

Overview of the legislation

Section 31(1) of the Highways Act 1980 states that if a way is used by the public as of right and uninterrupted for a period of twenty or more years it is deemed to have been dedicated as a highway/public right of way. You may also see this method of creating public rights of way referred to as “presumed dedication”.

As well as enshrining in law a way for routes to become automatically dedicated to the public, section 31 also provides two ways in which land owners can prevent the public acquiring such rights. The first is set out under section 31(5). Under this paragraph you, as land owner, can give notice to the council that a specific way is not dedicated to the public. You may only do this after having erected a sign on that route stating that it is not a public right of way and had the sign either removed or defaced.

The disadvantage of section 31(5) is that you need to do this for every possible route crossing your land. This may not be practical for large land holdings and it also relies on you being aware of the public use in the first place. Section 31(6) provides a way to protect all your land in a single process and does not rely on being aware of public use. The making of deposits under section 31(6) is recommended by both the N.F.U. and the C.L.A.

Overview of section 31(6)

Protecting your land under section 31(6) is a two stage process. The first stage is depositing your Highways Statement with the council. Once we have checked your Statement is correct you can then move to the second stage where you make your Highways Declaration. Once you have lodged your Declaration with the council the process is complete and your land will be protected for 20 years. Please see below for detailed guidance on each of the two stages including how to complete your CA16 form.

Before starting your section 31(6) deposit there are a number of points to note:

1. Once they are lodged with the council, your Highways Statement and Highways Declaration are open to being inspected by the public.
2. Your details will be entered on the council’s register of section 31(6) deposits which will be available on the council’s website.
3. Section 31(6) protects your land for twenty years from the date of your deposit. It does not act retrospectively. If rights have already been created through long use, your deposit has no effect on them. Indeed, the making of a section 31(6) deposit may trigger someone to try and get such rights recorded on the definitive map (see our website for more details on how they might go about this).
4. If you already have public rights of way crossing your land, you must acknowledge these on a map of your land as part of the process.
5. Only a land owner can make a deposit under section 31(6) and such a deposit can only cover land you own in fee simple. Fee simple means that you have the right to dispose of the freehold of the property.
6. If you own the land jointly or as part of a trust, all owners or trustees need to be listed on the section 31(6) deposit and sign it in the appropriate place.

7. If you purchase land where the previous owner had made a section 31(6) deposit and it has not yet expired, you should still make your own section 31(6) deposit as soon as you can. Section 31(6) of the Highways Act 1980 centres around the land owner notifying the council of their lack of intention to dedicate a new public right of way. Making a new deposit for your ownership will reduce the possibility of the previous section 31(6) deposit being successfully challenged.
8. Similarly, if you change the ownership details for a piece of your land, such as adding your spouse or child to the title, you should make a new section 31(6) deposit in the names of all the people who now own the land. Doing this will reduce the possibility of your section 31(6) deposit being successfully challenged.

The above is not exhaustive and you should seek independent legal advice if you are not clear about any of the details.

Completing your Highways Statement

You should read the following notes in conjunction with the example form CA16 Highways Statement available on the website.

Your Highways Statement comprises three parts:

1. A map showing the land that is subject of the Highways Statement.
2. A completed form CA16.
3. The appropriate fee (please see the separate schedule of charges for the current the fee).

Once completed, you need to send all three parts to The Public Rights of Way Officer, Rights of Way, City of York Council, West Offices, Station Rise, YORK, YO1 6GA.

The map or maps that accompany your Highways Statement need to be at a scale of at least 1:10560 (6 inches to 1 mile). Maps at 1:10,000, 1:5000, or 1:2500 are also suitable depending on the size of the piece of land. Once you have your map you must add the following:

1. The boundary of the land that will be subject to the Highways Statement.
2. ALL existing public rights of way crossing the land that will be subject to the Highways Statement.

It is vital that you mark up the map with the boundary and various public rights of way carefully and clearly. We suggest you use the following colours:

- Boundary - red
- Public footpath - purple
- Public bridleway - green
- Restricted byway - brown
- B.O.A.T.* - blue

**Byway open to all traffic.*

This colour scheme is what we suggest you use. You may use another if you wish but it must be clear. Any maps submitted that are not clear will be returned along with a note setting out the changes required.

Form CA16 is divided into six parts labelled from A to F. To make your Highways Statement you need to fill in the following parts of form CA16:

Part of form CA16	Sub-section of form CA16	What you need to fill in
A	1	The appropriate authority is "City of York Council".
	2	Add your name and full address including postcode.
	3	Tick the relevant box and add the land owner details if you are acting on behalf of another party.
	4	Add a brief description of the land and its full postal address including postcode.
	5	Add the Ordnance Survey grid reference for a point within the land covered by the deposit. The grid reference form should be SE XX YY e.g. SE 59 51.
	6	You don't need to write anything here. Delete the whole of part C. Delete the whole of part D if you are not making a Statement under the Commons Act 2006. Delete part E if you are not adding any further information.
B		Insert your name into the space provided. Insert how you have shown the boundary of your land e.g. "edged red". If you have no existing public rights of way crossing your land you may delete all four of the rights of way shown. If you do have public rights of way crossing your insert the colour you used for each type. Delete the word "other" if you have no public rights of way crossing your land and insert how you have indicated your boundary.
C		Delete this section.
D		Complete this section if you are also making a Statement under the Commons Act 2006. Please see the Common Land pages on the council's website for details of how to complete this section. If you are not making a Statement under the Commons Act 2006 delete this section.
E		Unless you need to submit additional information you can delete this section.
F		Each person named in part A2 of the form needs to sign, print, and date this section.

Once you have marked up your map and completed your form CA16 please take copies of both for your records. You then need to post the map and form CA16 along with the appropriate fee to The Public Rights of Way Officer, Rights of Way, City of York Council, West Offices, Station Rise, YORK, YO1 6GA.

Once we have received your Highways Statement we will check that they are accurate. If there are any mistakes then we will return the form CA16 and/or the map for corrections. We will set out what you need to do in a covering letter. Once everything is correct we will

write to you informing you that you can move on to the second stage; completing your Highways Declaration

Completing your Highways Declaration

You should read the following notes in conjunction with the example form CA16 Highways Declaration available on the website.

Your Highways Declaration comprises only one part; a form CA16.

Form CA16 is divided into six parts labelled from A to F. To make your Highways Declaration you need to fill in the following parts of form CA16:

Part of form CA16	Sub-section of form CA16	What you need to fill in
A	1	The appropriate authority is "City of York Council".
	2	Add your name and full address including postcode.
	3	Tick the relevant box and add the land owner details if you are acting on behalf of another party.
	4	Add a brief description of the land and its full postal address including postcode.
	5	Add the Ordnance Survey grid reference for a point within the land covered by the deposit. The grid reference form should be SE XX YY e.g. SE 59 51.
	6	You don't need to write anything here.
B		Delete this section.
C	1	If you are making the Declaration on behalf of someone else insert your name here. Add the colour you used to denote the boundary, City of York Council and the date you submitted your Highways Statement to the council.
	2	Insert the date you submitted your Highways Statement, City of York Council and the colour you used for your boundary. Insert the colours you used to show the existing rights of way crossing the land.
	3	You can delete this section unless you are renewing/updating an existing highways deposit. If you do need to complete this section insert the date of your Highways Statement, City of York Council, and leave in the types of rights of way crossing your land in the appropriate places.
	4	Insert the colour you used for your boundary, insert the date of your Highways Statement, and leave in the kinds of right of way you have crossing the land. If you are acting for someone else add your name in the appropriate place.
D		Delete this section even if you completed it in your Highways Statement.

Part of form CA16	Sub-section of form CA16	What you need to fill in
E		Unless you need to submit additional information you can delete this section.
F		Each person named in part A2 of the form needs to sign, print, and date this section.

You can submit your Highways Declaration at any time within the twenty year immediately following the date you submitted your Highways Statement. However it is advisable to submit your Declaration as soon as you can after we have confirmed your Highways Statement is complete. Doing this means the process is completed properly and is much less open to subsequent challenge.

Once completed you need to post form CA16 to The Public Rights of Way Officer, Rights of Way, City of York Council, West Offices, Station Rise, YORK, YO1 6GA.

Contact details

You can get in touch with us in the following ways:

By email: rightsofway@york.gov.uk

By telephone: 01904 551550

By letter: The Public Rights of Way Officer, Rights of Way, City of York Council, West Offices, Station Rise, YORK, YO1 6GA.