

THE METROPOLITAN BOROUGH OF STOCKPORT  
REPORT TO THE LOCAL ACCESS FORUM MARCH 2021

MODIFICATION ORDERS

**1. INTRODUCTION**

1.1 The Local Access Forum requested from the Council a report on the progress of applications for modification orders made to the Council, and on modification orders made by the Council.

**2. LEGAL POSITION**

- 2.1 Under section 53 Wildlife and Countryside Act 1981 the Council has a statutory duty to keep the Definitive Map and Statement for Stockport under continuous review (under previous legislation it had to be reviewed at five-yearly intervals) and to make modification orders it considers are required due to any one of a number of events.
- 2.2 The types of events which can trigger a modification order are legal instruments made under legislation such as the Town and Country Planning Act 1990 or the Highways Act 1980, which alter the route of paths (or the information which should be shown on the map), such as diversion, extinguishment or creation orders or agreements, the discovery by the Council of evidence which shows that there is an error on the definitive map (such as a path being shown where there isn't one, or being shown on a different alignment than its legal route), or the expiration of a period of time of enjoyment of a path by the public which has raised the presumption of dedication of a route as a public highway (most commonly as a footpath or bridleway) which consequently needs to be recorded on the map and statement.
- 2.3 In connection with its duty to make modification orders where it considers them to be necessary, in addition, anyone may apply to the Council for it to make a modification order and Schedule 14 sets out the form such an application should take and the documents and supporting evidence which should be submitted with it, and served in connection with it. The majority of applications received by the Council are on the grounds set out in the latter circumstances of paragraph 2.2 and are supported by evidence which accords with section 31 Highways Act 1980 (i.e., that evidence demonstrates that a way is presumed to have been dedicated to the public due to the public having used it for more than 20 years as of right and without interruption).

**3. BACKGROUND INFORMATION**

- 3.1 The Council has a number of outstanding claims for modification orders, some of which go back several years. Unfortunately due to staff changes, office moves and resource pressures, not all of the documentation and information relating to some of the older claims appears to have been held together, and the Council is undertaking a review of the claims and evidence it has in relation to those.
- 3.2 To date the Council has established that there are very few outstanding claims which are yet to be submitted to members for decisions as they are currently being investigated, but there are several resolutions by members to make orders which have not yet been

made, and orders which have been made and require confirmation or submission to the Secretary of State for confirmation.

3.3 A separate report relating to the register of applications for modification orders which the Council is obliged to keep is presented to the meeting today and the outstanding claims and the stage they are at are recorded on that register, which can be found on the Council's website (although it is acknowledged that some of the information requires review which is being undertaken at this time.

3.4 It is accepted that the register still requires some work to bring it up to date, but the Council is working on that presently with the intention that by December this year it has been completed and verified by the Council as recording all the information held on outstanding claims, and updated as the claims and orders progress, and can be used as a source of record for the Local Access Forum and indeed members of other organisations and the public.

3.5 Future Local Access Forums can therefore consult the register to establish the progress of claims and orders, and any new claims which have been submitted since the last Forum.

3.6 It can be reported that the latest two applications to be received by the Council have been entered on the register so that, going forward, new applications can be tracked from now and managed efficiently.

## **4 SUMMARY**

4.1 The Council has a duty to keep the Definitive Map and Statement for Stockport under continuous review, making modification orders where it considers appropriate due to the occurrence of events listed under section 53 Wildlife and Countryside Act 1981.

4.2 The Council has a number of outstanding orders to make, and claims to review, which it is working to progress but has established a register on which new claims can be entered and managed in the future.

## **5 CONCLUSION**

5.4 In conclusion, the Council's current position is that it has two outstanding applications for modification orders which need to be considered by members, approximately ten outstanding resolutions to make orders and approximately six orders which have been made and require confirmation by the Council or the Secretary of State.