



## CAERPHILLY LOCAL ACCESS FORUM 28<sup>TH</sup> JULY 2023

**SUBJECT:           PROCESS OF ALTERING THE DEFINITIVE MAP AND STATEMENT**

**REPORT BY:       REPORT BY CORPORATE DIRECTOR ECONOMY AND ENVIRONMENT**

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### **1.       PURPOSE OF REPORT**

- 1.1    To provide information to the Local Access Forum in relation to the processes involved in altering the Definitive Map and Statement from start to finish.

### **2.       SUMMARY**

- 2.1    There are several methods used to alter the content of the Definitive Map, and these depend on the legislation used which is dictated by the outcome being pursued. The process followed varies between the legislation, but follows a similar pattern from start to finish, and many of the steps are the same despite the legislation being used.

### **3.       RECOMMENDATIONS**

- 3.1    The LAF is asked to note the updates provided.

### **4.       REASONS FOR THE RECOMMENDATIONS**

- 4.1    To advise the LAF on rights of way related matters.

### **5.       THE REPORT**

- 5.1    Alteration of the Public Rights of Way network is an inevitable process, and can be instigated through a number of mechanisms including (but not limited to) Highways Act 1980, Wildlife and Countryside Act 1981 and the Town and Country Planning Act 1990. These are the main pieces of legislation capable of altering the Definitive Map and Statement.
- 5.2    The general process has been documented in the Guidance for Local Authorities on Public Rights of Way – October 2016 – by way of a flowchart (Appendix 1).
- 5.3    This flowchart follows the process from start to completion for Modification Orders, i.e. applications to add (usually) unrecorded paths to the Definitive Map (page 1), and continues this on page 2 and 3, as well as picking up the process for public path orders

(creations, diversions and extinguishments) on these pages as well.

- 5.4 In the case of a Modification Order (for example to *add* an unrecorded path) the following 'milestones' in bold would be applicable assuming the case is made and unopposed throughout for simplicity in this explanation – however the process before, and during may vary depending on specific circumstances etc.
- An **APPLICATION** is submitted to the surveying authority seeking the recording of an unregistered path.
  - The applicant **SERVES NOTICE** upon the landowner (etc.), and subsequently **CERTIFIES** such to the authority.
  - The authority **INVESTIGATES** the case and subsequently makes a **DECISION** to make an order.
  - The authority **MAKES AN ORDER**.
  - The order is advertised by way of **NOTICES** in the press, onsite at appropriate locations (for a period of 42 days for modification orders) to relevant persons (consultees and landowners for example).
  - The authority **CONFIRMS THE ORDER**.
  - The confirmation is advertised by way of **NOTICES** in the press, onsite at appropriate locations, and to relevant persons as before.
  - The Order **TAKES EFFECT** on the date it is confirmed or a specified number of days thereafter.
  - The Definitive Map and Statement are legally **MODIFIED** from the date of Confirmation.
- 5.5 This is the point many Orders appear to reach, however there are a number of further steps to take, to complete the process as far as practically possible and these are not shown in the flowchart.
- 5.5.1 **ORDNANCE SURVEY** are notified generally when an Order is Confirmed, however, a subsequent stage exists for some legislative processes – Certification (that works carried out are correct, to standard and acceptable to the LA), however some Orders may be jointly Confirmed and Certified at the same time.
- 5.5.2 A **LEGAL EVENT MODIFICATION ORDER** (LEMO) is made. Regardless of the legislation used to add or modify the public way, the Wildlife and Countryside Act 1981 (s53(2)(b)) requires the authority to *“as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.”*
- 5.5.3 The LEMO is made, may be combined with other such Orders into an **OMNIBUS ORDER**, sealed and advertised – the Definitive Map is then amended.
- 5.6 At regular periods, Local Authorities are encouraged to update their Definitive Maps to include all confirmed changes and make other administrative changes such as updating the Ordnance Survey base mapping for example – this process is known as **CONSOLIDATING** the Definitive Map. A new sheet would be produced for a select area, which would have a relevant date from a defined time – replacing the existing Definitive Map and its associated relevant date.
- 5.7 The changes should also be reflected in the Definitive Statements accordingly and these records updated.

## **6. ASSUMPTIONS**

6.1 There are no assumptions associated with this report.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

7.1 An Integrated Impact Assessment is not required for this report.

## **8. FINANCIAL IMPLICATIONS**

8.1 Costs for making Definitive Map Modification Orders vary depending on the content of the Order – the press charge for the size of adverts. The newspaper used also affects the cost and we use the cheapest for a given area which comply with the requirements. Costs therefore vary from approximately £600 to £1500 per advert, and there are always at least two adverts per completed Order. These costs are for information only and do not relate to a specific case within this report.

## **9. PERSONNEL IMPLICATIONS**

9.1 Personnel implications relate only to actual cases – none of which are relevant to this report.

## **10. CONSULTATIONS**

10.1 Consultation with the Chair of Caerphilly Local Access Forum.

## **11. STATUTORY POWER**

11.1 Highways Act 1980, Wildlife and Countryside Act 1981, Town and Country Planning Act 1990.

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Cllr Chris Morgan, Cabinet Member for Waste, Leisure and Green Spaces and Vice Chair  
Christina Harrhy, Chief Executive

Mark S Williams, Corporate Director – Economy and Environment

Rob Tranter, Head of Legal Services and Monitoring Officer

Stephen Harris, Head of Financial Services and S151 Officer

R. Hartshorn, Head of Public Protection, Community and Leisure Services

L.Donovan, Head of People Services

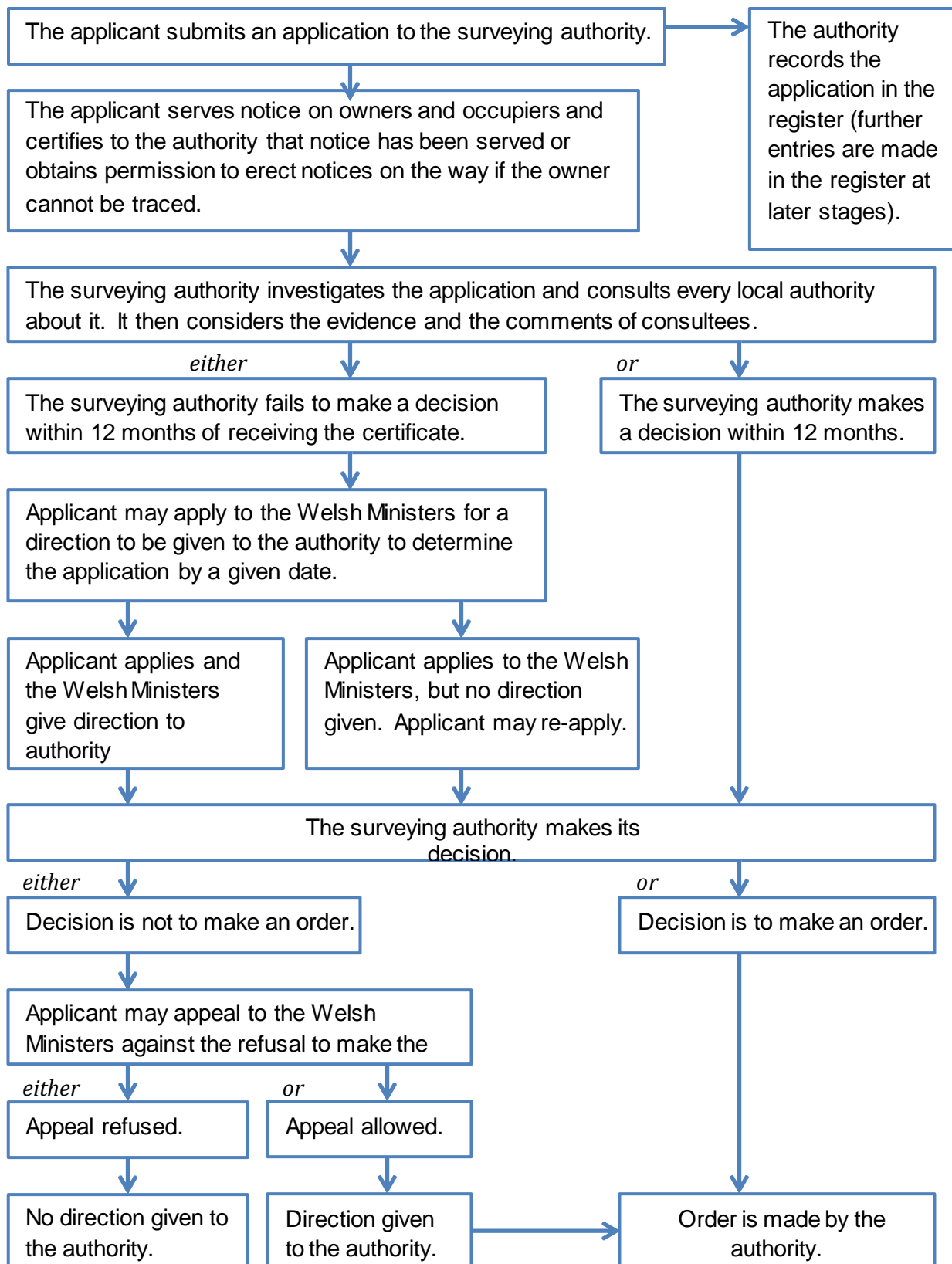
Appendices:

Appendix 1 PPO & DMMO Flowchart from 'Guidance for Local Authorities on Public Rights of Way' August 2016

Appendix 2 Welsh Government guidance – When to send copies of Orders to Ordnance Survey: 'Guidance for Local Authorities on Public Rights of Way' August 2016

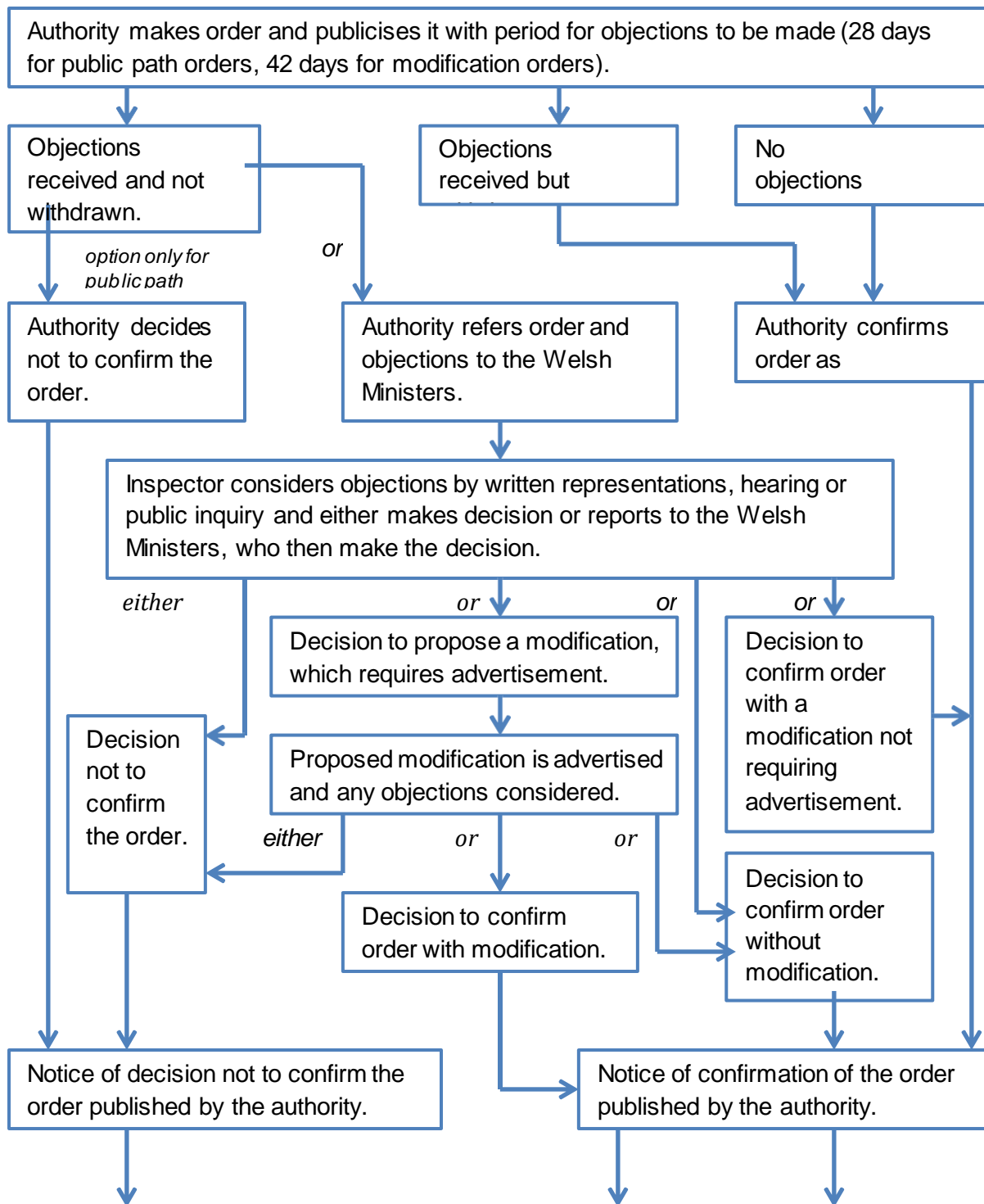
Annex 4

Flowchart: Applications for Modification Orders



ANNEX 5

Flowchart: Procedure for Modification and Public Path Orders



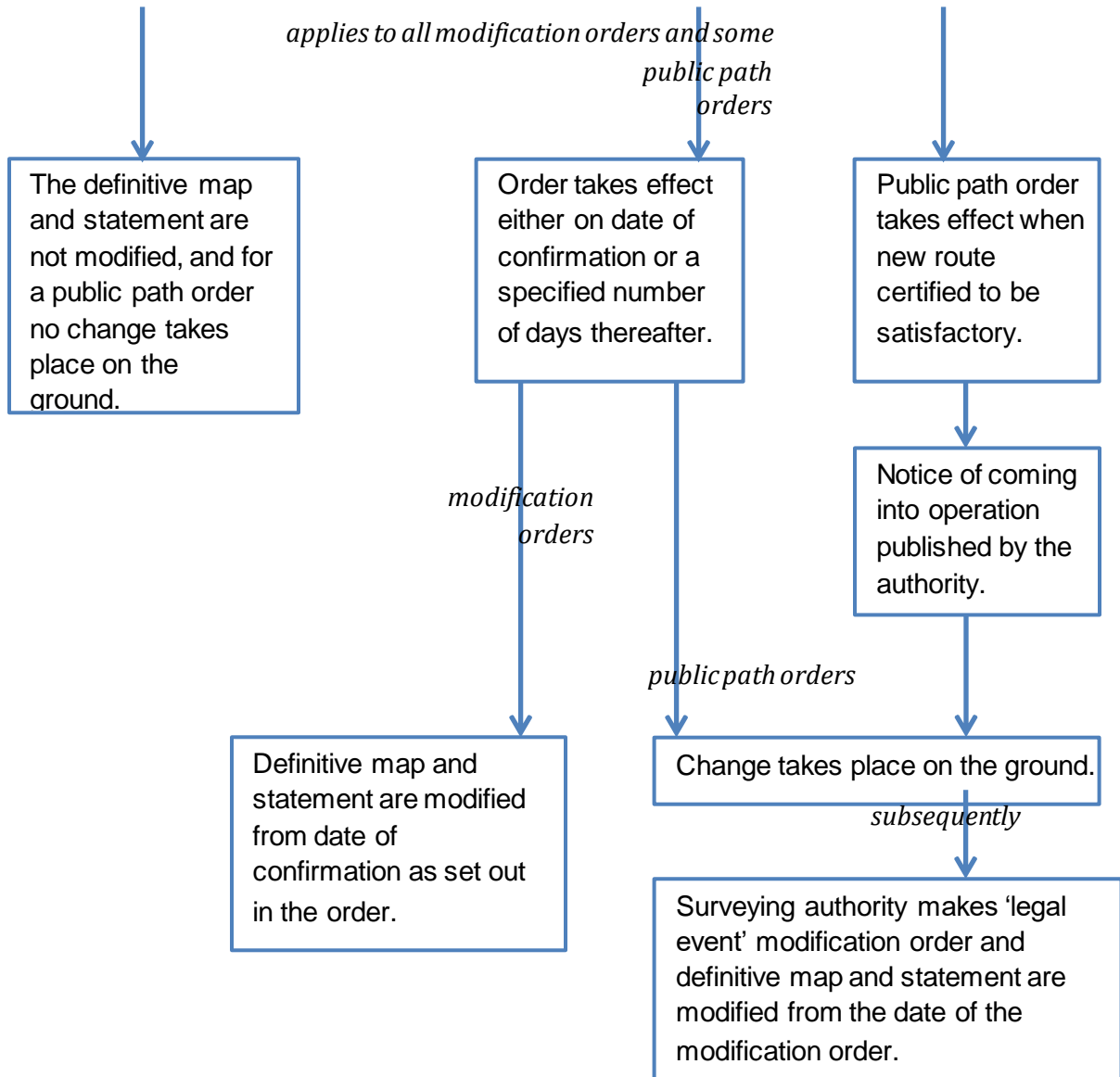


Table 1: When authorities should send copies of orders to Ordnance Survey

<i>Provision</i>	<i>Ordnance Survey</i>
<b><i>Highways Act 1980</i></b>	
s26 Compulsory powers for creation of footpaths, bridleways and restricted byways	Order on confirmation
s116 Power of Magistrates' Court to authorise stopping up or diversion of highway	On decision of the Magistrate
s118 Stopping up of footpaths, bridleways and restricted byways	Order on confirmation
s118A Stopping up of footpaths, bridleways and restricted byways crossing railways	Order on confirmation
s119 Diversion of footpaths, bridleways and restricted byways	Order on certification
s119A Diversion of footpaths, bridleways and restricted byways crossing railways	Order on certification
<b><i>Wildlife and Countryside Act 1981</i></b>	
s53(2) definitive map modification order	Order on confirmation
<b><i>Town and Country Planning Act 1990</i></b>	
s257 Footpaths, bridleways and restricted byways affected by development : orders by other [than Secretary of State]	Order on certification
s258 Extinguishment of public rights of way over land held for planning purposes	Order on confirmation
<b><i>Acquisition of Land Act 1981</i></b>	
s32 Power to extinguish certain public rights of way	Order on confirmation