



# The Planning Inspectorate

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Ms L Elo  
Head of Early Intervention and  
Support  
Chorley Council  
Civic Offices, Union Street  
Chorley  
Lancashire  
PR7 1AL

Your Ref:  
Our Ref: FPS/Q2371/14A/15  
Date: 08 FEB 2017

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Dear Madam

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION S14  
Lancashire County Council  
Refusal to Upgrade Euxton Footpaths 37, 38 and 39 (Culbeck Lane) to Restricted Byway

I enclose for your information a copy of the Inspector's decision on this Appeal.

Also enclosed are two leaflets entitled *Our Complaints Procedure* and *Challenging the Decision in the High Court*.

Please note that this decision can only be challenged by applying to the Administrative Court for a judicial review.

If you have any queries about the enclosed decision, please contact the Quality Assurance Unit at the following address:

Customer Quality  
The Planning Inspectorate  
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Temple Quay  
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BS1 6PN

Tel: 0303 444 5884

<https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>

An electronic version of the decision will shortly appear on the Inspectorate's website.





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## Appeal Decision

**by Barney Grimshaw BA DPA MRTPI (Rtd)**

**an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 08 February 2017**

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### **Appeal Ref: FPS/Q2371/14A/15**

- This Appeal is made under Section 53(5) and Paragraph 4(1) of Schedule 14 of the Wildlife and Countryside Act 1981 against the decision of Lancashire County Council not to make an Order under section 53(2) of that Act.
- The Application dated 8 December 2015 was refused by Lancashire County Council on 28 June 2016.
- The Appellant claims that a route known as Culbeck Lane (Euxton Footpaths 37, 38 & 39) running between Dawbers Lane and Runshaw Lane, Euxton, Lancashire should be upgraded from footpath to Restricted Byway.

**Summary of Decision: The appeal is dismissed.**

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### **Preliminary Matters**

1. I have been directed by the Secretary of State for Environment, Food and Rural Affairs to determine this appeal under Section 53(5) and Paragraph 4(1) of Schedule 14 of the Wildlife and Countryside Act 1981 (the 1981 Act).
2. I have not visited the site but I am satisfied I can make my decision without the need to do so.
3. I attach copies of two maps prepared by Lancashire County Council showing the claimed route for reference purposes.

### **Main issues**

4. Section 53(3)(c)(ii) of the 1981 Act provides that an Order should be made to modify the Definitive Map and Statement if evidence is discovered which, when considered with all other relevant evidence available shows that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
5. Some of the evidence in this case relates to usage of the claimed route. In respect of this, the requirements of Section 31 of the Highways Act 1980 (the 1980 Act) are relevant. This states that where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The period of 20 years is to be calculated retrospectively from the date when the right of the public to use the way was brought into question.

6. Common law also requires me to consider whether the use of the route and the actions of the landowner have been of such a nature that the dedication of the route by the landowners as a Restricted Byway can be inferred.
7. As this Appeal is concerned with a possible unrecorded vehicular route, it is also necessary to have regard to the provisions of Section 67 of the Natural Environment and Rural Communities Act 2006 (the 2006 Act) which extinguished rights of way for mechanically propelled vehicles (MPVs) subject to certain exceptions.

## **Reasons**

### ***Documentary Evidence***

#### *Commercial Maps*

8. The earliest commercial maps available do not show the claimed route. Cary's map (1789) does not show it at all but Yates (1786) and Greenwood (1818) show short sections close to Points A and F but not the remainder of the route.
9. Baines' Map (1824) does not match modern mapping but shows a route which might correspond to the claimed route. Hennet's Map (1830) and most subsequent maps consistently show the whole route as a significant feature. On one map (Cassini, 1840-43) the claimed route appears to be more important than Dawbers Lane and the Culbeck Brook is shown running under the claimed route but straight across Dawbers Lane.
10. These maps would appear to show that the claimed route existed from at least 1830 and was regarded as a route of some significance, otherwise it would probably not have been shown on such small scale maps. However, the maps do not provide a reliable indication of the status of the routes shown.

#### *Tithe Records*

11. Under the Tithe Commutation Act 1836, tithes were converted to a fixed money rent. In most areas this required detailed surveys to be carried out in order to apportion the amount of tithe payable among the landowners of a parish. Tithe documents that were prepared had the sole purpose of identifying titheable or productive land. They are statutory documents which were in the public domain but were not produced to record public rights of way, although they can sometimes be helpful in determining the existence and status of routes.
12. The Tithe Map of Euxton (1847) shows the claimed route coloured in sienna in the same manner as public roads and most other roads. On the base map used, the route is crossed by solid lines close to Points A, E and F presumably indicating the presence of gates and the Culbeck Brook is shown running across the route and then under Dawbers Lane (unlike the depiction on the Cassini map referred to above).
13. In the Award itself the route is referred to as a 'road' and not subject to payment of tithe. However, it is also described as being in private ownership and is not grouped with other roads which are specifically described as public without reference to any private owners.
14. In my view, although the tithe records confirm the existence of the route as a road of some sort in 1847, they do not indicate whether there were any public rights over it.

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### *Ordnance Survey (OS) Maps*

15. The earliest OS map available, a 1" to the mile map published in 1842 and used as a base for showing Estates in Lancashire, shows the whole of the claimed route in the same manner as the Cassini Map previously referred to which appears to have been based on the OS map.
16. A 6" to the mile map of 1849 shows the claimed route named as Culbeck Lane. The 25" map of 1894 also shows it named and with a separate parcel number. Lines, probably indicating gates are shown at Points A, E and F. Later large scale maps show similar information although a 1910 map does not appear to show a gate at E.
17. An OS Object Names Book of 1907 lists Culbeck Lane and in one column underneath the name is written the word 'private' but this is then crossed out. The route is described as a 'lane' whereas Runshaw Lane is described as a 'road' which is maintainable by the Rural District Council. The purpose of the Names Book was not to define the status of routes shown on maps but to record the correct names and spelling of features.
18. OS maps provide an accurate record of features which existed on the ground at the time they were surveyed but they do not purport to indicate the status of routes shown and from 1888 onwards the maps included a specific note to the effect that routes shown were not necessarily public rights of way.

### *The 1910 Finance Act Records*

19. The 1910 Finance Act imposed a tax on the incremental value of land which was payable each time it changed hands. In order to levy the tax a comprehensive survey of all land in the UK was undertaken between 1910 and 1920. This survey was carried out by the Board of Inland Revenue under statutory powers and it was a criminal offence for any false statement to be made for the purpose of reducing liability. The existence of public rights of way over land had the effect of reducing the value of the land and hence liability for the tax; they were therefore recorded in the survey.
20. In this case the Finance Act base map shows the claimed route between Points A and E as being excluded from adjacent hereditaments and not liable for tax. However, the section from E to F is included within plot 608 for which a deduction of £5 is recorded in the Field Book in respect of a public footpath across the land. A further £5 deduction is recorded in respect of a right of road to the adjoining farm. The Field Book for plot 608 appears to have been completed by a different surveyor than those for other plots adjacent to the claimed route between Points A and E and includes a comment in respect of the route reading "*public & private? right of way*". The applicant suggests that this might indicate some doubt about the true status of the route.
21. The exclusion of the claimed route between Points A and E could be indicative of it having been regarded as a public road. However, it could also indicate that it was a shared access road that none of the adjoining landowners claimed to own and which may or may not have also carried public rights of some sort. It seems unlikely that a public vehicular road would have terminated as a cul de sac at Point E and then only continued to Runshaw Lane as a private road and public footpath.
22. On balance, it is my view that the Finance Act records are consistent with the whole of Culbeck Lane having been regarded as a private access road and a

public footpath. However, they do not preclude the possibility that some or all of the route might have been considered to carry public vehicular rights.

#### *The Definitive Map*

23. In the parish survey carried out in 1951 in connection with the preparation of the first Definitive Map, the claimed route was marked 'CRF' on the survey map. This term was an abbreviation for 'Carriage Road Footpath', meaning a route which the public were entitled to use with vehicles but which was mainly used as a footpath. Although this term had originally been proposed in connection with the 1949 National Parks and Access to the Countryside Act it was subsequently withdrawn and it was suggested that such routes should be described as RUPPs (Roads used as Public Paths). On the accompanying survey card the route is described as 'Accommodation Road', a term normally taken to mean a private access road which may or may not also carry public rights of some sort.
24. When the Draft Definitive Map was placed on deposit in 1955 the claimed route was included as a public footpath and not as a RUPP. The Draft Map was placed on public deposit to allow objections and representations to be made and any consequent amendments were put on the Provisional Map which was published in 1960. This also included the claimed route as a public footpath and was itself subject to objections from landowners and occupiers. No representations were made regarding the claimed route and it was shown on the first Definitive Map as a public footpath.
25. When the Definitive Map was reviewed in 1975 no change was made in respect of the claimed route.
26. There is no evidence of any express dedication of the claimed route as a public right of way of any sort.
27. In 1991, an application was made to upgrade the route now claimed as a Restricted Byway to the status of Byway Open to all Traffic (BOAT) but this was rejected in 1995.

#### *Other documents*

28. In 1929 responsibility for district highways passed to county councils, however, the claimed route was not shown as a publicly maintainable highway of any sort on the handover map prepared for the area. Later highway records include reference to the fact that the route is a public footpath.
29. An article in the London Gazette in 1883 relating to the designation of areas infected by foot and mouth disease refers to part of Culbeck Lane as the boundary of one of the areas. This further confirms the existence of the route at the time but not the existence of public vehicular rights over it.
30. A copy of a hand drawn plan dated 1899 relating to a mortgage from Major Anderton to the Queen Anne's Bounty submitted by the applicant shows an area shaded red on either side of part of the claimed route but the route itself is uncoloured. There is no key to the plan but, if ownership of the land shaded red was to be transferred and the route was excluded from the transfer, this might suggest that it was thought to be a public route of some sort or simply that it was not in the same ownership as the adjoining land.

31. Various legal title documents referred to on behalf of objectors indicate that people acquiring properties adjacent to the claimed route had private rights to use it and were required to share the cost of maintaining it. This could suggest that the route was private or simply that it had not been adopted for maintenance purposes and that public rights, other than footpath, had not been recorded.
32. An aerial photograph taken in the 1960s shows that most of the route existed at that time and was probably wide enough to carry vehicular traffic.

#### *Conclusions regarding Documentary Evidence*

33. It would appear from early commercial and OS maps that the claimed route has existed since 1830 and possibly earlier. It also appears from the manner in which the route was shown, particularly on small scale maps, that it was a route of some significance and formed part of the local network linking at both ends to other routes. The early maps do not however indicate what, if any, public rights existed over the route.
34. Tithe records and 1910 Finance Act records are in my view generally consistent with the route having been regarded as either a public vehicular route or a private vehicular route with lesser public rights over it. However, the manner in which the northernmost section of the route is dealt with in the Finance Act records clearly suggests that this section was not regarded as a public vehicular route. It seems unlikely that the status of the route would in fact not have been the same throughout its length.
35. Although there appears to have been some doubt at the time of the 1951 parish survey regarding the status of the route, it was made clear in subsequent versions of the definitive map that the route was a public footpath and no objection seems to have been raised to this. Highway records would also seem to confirm that the route was regarded as being a public footpath.
36. Other documentary evidence does not assist in determining the status of the route.
37. Overall, it is my view that on the balance of probability the documentary evidence that is available does not indicate the existence of public rights other than as a footpath over the claimed route.

#### **Statutory Dedication**

##### *Evidence of public use*

38. A limited amount of evidence has been submitted relating to use of the claimed route by the public. This consists of evidence forms and statements made by people familiar with the route from the 1940s to the present. Much of the evidence in support of the claim is provided by people who have owned or occupied properties along the route and may have had private rights to use some or all of it. Generally people stated that they had used the route and had seen others using it but first hand evidence of regular use as of right by members of the public other than as a footpath is very limited.
39. On the other hand a number of statutory declarations submitted by other people who also claim to have been familiar with the route over a long period state that it never carried public rights other than as a footpath.

40. There is also some evidence that the route has been blocked or obstructed at different times in so far as vehicular use was concerned by gates, fencing, concrete slabs, ditches and a trailer. It appears that such obstructions may have been present intermittently at least since around 1970.

*Conclusions regarding statutory dedication*

41. Overall, it is my view that the available evidence of public use of the claimed route other than on foot is insufficient to raise a presumption, in accordance with the provisions of the 1980 Act, that it has been dedicated as a public right of way of any higher status than footpath. In addition, there is evidence that landowners have taken action over a considerable period of time that indicates their lack of intention to dedicate the route as a public right of way of a higher status than footpath.

**Common Law**

42. An inference that a way has been dedicated for public use may be drawn at common law where the actions of landowners (or lack of action) indicate that they intended a way to be dedicated as a highway and where the public have accepted it.
43. In this case, although there is some evidence of public use of the claimed route there is no substantive evidence of action by landowners to indicate an intention to dedicate it as a public right of way other than a footpath and indeed some evidence to suggest that they had no such intention. It would therefore not be reasonable to infer that the route has been dedicated as a higher status public right of way.

**The 2006 Act**

44. As mentioned before, this act extinguished rights of way for MPVs subject to certain exceptions. In this case none of the exceptions apply so, if any rights for MPVs had been established along the claimed route they would have been extinguished as a result of the 2006 Act.

**Conclusion**

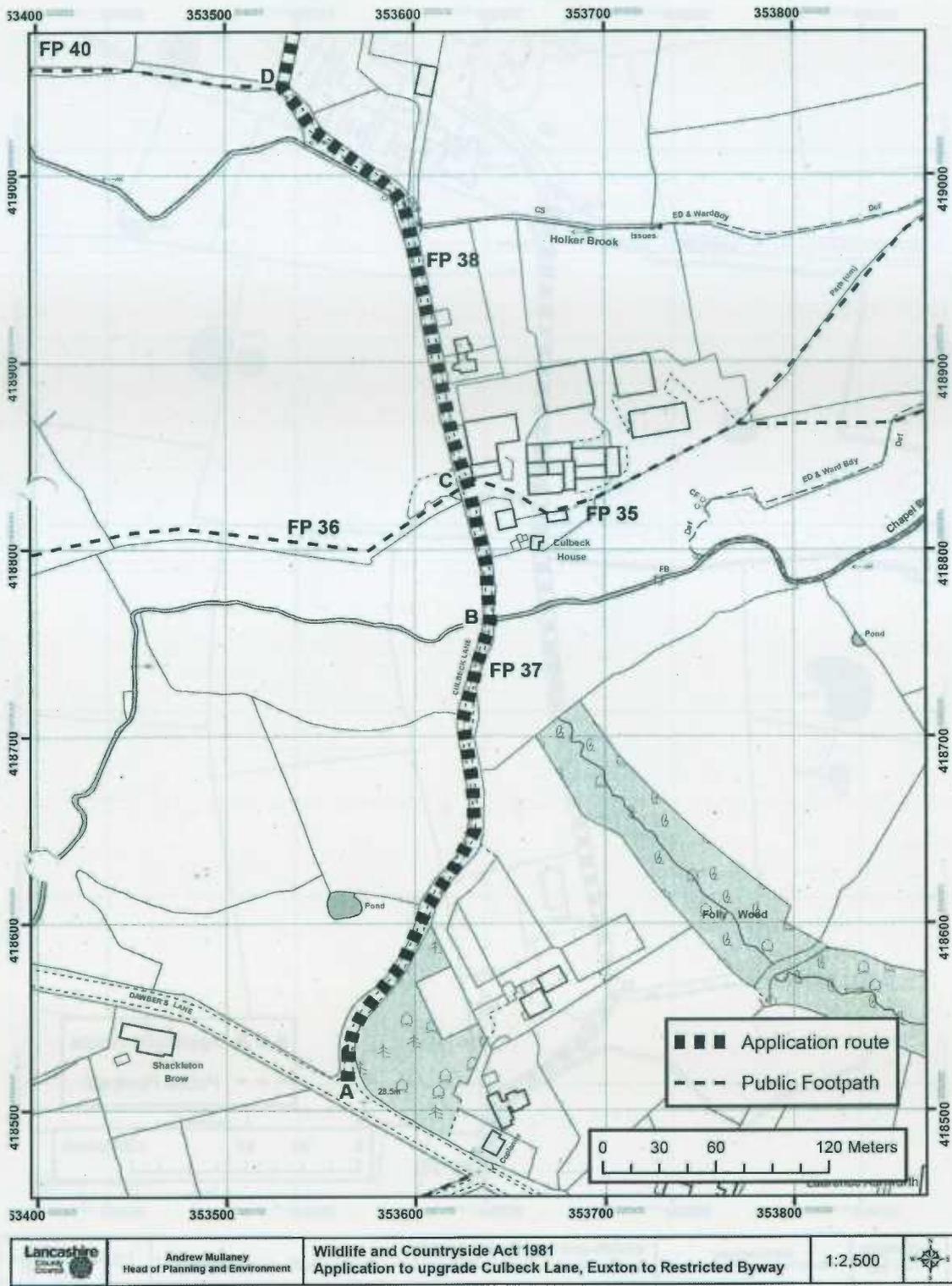
45. Having regard to these and all other matters raised in the written representations I conclude that the evidence that is available does not show that on the balance of probability the claimed route is a public right of way of a status higher than footpath. The appeal should therefore be dismissed.

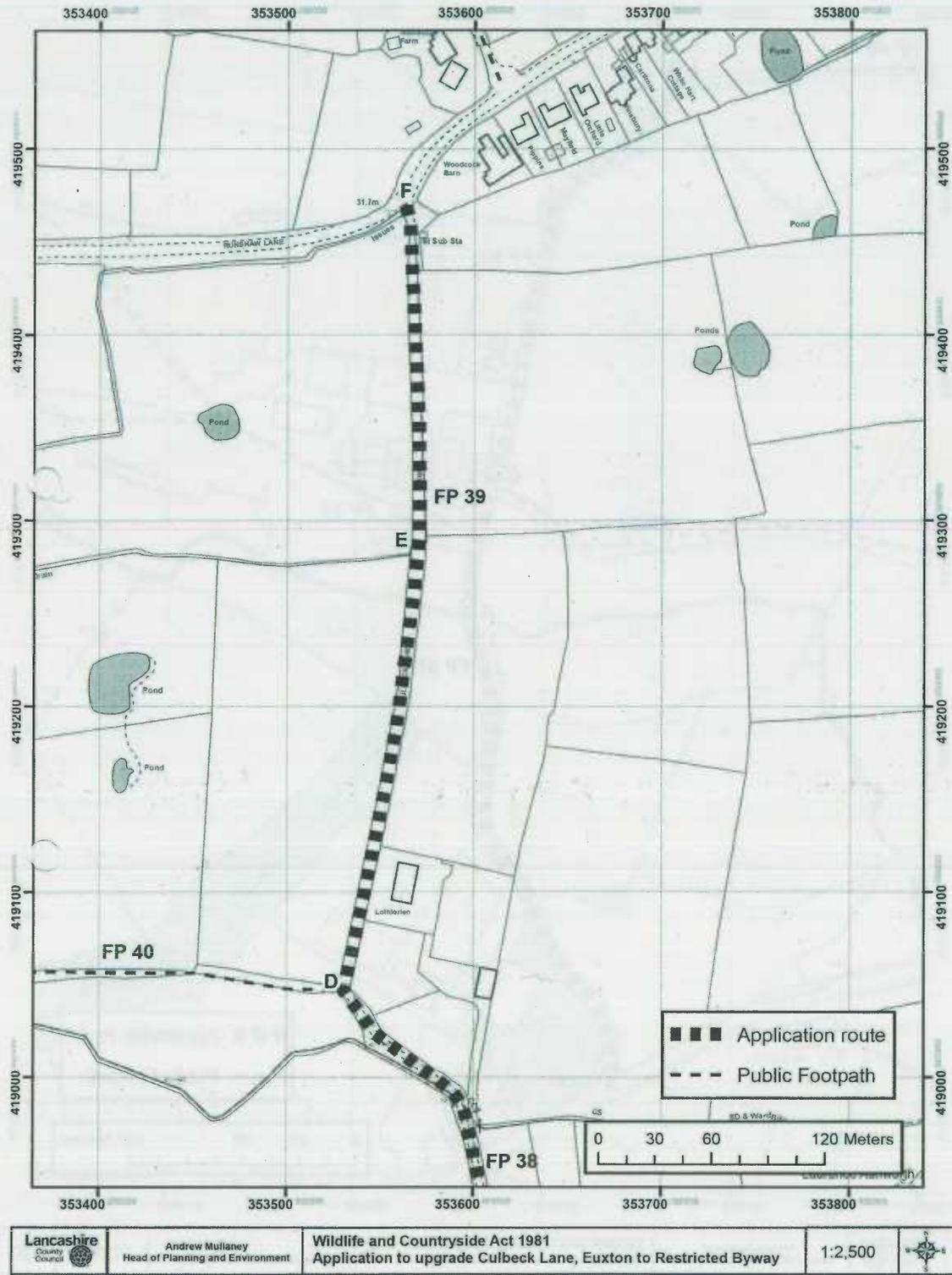
**Formal Decision**

46. I dismiss the appeal.

*Barney Grimshaw*

Inspector





<p>Lancashire County Council</p>	<p>Andrew Mulaney Head of Planning and Environment</p>	<p>Wildlife and Countryside Act 1981 Application to upgrade Culbeck Lane, Euxton to Restricted Byway</p>	<p>1:2,500</p>	
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## Our Complaints Procedures

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### **Complaints**

We try hard to ensure that everyone involved in the rights of way process is satisfied with the service they receive from us. Applications and orders to amend the rights of way network can raise strong feelings and it is inevitable that someone will be disappointed with the decision. This can sometimes lead to a complaint, either about the decision itself or the way in which the case was handled.

Sometimes complaints arise due to misunderstandings about how the system for deciding application appeals and orders works. When this happens we will try to explain things as clearly as possible. Sometimes the objectors, applicant, the authority or another interested party may have difficulty accepting a decision simply because they disagree with it.

Although we cannot re-open a case to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how long an order making authority took to submit an order to the Secretary of State) in which case we will explain why and suggest who may be able to deal with the complaint instead.

### **How we investigate complaints**

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Customer Quality Team to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the system for deciding rights of way appeals and orders and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly held.

We therefore do our best to ensure that all complaints are investigated quickly, thoroughly and impartially, and that we reply in clear, straightforward language, avoiding jargon and complicated legal terms.

When investigating a complaint we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

### **What we will do if we have made a mistake**

Although we aim to give the best service possible, we know that there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future. However, the law does not allow us to amend or change the decision.

## **Taking it further**

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Ombudsman, who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

## **Frequently asked questions**

*"Why can't the decision be reviewed if a mistake has happened?"* – The law does not allow us to do this because a decision is a legal document that can only be reviewed following a successful High Court challenge.

*"If you cannot change a decision, what is the point of complaining?"* – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve.

*"How can Inspectors know about local feeling or issues if they don't live in the area?"* – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have submitted.

*"I wrote to you with my views, why didn't the Inspector mention this?"* – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

*"How long will I have to wait for a reply to my complaint?"* – We will aim to send a full reply within 20 working days. In some cases where the issues raised are complex, a more detailed investigation will be needed, often requiring the views of those involved with the case. This may mean that we cannot reply to you as quickly as we would like.

## **Further information**

Each year we publish our Annual Report and Accounts, setting out details of our performance against the targets set for us by Ministers and how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see 'Contacting us').

## **Contacting us**

### **Website**

<https://www.gov.uk/guidance/object-to-a-public-right-of-way-order>

### **General Enquiries**

Phone: 0303 444 5000

E-mail: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

### **Complaints and Queries in England:**

Please refer to our website:

<https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure> or write to:

Customer Quality Unit  
The Planning Inspectorate  
4D Hawk  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
Phone: 0303 444 5884

### **Cardiff Office**

The Planning Inspectorate  
Room 1-004  
Cathays Park  
Cardiff CF1 3NQ  
Phone: 0292 082 3866  
E-mail: [Wales@pins.gsi.gov.uk](mailto:Wales@pins.gsi.gov.uk)

### **Parliamentary and Health Service Ombudsman**

Millbank Tower, Millbank  
London SW1P 4QP

Complaints Helpline: 0345 015 4033  
Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)



## Challenging a Decision in the High Court

**Important Note** - This leaflet is intended for guidance only. It should be noted that there are different procedures involved for statutory challenges and judicial reviews and they follow different timetables. 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 any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

### **Challenging a decision**

Once a decision is issued we have no power to amend or change it. Decisions are therefore final unless successfully challenged in the High Court. We can only reconsider a decision if a challenge is successful and the decision is returned to us for re-determination.

### **Grounds for challenging the decision**

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful, you would have to show that the Inspector had misinterpreted the law or that some relevant criteria had not been met. If, in relation to an order decision, a mistake has been made, and the Court considers it might have affected the decision, it will quash the decision and return the case to us for re-determination or it will quash the order completely. If the Court considers a mistake has been made on a Schedule 14 Appeal or Direction, it will quash the decision and return the case to us for re-determination.

### **Different order types**

The Act under which the order decision has been **confirmed** will specify the conditions under which it can be challenged, and is thus a statutory right to challenge a confirmed order - often referred to as a Part 8 claim as it is brought under Part 8 of the Civil Procedure Rules 1998. There is no statutory right to challenge where an order is '**not confirmed**'; in these circumstances a judicial review under Part 54 of the Civil Procedure Rules 1998 of the decision not to confirm may be applied for. Both scenarios are set out in more detail below.

### **Challenges to confirmed orders made under the Wildlife and Countryside Act 1981**

Any person aggrieved by the confirmed order can make an application to the High Court under paragraph 12 of Schedule 15 to the 1981 Act on the grounds i) that the order is not within the power of section 53 or 54; or ii) that any of the requirements of the Schedule have not been complied with. If the challenge is successful, the court will either quash the order or the decision. The Inspectorate will only be asked to re-determine the case if the decision only is quashed.

**Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of publication of the notice of confirmation - this period cannot be extended.**

## ***Challenges to confirmed orders made under the Town and Country Planning Act 1990 and the Highways Act 1980***

Any person aggrieved by the confirmed order can make an application to the High Court under paragraph 287, in the case of an order made under the 1990 Act, or paragraph 2 of Schedule 2 in the case of an order made under the 1980 Act, on the grounds that i) the order is not within the powers of the Act; or ii) that any of the requirements of the Act or regulations made under it have not been complied with. If the challenge is successful, the court will either quash the order or the decision. The Inspectorate will only be asked to re-determine the case if the decision only is quashed.

**Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of publication of the notice of confirmation - this period cannot be extended.**

## ***Challenges to orders which are not confirmed and all Schedule 14 Appeal and Direction decisions***

If an order made under any of the Acts is not confirmed, an aggrieved person can only challenge the decision by applying for a judicial review to the Administrative Court for a court order to quash the decision, the matter will then go back to the Inspectorate to re-determine. This also applies to an aggrieved person to a Schedule 14 Appeal or Direction decision as there is no statutory right to challenge.

**For applications for judicial review, the Claim form must be filed with the Administrative Court promptly and in any event not later than 3 months after the date of the decision (for orders made under the Highways Act 1980 or the Wildlife and Countryside Act 1981) or 6 weeks (for orders made under the Town and Country Planning Act 1990), unless the Court extends this period.**

## ***Who should be named as Defendant in the claim form?***

In order cases the Inspector is usually appointed on behalf of the Secretary of State for Environment, Food and Rural Affairs to confirm an order made by a local authority. In Schedule 14 appeal cases the Inspector is acting as the Secretary of State. The claim form for all types of proceedings should therefore be issued against the Secretary of State for Environment, Food and Rural Affairs and served upon: The Government Legal Department, One Kemble Street, London, WC2B 4TS. For telephone queries, please call the Government Legal Department on 020 7210 3000. Email: [thetreasurysolicitor@governmentlegal.gov.uk](mailto:thetreasurysolicitor@governmentlegal.gov.uk)

## ***Interested parties***

Interested parties can find out whether a case has been challenged by contacting the Administrative Court. If you do not know the name of the likely claimant, you will need to provide the Court with the date of the decision and the full title of the order or appeal (including the name of the relevant local authority). The more information you can provide, the easier it will be for the Court to identify it. If a person wants to become a formal party to the Court proceedings then they can make representations to the Court under Part 19 of the Civil Court Procedure Rules 1998 (see overleaf). Should you wish to become a formal party you may wish to seek legal assistance or ask the court for guidance. To be a party to a judicial review a person would have to have a sufficient interest.

## Frequently asked questions

*"Who can make a challenge?"* – In principle, a person must have a sufficient interest (sometimes called standing) in the decision to be able to bring a challenge. This can include statutory objectors, applicants, interested parties as well as the relevant local authority.

*"Who is notified of the challenge?"* – In Part 8 statutory claims, the claimant will serve proceedings on the named defendants. In Judicial Review claims the claimant will serve proceedings on the persons the challenge is against and anyone else they have identified as an interested party. The Planning Inspectorate will not notify anyone of the challenge. The claimant would be expected to identify and include the Council as an interested party. If the defendant and any interested party are aware that another party should be made aware of the proceedings as an interested party they should include the details of that party in the acknowledgment of service.

*"How much is it likely to cost me?"* – A relatively small administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees – see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though. It is usual for the costs of a successful party to be paid by the losing party, therefore if the challenge fails you will usually be ordered to pay the defendant's costs as well as having to cover your own. If the challenge is successful, the defendant may be ordered to pay your reasonable legal costs. However, the court ultimately has the power to issue whatever costs it sees fit.

*"How long will it take?"* – This can vary considerably.

*"Do I need to get legal advice?"* – You do not have to be legally represented in Court but it is advisable to do so, as you may have to deal with complex points of law.

*"Will a successful challenge reverse the order decision?"* – Not necessarily. The Court will either quash the order or quash the decision. Where the decision is quashed, we will be required to re-determine the order. However, an Inspector may come to the same decision again, but for different or expanded reasons. Where the order is quashed, jurisdiction will pass back to the Order Making Authority. They will need to decide whether to make a new order.

*"Will a successful challenge reverse the appeal decision?"*

Yes. We will be required to re-determine the appeal. However, an Inspector may come to the same decision again, but for different or expanded reasons.

*"If the decision is re-determined will it be by the same Inspector?"*

The same Inspector will be used unless there is a good reason not to do so.

*"What can I do if my challenge fails?"* – The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

*"What happens if the order is quashed?"* – Jurisdiction will pass back to the Order Making Authority. They will need to decide whether to make a new order.

*"What can I do if I am not listed as an interested party on the challenge but want to be involved?"* – You can contact the Administrative Court and ask to be listed as an interested party (see Part 54.1(2) of the Civil Procedure Rules 1998 for the definition of an interested party).

*"Can the Planning Inspectorate or the Department for Environment, Food and Rural Affairs, provide me with advice about making a challenge?"* – Neither the Planning Inspectorate nor the Department for Environment, Food and Rural Affairs can advise you on a challenge or on becoming a formal party – you should seek advice from your own legal adviser.

*"Where will I find the claim forms?"*

The forms are available on the Administrative Court's website at [www.justice.gov.uk/courts/procedure-rules/civil/forms](http://www.justice.gov.uk/courts/procedure-rules/civil/forms). The Part 8 Claim form is number N208 and the form for making a Judicial Review is N461. Guidance notes for claimants are also available.

*"Where do I send the completed claim forms?"*

They need to be filed with the Administrative Court at The Royal Courts of Justice, Queen's Bench Division, Strand, London, WC2A 2LL. They also need to be served on The Government Legal Department, One Kemble Street, London, WC2B 4TS.

## Further Information

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2A 2LL, telephone 020 7947 6000. Information can also be found on their website at [www.justice.gov.uk/courts/rcj-rolls-building/administrative-court](http://www.justice.gov.uk/courts/rcj-rolls-building/administrative-court). Please see the attached flow charts setting out the main steps to be followed for both the statutory and judicial review procedures (please note that these charts do not contain the specific timelines for submitting evidence).

## Inspection of order documents

We normally keep most case files for one year after the decision is issued, after which they are destroyed. You can inspect order documents at our Bristol office, by contacting the case officer dealing with the case, or our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey, it may be more convenient to arrange to view the documents at the offices of the relevant local authority.

## CONTACT INFORMATION

### The Planning Inspectorate

#### Rights of Way Section

Mrs Annie Owen  
Rights of Way Section Manager  
The Planning Inspectorate  
3G Hawk Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Phone: 0303 444 5466

E-mail: [annie.owen@pins.gsi.gov.uk](mailto:annie.owen@pins.gsi.gov.uk)

Information: <https://www.gov.uk/guidance/object-to-a-public-right-of-way-order>

#### General Enquiries

Phone: 0303 444 5000

E-mail: [rightsofway2@pins.gsi.gov.uk](mailto:rightsofway2@pins.gsi.gov.uk)

#### Welsh Office

The Planning Inspectorate  
Crown Buildings  
Cathays Park  
Cardiff CF10 3NQ  
Phone: 0292 082 3866  
E-mail: [Wales@pins.gsi.gov.uk](mailto:Wales@pins.gsi.gov.uk)

#### Complaints

Please refer to our website:

<https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>

Phone: 0303 444 5884

### The Government Legal Department

One Kemble Street  
London  
WC2B 4TS  
Phone: 020 7210 3000  
Website:

<https://www.gov.uk/government/organisations/government-legal-department>

### Administrative Court

Royal Courts of Justice  
Queen's Bench Division  
Strand  
London  
WC2A 2LL

Phone: 020 7947 6655

Website:

[www.justice.gov.uk/courts/rcj-rolls-building/administrative-court](http://www.justice.gov.uk/courts/rcj-rolls-building/administrative-court)

Email for enquiries:

[administrativecourtoffice.generaloffice@hmcts.x.gsi.gov.uk](mailto:administrativecourtoffice.generaloffice@hmcts.x.gsi.gov.uk)

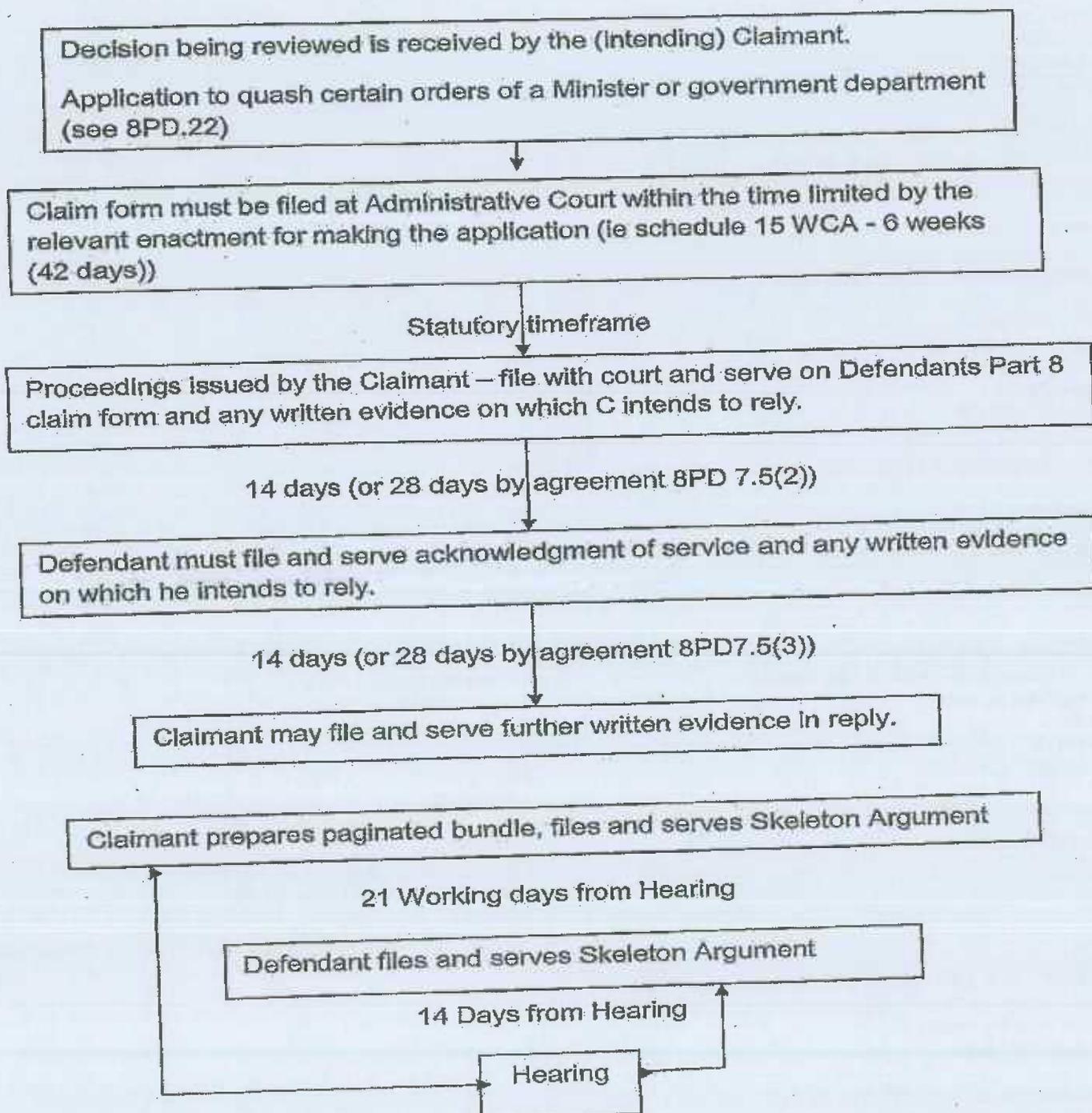
### Parliamentary and Health Service Ombudsman

Parliamentary and health Service Ombudsman  
Millbank Tower, Millbank  
London SW1P 4QP

Complaints Helpline: 0345 015 4033

Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

## Timetable for Part 8 Claims



## Timetable for Judicial Review

