training in the latest issues and developments.

**Question:** What countries does the Planning Inspectorate cover?

**Answer:** While the Planning Inspectorate covers both England and Wales, this section of the website is only applicable to England. For information regarding Welsh cases, please follow the link [http://www.planning-inspectorate.gov.uk/cymru/wal/appeals/rights\\_of\\_way/rights\\_way\\_e.htm](http://www.planning-inspectorate.gov.uk/cymru/wal/appeals/rights_of_way/rights_way_e.htm) to the Welsh Rights of Way section of the Planning Inspectorate's website.

**Question:** I'm having trouble understanding some of the terminology used. Where can I find help?

**Answer:** Details of common abbreviations and language used can be found in the glossary of Rights of Way Terms ([http://www.planning-inspectorate.gov.uk/pins/appeals/rights\\_of\\_way/rights\\_of\\_way\\_glossary.pdf](http://www.planning-inspectorate.gov.uk/pins/appeals/rights_of_way/rights_of_way_glossary.pdf)).

## Communication

**Question:** How can I contact you?

**Answer:** The name, telephone number, email and postal address of the case officer dealing with each order can be found at the top of any correspondence from the Planning Inspectorate.

Please quote the file reference, starting FPS/...../../...., to help us answer your query in a timely fashion.

**Question:** But I've misplaced your correspondence. How can I get in touch?

**Answer:**

Our postal address is:

The Planning Inspectorate  
Rights of Way Section  
Room 4/05 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Our main switchboard number is 0117 372 8000.

**Question:** Can I speak directly to an Inspector regarding a Rights of Way matter outside of the inquiry, hearing or site visit?

**Answer:**

No, all communication in Rights of Way cases before or after an inquiry, hearing or site visit is conducted through the relevant case officer. If required, they will forward your information or query to the Inspector, or respond on their behalf. This is to ensure that there are no allegations of improper influence or bias.

**Question:** What is your policy regarding e-mail contact?

**Answer:** While we give e-mail submissions equal weight to written documents, we normally send out information regarding cases via the standard postal service.

As such, it would be helpful if you could supply a postal address in addition to your e-mail details. We will normally only use e-mail as the primary form of communication with parties if specifically requested.

**Question:** Why have you returned my statement of case or proof of evidence?

**Answer:** The most common reason for correspondence being returned is that it is received outside of the timetable set out in the notice of order. We will only accept late submissions in extraordinary circumstances, such as a postal strike, lost registered post or documented ill health.

We will also return correspondence to the sender if it is considered to contain libellous or malicious material. It may be resubmitted if the offending material is removed.

**Question:** Why haven't I received notification of a decision in a rights of way case?

**Answer:** We send a copy of the Inspector's decision with a covering letter to all parties involved in the order. These include: -

- Everybody who writes in to object, support or make a representation within the Order's initial notice period carried out by the order making authority
- All parties formally notified by the order making authority during the above period
- Those attending a hearing or inquiry who request copies via the attendance sheet
- Interested parties who have written to the Planning Inspectorate since the order has been submitted for determination

Occasionally it may prove impossible to send out decisions due to incomplete or illegible addresses. If you need to see a copy of a decision, they are available on our website [http://www.planning-inspectorate.gov.uk/pins/row\\_order\\_advertising/councils/new\\_decisions\\_added\\_by\\_date.htm](http://www.planning-inspectorate.gov.uk/pins/row_order_advertising/councils/new_decisions_added_by_date.htm) or a printed version can be requested from the case officer.

## Procedure Types

**Question:** What procedures can a rights of way case be determined by?

**Answer:** An order can be determined through three different procedures; an exchange of written representations (which usually includes a site visit), a hearing or a public inquiry. The procedure type is decided by the rights of way administrative section depending on the scale, complexity, interest and implications of each case.

A brief description of each procedure can be found below, but we suggest you look at our guidance booklet for a more detailed description and information on each procedure type.

**Question:** What is an exchange of written representations?

**Answer:** This is where written evidence is exchanged between the parties involved. It is generally a quicker, easier and cheaper procedure than a hearing or inquiry and is best suited for cases with fewer objections/representations, straightforward issues and little evidence to consider.

**Question:** What is a hearing?

**Answer:** A hearing is a discussion led by an Inspector who explores the various issues involved. Hearings are less formal in character than an inquiry and generally shorter, often lasting less than one day. They are held at a local venue supplied by the order making authority and anyone may attend.

**Question:** What is an inquiry?

**Answer:** An inquiry is also a public event held at a local venue supplied by the order making authority. Anyone may attend and, with the permission of the Inspector, speak. Inquiries are more formal than a hearing and witnesses may be cross examined. They are usually best suited for cases where there is a lot of user/documentary evidence or a large number of objections/representations.

**Question:** Have I got the right to have an order decided by way of the written representations procedure?

**Answer:** There is no statutory right to request the written representations procedure. You can ask for an order to be decided via written representations but if a another party to the order may exercise their right to be heard, or if we do not consider the written representations procedure to be appropriate, we would proceed either by a hearing or an inquiry.

**Question:** What should I submit as my statement of case?

**Answer:** Your statement of case should contain the full particulars and all evidence that you wish to put forward. You should submit all appendices referred to and any documents that you intend to rely on in support of your case (e.g. photographs, maps etc.).

**Question:** What should I submit as my Proof of Evidence for public inquiries?

**Answer:** Your Proof of Evidence acts as a summary of the case you have put forward for the Inspector's consideration and/or a direct rebuttal of the points raised by other parties within the process. It should not be used to introduce fresh arguments or evidence.

## Order Documentation

**Question:** What information does the Planning Inspectorate provide online?

**Answer:** The Planning Inspectorate currently displays all notices of order, order decisions, costs decisions and modification notices on the website; [http://www.planning-inspectorate.gov.uk/pins/row\\_order\\_advertising/map.htm](http://www.planning-inspectorate.gov.uk/pins/row_order_advertising/map.htm)

**Question:** Where can I view the other documents associated with the Order?

**Answer:** All the documents that formed part of a submission bundle to the Planning Inspectorate can be viewed at the offices of the order making authority and/or at the address set out in the notice of order.

**Question:** Why are documents from the parties not scanned and displayed on your website?

**Answer:** A six month pilot scheme has taken place where we published all statements of case, proofs of evidence and supporting documents on the Planning Inspectorate's website.

Whilst we recognise the many benefits of easy, online access to these documents, we found we simply do not have the resources to cope with the increasing number and size of documents that required scanning and therefore the pilot was terminated.

At present there is not the scope to increase resources to the required level to reinstate the scanning of all documents submitted to the Planning Inspectorate. However, we welcome feedback on the issue and continue to explore with Defra other potential ways of improving accessibility to evidence in rights of way cases.

## How long will it take?

**Question:** How long will the determination process take?

**Answer:** The Planning Inspectorate's targets begin once a start date has been confirmed for a case and as set out and published in the notice of order (also known as a 'start notice').

Our targets vary depending on the type of procedure being used to determine the Order. Written representations have a target date of 27 weeks, hearings 29 weeks and inquiries 35 weeks from the start date to issue of the decision.

In practice, most cases take between six months to a year from their original receipt to determination, which includes an initial validation of the order and its supporting documents. During this stage the Planning Inspectorate verifies the documentation and obtains any missing information from the order making authority.

**Question:** So why has the order been in existence much longer than the timescales quoted above?

**Answer:** The timescales are set from the date that the Planning Inspectorate issue the start notices. The original Order may have been made by the order making authority a number of years ago however we have no involvement prior to the Order being submitted to us. There is no statutory time limit within which an authority has to submit an order to the Planning Inspectorate and therefore this process can sometimes take several years.

**Question:** How long after an inquiry, hearing or site visit will a decision be issued?

**Answer:** This depends on the individual circumstances of each case. However, we aim to despatch a decision within 9 weeks of the site visit, inquiry or hearing date, which we successfully achieve in the majority of cases.

## Order Decisions

**Question:** What issues are relevant to an Inspector's consideration?

**Answer:** We receive orders made under the Highways Act 1980, the Wildlife and Countryside Act 1981 and the Town and Country Planning Act 1990. The criteria upon which each case is determined can significantly differ depending on the legislation under which it was submitted and the circumstances of the case. A detailed description of the issues an Inspector needs to consider for each kind of order is set out in detail in

our guidance booklet; [http://www.planning-inspectorate.gov.uk/pins/appeals/rights\\_of\\_way/rights\\_way.htm#new\\_booklet](http://www.planning-inspectorate.gov.uk/pins/appeals/rights_of_way/rights_way.htm#new_booklet).

**Question:** What are the possible outcomes of an order?

**Answer:** The Inspector can confirm or not confirm an order. They also have the power to confirm an order with modifications.

**Question:** What does it mean when an order is stated as either confirmed with modifications or proposed to be confirmed with?

**Answer:** The Inspector can make changes to the wording of the order if s/he believes it to be necessary following their consideration of the evidence or if the order making authority has requested it. If the modifications are of a minor, technical nature, the order can be confirmed with these modifications.

If the changes are more substantive, an Inspector will make an 'interim' decision. In these cases, by law, the proposed modifications have to be advertised to allow parties a chance to object to/comment on the proposals. Some cases will have more complex issues and therefore you may find that they will go through more than one proposal before a final decision is made and a further inquiry, hearing or exchange of written representations may be necessary..

Where the Inspector's proposals require advertising, we will notify all relevant parties, put a copy of the notice onto our website and publish the notice in a local newspaper in the area.

**Question:** How do I make further objections or comments on an Inspector's proposed modifications?

**Answer:** You should put your objections/representations to us in writing within the dates set out in the modification notice.

## Costs

**Question:** Will costs be awarded against me at an inquiry or hearing?

**Answer:** Anyone can apply for an award of costs against another party if they incur unnecessary or wasted expense because another party acted unreasonably. You can claim costs against another party if you incurred such expense because of somebody's unreasonable behaviour. For further details, please see section 8 of the guidance booklet; [http://www.planning-inspectorate.gov.uk/pins/appeals/rights\\_of\\_way/booklet/row\\_booklet2.pdf](http://www.planning-inspectorate.gov.uk/pins/appeals/rights_of_way/booklet/row_booklet2.pdf).

**Question:** Why have you written to me threatening costs (known as a 'Lasham' letter)?

**Answer:** Your objection/representation does not, in our opinion, contain anything relevant which an Inspector can take into account when making their decision. We are therefore giving you the opportunity to say why you think it is relevant, to amend it so that it is relevant, or to withdraw it rather than run the risk of another party making an application of costs against you.

## Complaints

We work hard to ensure that everybody involved in the rights of way process is satisfied with our level of service. However, we acknowledge there may be times when mistakes are made.

**Question:** Where can I complain about a decision or another issue?

**Answer:** If you wish to complain about any aspect of a rights of way case in England, you should contact the Inspectorate's Quality Assurance Unit.

The Planning Inspectorate  
Quality Assurance Unit  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

[http://www.planning-inspectorate.gov.uk/pins/agency\\_info/complaints/complaints\\_dealing.htm](http://www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm)

Please note that your complaint will be investigated impartially and you can normally expect a reply within 3 weeks. However once an order decision has been issued we have no power to amend or change it. If an error has been made, we will explain this and offer our apologies, but the law does not allow us to change the decision in any way. The only way that a decision may be reviewed is following a successful challenge or a judicial review in the High Court.

**Question:** Can any party challenge the decision?

**Answer:** Yes but for a successful High Court challenge, you will need to show that the Inspector has misinterpreted the law, or misapplied some relevant criteria. If the Court considers that any errors of fact or judgment are significant enough to substantially prejudice the interests of a party, it will quash the decision and return the case to us to be decided again or it will quash the order. You should apply to:

The Administrative Court  
Royal Courts of Justice  
Queen's Bench Division  
The Strand  
London  
WC2 2LL

Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about anything.

**Question:** What are the timescales for challenging the decision?

**Answer:** If the order has been confirmed, you must apply to challenge the decision in the High Court within 6 weeks of the date on which the local authority publishes the notice of the confirmed decision.

If the decision was not to confirm the order, you must apply to the High Court for a judicial review promptly and in any event not later than 3 months from the date of the decision.

**Question:** Is there an Inspector code of conduct?

**Answer:** Yes, the Inspector's code of conduct is available here;  
[http://www.planning-inspectorate.gov.uk/pins/inquiries/conduct\\_inspector/conduct\\_inspectors\\_code.htm](http://www.planning-inspectorate.gov.uk/pins/inquiries/conduct_inspector/conduct_inspectors_code.htm)

**If your question has not been fully answered, further information can be obtained from our guidance booklet titled Definitive Map and Public Path Orders;** [http://www.planning-inspectorate.gov.uk/pins/appeals/rights\\_of\\_way/booklet/row\\_booklet2.pdf](http://www.planning-inspectorate.gov.uk/pins/appeals/rights_of_way/booklet/row_booklet2.pdf)