



# **Gates and Barriers**

## British Horse Society Guidance

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## **Gates and Barriers**

Gates on Bridleways, Restricted Byways, BOATs & Unclassified Roads. Age & Disability Problems, and a Pragmatic Approach to Management.

## Abbreviations

CA 1968: Countryside Act 1968

CRoWA 2000: Countryside and Rights of Way Act 2000

CTA 1984: Cycle Tracks Act 1984

DA 2015: Deregulation Act 2015

EA 2010: Equality Act 2010

HA 1555: Highways Act 1555

HA 1835: Highways Act 1835

HA 1980: Highways Act 1980

NCPA 1949: National Parks and Access to the Countryside Act 1949

NERCA 2006: Natural Environment and Rural Communities Act 2006

RTA 1988: Road Traffic Act 1988

WCA 1981: Wildlife and Countryside Act 1981

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## Overview

1. This paper looks at the rules and practice for the placing and maintenance of gates on minor highways used by horse riders and carriage drivers, with particular consideration of people with disabilities<sup>1</sup> and how they can be badly disadvantaged, or excluded altogether. Age generally brings some disability, making continued enjoyment of riding difficult or impossible. Disability and age cannot be cured by making mountains flat, but a difficult gate catch can be addressed by fixing the catch, or removing an unnecessary gate.
2. Gates for stock control are essential in places, but are often left as an unnecessary legacy in others. Some necessary gates cannot be lawfully authorised, but equestrians will mostly just live with these as long as they are easy to operate.<sup>2</sup>

## Gates: lawful and unlawful

3. Many problem gates are unlawfully placed, or have an unlawful element in their operation. The public should not be expected to suffer as a consequence.
4. A gate on a public highway (of any traffic status) is an unlawful obstruction unless made lawful for the time being,<sup>3</sup> or from a lawful origin.<sup>4</sup>
5. Gates that are 'lawful limitations' must have been present on the date of dedication of the highway.<sup>5</sup> For 'ancient highways' this is hard to establish, as the date of origin is before 1836.<sup>6</sup> Any gate having been mapped by the Ordnance Survey in the earliest large-scale maps (say 1865–1895) will generally be accepted as long-existing, but that is not a

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<sup>1</sup> In the context of horse riding, the disabilities that adversely affect are mainly restricted mobility, loss of strength and dexterity, and poor balance.

<sup>2</sup> A gate, particularly at a junction with a motor road, is generally a greater problem for a carriage driver than for a horse rider.

<sup>3</sup> For example, by a traffic order, or by statutory authorisation for stock control.

<sup>4</sup> Typically as a 'limitation', that is having been present at the date of dedication. If a bridleway is lawfully diverted then the order can specify a limitation gate(s) in the new alignment.

<sup>5</sup> This came up again, in passing, in Salaman v. SoS for EFRA & Surrey Co Co [2021] EWCA Civ 1099.

<sup>6</sup> Per Lord Denning's definition of 'ancient highway' in R v. Secretary of State for the Environment ex p Hood [1975] 1 QB (CA) 891.

rule of law. Such a gate can still be an unlawful, and actionable, obstruction if it is not sufficiently easy to operate.<sup>7</sup>

## **Width of gates**

1. As regards the width of gates, s.145 of HA 1980 provides,
  - (1) Where there is a gate of less than the minimum width across so much of a highway as consists of a carriageway, or across a highway that is a bridleway, the highway authority for the highway may by notice to the owner of the gate require him to enlarge the gate to that width or remove it.

In this subsection “the minimum width” means, in relation to a gate across so much of a highway as consists of a carriageway, 10 feet and, in relation to a gate across a bridleway, 5 feet, measured in either case between the posts of the gate.
  - (2) If a person on whom a notice under subsection (1) above is served fails to comply, within 21 days from the date of service of the notice on him, with a requirement of the notice, he is guilty of an offence and liable to a fine not exceeding 50p for each day during which the failure continues.
2. While the prospect of a ten-shillings-a-day fine might not focus the mind of offenders, a gate in breach of s.145 might now anyway engage the prospect of action under s.130A of HA 1980.

## **Highway authority powers to make gates good enough**

1. For ‘public paths’, that is footpaths and bridleways, and also for restricted byways,<sup>8</sup> s.146 of HA 1980 provides,
  - (1) Any stile, gate or other similar structure across a footpath, bridleway or restricted byway shall be maintained by the owner of the land in a safe condition, and to the standard of repair required to prevent unreasonable interference with the rights of the persons using<sup>9</sup> the footpath, bridleway or restricted byway.
  - (2) If it appears to the appropriate authority that the duty imposed by subsection (1) above is not being complied with, they may, after

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<sup>7</sup> Potentially s.146 and s.130A Highways Act 1980.

<sup>8</sup> S.146 was extended to include restricted byways ‘converted’ from RUPPs by CRoWA 2000, but now catches all restricted byways.

<sup>9</sup> This provision in 1980 was probably not made in contemplation of the rights and expectations of people with ‘protected characteristics’ in the Equality Act thirty years later. But ‘unreasonable interference’ must now be measured in the context of disability?

giving to the owner and occupier not less than 14 days' notice of their intention, take all necessary steps for repairing and making good the stile, gate or other works.<sup>10</sup>

(3) The appropriate authority may recover from the owner of the land the amount of any expenses reasonably incurred by the authority in and in connection with the exercise of their powers under subsection (2) above, or such part of those expenses as the authority think fit.

(4) The appropriate authority shall contribute not less than a quarter of any expenses shown to their satisfaction to have been reasonably incurred in compliance with subsection (1) above, and may make further contributions of such amount in each case as, having regard to all the circumstances, they consider reasonable.

(5) Subsection (1) above does not apply to any structure –

(a) if any conditions for the maintenance of the structure are for the time being in force under section 147 below,

(aa) if any conditions for the maintenance of the structure imposed by virtue of subsection (4) of section 147ZA below are for the time being in force under that section, or

(b) if and so long as, under an agreement in writing with any other person, there is a liability to maintain the structure on the part of the appropriate authority or, where the appropriate authority are a non-metropolitan district council, on the part of either the appropriate authority or the highway authority.

2. S.147ZA is for “Agreements relating to improvements for benefit of persons with mobility problems” and was inserted in 2006. The provisions of EA 2010, over-and-above ‘persons with mobility problems’, will apply to the exercise of authority powers and duties in the provisions above.

## **Gates and stiles for stock control**

1. For ‘public paths’<sup>11</sup> only, the highway authority may authorise a structure for the retention of stock under the powers as set out in s.147 of HA 1980. This power does not extend to carriageway highways.<sup>12</sup>

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<sup>10</sup> So subsection 1, where not complied with, engages a discretion for the highway authority to intervene, and the exercise of that discretion itself engages ‘make reasonable adjustments’ in the Equality Act 2010.

<sup>11</sup> That is footpaths and bridleways.

<sup>12</sup> Restricted byways, BOATs, unclassified roads.

2. DA 2015, s.24(3) provides that s.147 will be extended to include restricted byways and BOATs, but this provision has not been commenced.<sup>13</sup>
3. S147 Power to authorise erection of stiles etc. on footpath or bridleway, provides,

(1) The following provisions of this section apply where the owner, lessee or occupier of agricultural land, or of land which is being brought into use for agriculture, represents to a competent authority, as respects a footpath or bridleway that crosses the land, that for securing that the use, or any particular use, of the land for agriculture shall be efficiently carried on, it is expedient that stiles, gates or other works for preventing the ingress or egress of animals should be erected on the path or way.

For the purposes of this section the following are competent authorities –

(a) in the case of a footpath or bridleway which is for the time being maintained by a non-metropolitan district council by virtue of section 42 or 50 above, that council and also the highway authority, and

(b) in the case of any other footpath or bridleway, the highway authority.

(2) Where such a representation is made the authority to whom it is made may, subject to such conditions as they may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public, authorise the erection of the stiles, gates or other works.

(2A) In exercising their powers under subsection (2) above a competent authority shall have regard to the needs of persons with mobility problems.<sup>14</sup>

(2B) The Secretary of State may issue guidance to competent authorities as to matters to be taken into account for the purposes of subsection (2) above; and in exercising their powers under subsection (2) above competent authorities shall have regard to any such guidance issued to them.<sup>15</sup>

(3) Where an authorisation in respect of a footpath or bridleway is granted under this section the public right of way is to be deemed to be subject to a condition that the stiles, gates or works may be

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<sup>13</sup> As at the issue date of this paper.

<sup>14</sup> In exercising powers under s.2, an authority must also have regard to the provisions of the Equality Act 2010.

<sup>15</sup> The Secretary of State has issued guidance. See Legislation and government guidance, below.

erected and maintained in accordance with the authorisation and so long as the conditions attached to it are complied with.

(4) For the purposes of section 143 above, any stile, gate or works erected in pursuance of an authorisation under this section is to be deemed to be erected under this section only if the provisions of the authorisation and any conditions attached to it are complied with.

(5) In this section references to agricultural land and to land being brought into use for agriculture include references to land used or, as the case may be, land being brought into use, for forestry or for the breeding or keeping of horses.

(6) Nothing in this section prejudices any limitation or condition having effect apart from this section.

4. 'Other works' in subsection (1) above can include a cattle grid and bypass gate arrangement, but only where the public path is of a lawful width sufficient to contain the whole structure. The public cannot be obliged to go off the highway to use a bypass alongside.<sup>16</sup>

## What is 'disability'?

1. Two typical dictionary definitions are:
  - "A physical or mental condition that limits a person's movements, senses, or activities."
  - "A disadvantage or handicap, especially one imposed or recognised by the law."
2. So, is age a disability, or just a stage of life that can, and usually does, bring with it disability? To a degree that does not matter now, because EA 2010 recognises both age and disability as 'protected characteristics', and engages the 'Duty to make adjustments', at least insofar as a disabled person is at a 'substantial disadvantage'.  
"Substantial' means more than minor or trivial".<sup>17</sup>
3. EA 2010 and associated government guidance has operated to change attitudes within highway authorities – at least as regards umbrella policies, if not always for individual cases on the ground – and authorities will generally engage British Standard BS5709:2018 *Gaps, gates and stiles – Specification* (or their own equivalent) when statutorily authorising a lawful barrier<sup>18</sup> against unfettered passage. Thus the rights

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<sup>16</sup> See Kind v. Northumberland County Council [2013] 1 WLR 743

<sup>17</sup> S.212(1) General Interpretation.

<sup>18</sup> Authorities cannot lawfully authorise an unlawful gate or stile. But some still try to. An invalid authorisation does not operate to make lawful that which is not. Herrick v. Kidner [2010] EWHC 269 (Admin).

of way environment is better than before going forward, but there are many legacy problems undoing otherwise good works. For example, a two-mile bridleway has thirteen gates across.<sup>19</sup> Of these, three have good horserider-friendly catches, and swing easily. The others range from so-so, to hard to operate. How does the law, and how should the highway authority, view these? It is this legacy of bad gates and stiles that blights the enjoyment of older people.

4. As people get older, even if they are not carrying a particular physical disability, age generally significantly reduces their physical strength, dexterity, stability and ability to lift dead weight. People of smaller build or strength than average are also disadvantaged.<sup>20</sup>

## **Equality legislation and government guidance**

1. For public paths, the Secretary of State has published Rights of Way Circular (1/09) Guidance for Local Authorities Version 2 October 2009. If s.24 of DA 2015 is commenced, then there would be updated guidance, not least because restricted byways and BOATs are so designated and recorded for the benefit of the public for recreational purposes. Circular 1/09 provides:

6.7 Stiles, gates and other structures on a public right of way are unlawful obstructions on a public right of way unless they are recorded on the definitive statement as a limitation or it can be shown that the way was dedicated with such a structure despite not being recorded on the definitive statement (i.e. the statement requires updating) or have been authorised by the highway authority under section 147 of the 1980 Act. Authorisation to install a structure may only be granted in relation to footpaths or bridleways (but not restricted byways or byways open to all traffic) where the owner or occupier of agricultural land, or land being brought into such use, makes an application showing that the structures are necessary for preventing the ingress or egress of animals.

6.8 The requirements of the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005)<sup>21</sup> will be particularly relevant in specifying limitations or authorised structures. In authorising a structure, section 147 of the 1980 Act requires the authority to have regard to the needs of persons with mobility

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<sup>19</sup> This is an actual situation: Bridleway 401/015 Belsay, Northumberland.

<sup>20</sup> This raises the issue of horse riders, as more riders are female than male. Facing with a hard-to-open gate, while holding and controlling a horse, can amount to a total, or near-total obstruction. Sue Hogg, of the South Pennines Packhorse Trails Trust, once commented, 'bridleways are a feminist issue'.

<sup>21</sup> Now the Equality Act 2010, but the underpinning principles remain the same.

problems. Whilst there are no mandatory standards laid down for structures which, if met, will satisfy the requirements of the Disability Discrimination Acts, the British Standards Institute has developed a comprehensive standard, the current version of which has been published as BS5709:2006.<sup>22</sup> The Pittecroft Trust has produced an explanatory document to describe BS5709:2006. Authorities may develop their own comprehensive standards for the purpose of meeting the requirements of the Acts.<sup>23</sup>

6.9 Unless a way is dedicated with a limitation of a gate, restricted byways and byways open to all traffic may not have such a structure placed across them.

6.10 Under section 146(1) of the 1980 Act, landowners are responsible for maintaining gates, stiles and similar structures across footpaths, bridleways or restricted byways, whether or not they are shown on the definitive map. Authorities must contribute not less than a quarter of the expenses reasonably incurred by landowners in doing so. Where it appears to an authority that the landowner is not complying with his statutory duty, the authority may give notice to the landowner of their intention to take the necessary steps for repairing and making good the stile, gate or other works. The authority may recover the expenses reasonably incurred on doing so from the landowner.

6.11 Under the provisions of section 147ZA of the 1980 Act a highway authority may enter into an agreement with a landowner, lessee or occupier for the replacement or improvement of a structure which will make the structure safer or more convenient for members of the public with mobility problems. The agreement may include any temporary or permanent conditions that the authority thinks fit.

6.15 Under section 130(1) of the 1980 Act highway authorities are under a duty to assert and protect the rights of the public to use and enjoy those public rights of way for which they are responsible. They are also under a duty under section 130(3) of the 1980 Act to prevent, as far as possible, the stopping up or obstruction of those public rights of way for which they are responsible.

2. British Standard 5709:2018 deals at length with the ease of operation of lawful gates. At 6.3.1 Note 1, "A field gate (farm gate) may be used as a

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<sup>22</sup> The BSI has updated this standard to BS5709:2018. As regards 'least restrictive option' and, particularly, gate catches and ease of swing, there is no major change, but operating forces look to have decreased.

<sup>23</sup> Northumberland County Council did make its own standard in 2009, but this seems not to be available now on the council's website.

pedestrian or bridle gate if it conforms to this British Standard, but 6.3.14 should be taken into account”.

3. 6.3.14 “Heavy gates” provides, “For hinged gates individually weighing more than 80kg, the failure of any single hinge fitting shall not result in the gate falling down. A force of 800N applied vertically at the latch end shall not ground the gate.”<sup>24</sup>
4. The Foreword of BS5709:2018 sets out clearly the rationale behind the specifications.

Walking, cycling and riding have continued to increase since the first edition of this British Standard was published in 1979. Recent thinking and legislation have focused on the need for less-able-bodied and disabled people to be able to access the countryside. This revision notes the requirements of the Equality Act 2010 and the safety of path users, taking account of the needs of land management. The experience gathered from the many years of use of this British Standard has been applied to clarify meaning and wording throughout.

## Latches

1. BS5709:2018 provides for latches at 6.3.5,

Latches, including loop latches, on pedestrian and bridle gates shall only be fitted if needed and shall be visible and accessible.

Stockproof latches (which include a handle requiring an additional movement to release the latch and thereby reduce the accidental ingress and egress of animals) shall be used in any situation where they are required for land management purposes.

Latches shall be smoothly and easily operable with one hand from both sides of the gate by all path users, including mounted horse riders. These latches shall also be operable by a stick, by persons in mobility scooters.

NOTE 1 See 4.3, which specifies the situations where structures preventing the movement of animals are required.

NOTE 2 Many users of mobility scooters cannot get off their scooter to open gates but want to be able to go out without more-mobile helpers. If the latch is operable by a stick it can be lifted and the scooter driven slowly forwards against the gate until the user can

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<sup>24</sup> 800 Newtons is near enough 82 kilogram (force). 82 kg is 181 pounds, or close to 13 stone. The authors of BS5709 seem to have envisaged a simple test of an average male (from Office for National Statistics figures) putting his weight on the latch end.

reach the gate to open it fully. The gate can then self-close or be pushed shut.

... Shutting the gate shall automatically fasten the latch except where a throw-over loop is used. The force needed to operate a latch by grasping with the hand shall not in any event exceed 30N (representing approximately 3kg on a spring balance scale) and the force needed to operate a latch operated by finger tips shall not exceed 10N (representing approximately 1 kg on a spring balance).

2. Opening force. At 6.3.6,  
Pedestrian and bridle gates shall swing freely and a force not greater than 18N shall be needed to open them fully in the absence of wind forces.<sup>25</sup>
3. Circular 1/09 also addresses disability issues:  
1.3 At all points in the delivery of the rights of way service within the area for which they are responsible, authorities should be aware of the obligations placed upon them by the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005).<sup>26</sup>  
6.8 The requirements of the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005) will be particularly relevant in specifying limitations or authorised structures.
4. The Secretary of State has also issued 'Authorising structures (gaps, gates & stiles) on rights of way. Good practice guidance for local authorities on compliance with the Equality Act 2010. Version 1 October 2010'. This guidance sets out the duties imposed on a highway authority, and on landowners, and says that there must be a balance between the needs of the public and of landowners. But that cannot make lawful what is anyway unlawful.  
B.1 The DDA, comprising the 1995 Act as amended by the 2005 Act has now been repealed and its provisions broadly replicated in the Equality Act 2010. There are numerous references to 'the public' or 'persons' in rights of way legislation; these terms will encompass those members of the public with a disability and the Equality Act therefore applies to all public rights of way. Section 146(1) of the Highways Act 1980 for instance requires a landowner to maintain a gate or stile to a standard that prevents unreasonable interference with the rights of the persons using the way.  
B.8 The Equality Act 2010 requires (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to

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<sup>25</sup> Eighteen Newtons is near enough 4lbs or 1.8kg. A field gate would have a higher swing-weight, but could not drag on the ground.

<sup>26</sup> Now the Equality Act 2010, but the principle remains the same.

ensure that a disabled person is not put at a substantial disadvantage in comparison with persons who are not disabled. But the Equality Act goes further than just requiring that a public authority does not discriminate against disabled persons. Section 149 imposes a duty, known as the 'public sector equality duty', on the public bodies (listed in Schedule 19 to the Act) to have due regard to three specified matters when exercising their functions.

5. The first two of these three specified matters are clearly relevant to ease of operation of gates:
  - (1)(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (1)(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
6. And in s.149(3),

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to –

  - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
7. Returning to the 2010 guidance:

B.11 The Equality Act applies to a highway authority's provision of public rights of way services.

B.13 The Equality Act will have an impact in a number of areas of rights of way work:

the presence and character of structures such as gates and stiles on the ways.
8. The Cycling Minister said, "Cycling is a vital and easy way to improve air quality, reduce pollution and create vibrant towns and cities ... Ensuring people of all abilities and fitness levels can cycle together is a key part of this. I want everyone to feel empowered to make cycling a part of their everyday lives, and our refreshed guidance provides many incentives to help people do this."<sup>27</sup>
9. The electrically assisted pedal cycle allows older and less-able people to use byways and unclassified roads, where they will be adversely affected by bad gates.

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<sup>27</sup> In an announcement about the revised 'Cycle to Work Scheme' on 9 June 2019, now including electrically assisted pedal cycles.

## Organisations subject to provisions in the Equality Act 2010

1. These include: public bodies<sup>28</sup> (highway authorities, traffic authorities, national park authorities etc.), public services (for the maintenance and management of rights of way) and businesses (where these touch on the interests of the public).
2. Probably more relevant to widespread gate problems is the vulnerability of farm businesses to the equality statutory duties. Consider again s.146 of HA 1980, which provides,
  - (1) Any stile, gate or other similar structure across a footpath, bridleway or restricted byway shall be maintained by the owner of the land in a safe condition, and to the standard of repair required to prevent unreasonable interference with the rights of the persons using the footpath, bridleway or restricted byway.
3. EA 2010 imposes on businesses a duty of equality as regards (for example) age-related issues. It is hard to see that a gate, or stile, that makes passage difficult for persons falling into the age characteristic, is not an 'unreasonable interference'. In that situation the highway authority has a power to intervene:
  - (1) If it appears to the appropriate authority that the duty imposed by subsection (1) above is not being complied with, they may, after giving to the owner and occupier not less than 14 days' notice of their intention, take all necessary steps for repairing and making good the stile, gate or other works.
4. In exercising that power, the highway authority must consider its own duty under EA 2010, and also the duty of the business responsible for the gate or stile.

## The general equality duty

1. In *The Essential Guide to the Public Sector Equality Duty* from the Equality and Human Rights Commission (the document does not have paragraph numbers),

The broad purpose of the general equality duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities. It is an integral part of the mechanisms for fulfilling the requirements of the Equality Act 2010. If a public authority does not consider how a function can affect different groups in different ways, the function may not meet its own objectives.

The general equality duty therefore requires organisations to consider how they could positively contribute to the advancement of equality

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<sup>28</sup> As set out in the Equality Act 2010, s.149 Public sector equality duty.

and good relations. It requires equality to be considered in decision-making, in the design of policies and in the delivery of services, including internal policies, and for these issues to be kept under review [my emphasis]

A public authority must consciously think about the need to do the things set out in the general equality duty as an integral part of the decision-making process. Having due regard is not a matter of box ticking. The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision. There should be evidence of a structured attempt to focus on the details of equality issues.

Although a public authority is not legally required to keep records of its consideration of the aims of the general equality duty in making decisions, it is good practice to do so and it encourages transparency. If it is challenged it will be difficult to demonstrate that it has had due regard to the aims of the general equality duty if records are not kept.

The general equality duty applies to the exercise of all public functions. The duty applies to all of the decisions made in the course of exercising public functions, not just to policy development and high-level decision-making. To ensure compliance with the duty at all levels of decision-making, including in an individual case, there must be arrangements to integrate it properly into the day-to-day activities of those bodies to which it applies.

2. In EA 2010, s.4 sets out 'protected characteristics', which include 'age, disability, sex'. Simply, gates which are hard to operate (catches, swing), or should not be there anyway,<sup>29</sup> operate directly against the interests of 'protected characteristics' in the scope of the Act.

## **Cattle grids: an option for byways**

1. Restricted byways and BOATs are 'carriageways' as defined in HA1980 s.329(1):  
'carriageway' means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;
2. S.82 Provision of cattle-grids and by-passes provides,  
(1) Where, whether on the representations of owners or occupiers of agricultural land or otherwise, and after such consultation with any such owners and occupiers as the highway authority consider requisite, it appears to the highway authority for a highway which

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<sup>29</sup> For example, requiring a horse rider with disability to dismount and mount.

consists of or comprises a carriageway expedient so to do for controlling the passage of animals along the highway, the authority may, subject to the provisions of this section and sections 83 to 90 below, provide for the highway, and maintain, a cattle-grid in the highway or partly in the highway and partly in adjoining land.

3. Thus, where an occupier of agricultural land wants a gate on restricted byway, BOAT or unclassified road, and the highway authority has no power to authorise such under s.147, it is open to the authority to provide a cattle grid and bypass gate.<sup>30</sup>
4. Given that the only public carriages that can physically use a cattle grid on a restricted byway are pedal cycles, nothing in the Act appears to prevent the provision of a grid narrower than it needs to be for public motors. In s.86(6) (our emphasis) “‘cattle-grid’ means a device designed to prevent the passage of animals, or animals of any particular description, but to allow the passage of all or some other traffic ...”

### **A pragmatic approach**

1. Apart from the issue of horse riders having to frequently dismount and mount to pass through gates, the issue with the widest negative impact is ease of operation.
2. Most people, faced with a field gate on a byway or minor road, would have no idea from looking whether it is lawful or unlawful, and mostly would not worry. What they would be concerned about is the ease of operation of the gate, particularly if handling a horse or pedal cycle.
3. Horse riders in particular would appreciate BS5709:2018 good-standard catches operable from horseback. These catches also work well for users of mobility scooters.
4. The public understands the need for gates in everyday farming practice, but not to ‘privatise’ public roads, and thereby deter use, or make users nervous or fearful.
5. A highway authority cannot authorise gates on byways and unclassified roads, but they can, and sometimes must, take steps to remove unlawful gates.
6. Experience suggests that where a complaint is made about a gate that is necessary for stock control but bad to operate, that gate being made good is generally sufficient to satisfy the complainant, who will not pursue the matter further.

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<sup>30</sup> There is a process of notifications required first.

7. The maintenance of byway field gates to BS5709:2018<sup>31</sup> will, in general, keep everybody happy: the farmer keeps the gates, and the public does not find them to be a problem to use.

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<sup>31</sup> And give more thought to the provision of mounting blocks.