

## Public Guidance Note 2

### Gates and Stiles on Public Rights of Way

#### Maintenance Responsibility for Gates and Stiles

Section 146 of the Highways Act 1980 places a duty on landowners to maintain any gates and stiles that are located on a Public Right of Way. This Act requires landowners to maintain these structures in a safe condition and to a standard of repair required to prevent unreasonable interference with the rights of the users of that highway.

If a landowner fails in their duty, then we, as the Local Highway Authority may, after giving not less than 14 days' notice to the landowner, complete any work that is necessary to repair the deficient structure. We can recharge the landowner for the costs that we incur during this process.

It should be noted that if a poorly maintained gate or stile becomes unusable for its purpose, it may constitute an unlawful obstruction of that Public Right of Way. The wilful obstruction of a highway is a criminal offence. We can notify the Rural Payments Agency if Public Rights of Way are not open and accessible. The wilful obstruction of a Public Right of Way is a breach of Cross Compliance GAEC 7b: Public Rights of Way. This could affect future payments that the landowner receives.

Landowners are entitled to recover at least 25% of reasonable costs from the Local Highway Authority for the maintenance of gates and stiles. We normally make this contribution in the form of supplying suitable materials, such as a kissing gate, free of charge.

Landowners should contact the Rights of Way Team prior to completing any works for which they intend to apply for a contribution of costs.

#### Erecting New Gates and Stiles

Where a gate or stile already exists on a Public Right of Way at the time of dedication, permission from us is not usually required to replace it with the same type of structure as and when this is required.

It is not acceptable for a landowner or occupier to replace an existing gate with a stile without lawful authority.

Where a landowner or occupier wishes to install a new structure at a location where one has not previously existed, written permission must be obtained from us before any work is undertaken. Section 147 of the Highways Act 1980 gives us the power to authorise the erection of new gates and stiles on Public Rights of Way for the purposes of controlling the ingress and egress of animals. This applies only on land that is being used, or being brought into use, for agriculture, forestry, or the breeding and keeping of horses.



Although this Act provides us with the power to authorise new stiles, we will only exercise this power in exceptional circumstances. We require that any new structures erected on Public Rights of Way are the least restrictive option possible. Stiles present an unacceptable physical barrier to many potential users. We therefore require any new structures to be gates rather than stiles.

We may impose conditions in respect of the maintenance and design of the structure that is to be installed. There is no appeal against a Local Highway Authority's refusal to grant authorisation or its imposition of conditions.

Any structure that is installed without prior written permission constitutes an unlawful obstruction of that Public Right of Way. As previously mentioned, the wilful obstruction of a highway is a criminal offence.

If a landowner or occupier is in any doubt about any of the above, they should seek guidance from the Rights of Way Team prior to any works commencing.

### **Standards That Apply to Gates and Stiles**

There is no statutory design to which gates and stiles must comply; however, they should be of a suitable design and standard to serve their purpose and allow users access with a reasonable amount of ease. British Standard BS 5709:2018 covers gaps, gates and stiles.

A gate on a Public Bridleway should have a minimum width of 1.5 metres (5 feet). Under section 145 of the Highways Act 1980, we can require a landowner to enlarge a gate to this width or remove it.

### **Upgrading Existing Stiles with New Gates**

We encourage the replacement of existing stiles with gates. We can supply long-lasting, robust, and stock-proof gates that will require minimal future maintenance. In many circumstances, if a stile is to be replaced with a gate, we will supply and install the gate at no cost.

It should be noted that if we install a gate, the landowner's future maintenance responsibility for that gate, as detailed in section 146 of the Highway's Act 1980, still applies.

### **Access Through Boundaries for Dogs**

A landowner has no legal duty to provide access through boundaries for dogs.

Unfortunately, problems often arise where dog walkers remove stile rails or cut holes in fences to allow their dogs to pass. Whilst this action is unlawful, it is difficult to prevent and often the only effective solution is to provide a stockproof 'dog-friendly' access point.

We can provide dog gates or pedestrian gates for Public Rights of Way that are heavily used by dog walkers should a landowner choose for one of these structures to be installed. Dog gates are not standard pieces of highway furniture.

If a dog gate is located on a Public Right of Way, then in the majority of cases, it will have been installed at the discretion of the landowner. The dog gate is effectively permissive access through that particular boundary for dogs. If the landowner chooses to remove or permanently close that dog gate, possibly due to experiencing issues with livestock worrying or dog fouling, then there is little we can do to have that dog gate reinstated.

The exception to this would be if the presence of the dog gate is legally recorded in the Definitive Statement entry for that highway.

