

POLICY

Adopted 27 November 2015

EQUALITY ACT 2010 - GAPS, GATES AND STILES ON PUBLIC RIGHTS OF WAY AND OPEN ACCESS LAND

Background

- 1 Highway, Planning and Access Authorities have obligations under the Equality Act 2010; these relate to anyone who has a physical or mental impairment that has a substantial and long-term effect on his or her ability to carry out normal day-to-day activities. Such impairments include mobility difficulty, poor sight, learning difficulties, manual dexterity etc, and such activities include walking.
- 2 Specifically, Highway, Planning and Access Authorities are required that in carrying out their functions, they must make reasonable adjustments to ensure that it is not impossible or unreasonably difficult for people with disabilities to benefit from those functions as others would do, or they must show that there are good reasons for not so doing. They must also advance equality of opportunity even if it means treating some people more favourably than others.
- 3 For the less-mobile, the difficulties caused by gates and stiles can be a significant deterrent to using public rights of way, so that such people are unable to gain the benefits of enjoyment and improved health and well-being which are available to more mobile people. This also applies to other users such as carers with young children in push chairs.
- 4 One of the functions of Highway Authorities is to assert and protect the right of the public to use and enjoy highways. The Equality Act 2010 applies to this function.
- 5 Structures may be legally installed on rights of way to control the movement of stock, to safeguard people using the way, at locations where the public accepted the presence of a structure on the way when the way was dedicated to the public (i.e. a historic limitation to the public's right to use the way), or if a creation agreement or order specifies the installation of a structure. Structures may also be installed to enforce a Public Spaces Protection Order or a Traffic Regulation Order.
- 6 Such structures include stiles, gates, bollards, rails, chicanes and cattle-grids.
- 7 If a landowner wishes to install a new fence across a right of way to control the movement of animals, the installation of a structure to allow people to continue to pass along the path must be authorised by the Highway Authority. Defra guidance to Authorities is that if a structure is essential, it should be the least restrictive to users of the way that is consistent with the landowner's requirements.
- 8 When the installation of a structure is included in an agreement or order, or is authorised by the Authority, its standard should be specified. This can be a British Standard, including the version of this standard e.g. BS 5709:2006, or a locally adopted standard, e.g. one which complies with the Equality Act 2010 provisions and has been agreed by users and landowners and included in a Rights of Way Improvement Plan or other official document. It should be noted that the British Standard specifies the performance requirements of structures to meet the standards. Illustrations of conforming structures are given only as examples.

- 9 The installation of structures to enable access for walkers to designated open access land is less prescribed, but the provisions of the Equality Act 2010 apply to all the functions of all local authorities.

Society policy

- 10 **The Society will oppose any action of an Authority which does not comply with its Equality Act 2010 obligations and Defra advice. Specifically:**
- **objections will be made to creation and diversion orders which specify the installation of a structure on the new route which is not the least restrictive option; stiles are only acceptable if the order-making authority documents a compelling reason for their use; gates are only acceptable if they are necessary for stock control or for the safety of users, otherwise there should be gaps**
 - **objections will be made to creation and diversion orders which do not specify the standard of a structure.**
- 11 The replacement of existing stiles with gates to BS 5709:2006 or a locally adopted standard will be supported and encouraged, except where this is unreasonable. Circumstances where it might be unreasonable include when:
- a stile is of great historical or aesthetic significance
 - none of the remainder of the path is accessible to walkers with impairments on account of its gradient, surface or width, and this could not reasonably be improved
 - the genuine operational needs of landowners preclude installation of a gate.
- The fact that there may be other stiles on the path is not on its own sufficient reason for one stile not to be replaced by a gate.
- 12 The Society may contribute to the expense of replacing a stile on a public right of way with a gate if this is considered to be furthering its constitutional object "erecting commemorative structures". The Society will not itself buy, own, install or maintain any gate; it will only donate funds to the highway or other authority for use for this purpose. The authority will be required to enter into an agreement with the landowner to specify such matters as the standard, design, location and maintenance of the gate.
- 13 Authorities may be asked to demonstrate that they have considered their obligations under the Equality Act 2010 in judgements which they have made concerning the installation of structures on public rights of way.
- 14 Highway Authorities will be asked if they have followed Defra guidance to publish a policy for meeting the requirements of the Equality Act 2010 in relation to public rights of way, in particular as to how they will deal with structures. If they have not, they will be asked for their reasons for not doing so and encouraged to adopt such a policy; further action will be taken as appropriate.
- 15 Highway Authorities will be encouraged to comply with s320 Highways Act 1980 and to follow Defra guidance to specify clearly and to document any authorisation which they give for the installation of a structure on a public right of way. This authorisation should include provisions for the modification of the structure if and when the need for it has changed, including removal if the need for the structure has ceased. If necessary, a copy of this authorisation will be requested.

- 16 If members of the Society become aware of a structure allowing access on to or within open access land which does not meet BS 5709:2006, or an adopted local standard, the relevant Access Authority may be asked to justify its approval of the installation of the structure.

References

Equality Act 2010

Highways Act 1980

Authorising structures (gaps, gates and stiles) on rights of way, Version 1 2010, Defra

"Smarter Guidance" Access and equality for disabled users, August 2015, Defra

Understanding the Defra guidance on Public Path Structures, Version 3e, 2012, The Pittecroft Trust

Understanding the British Standard for Gaps Gates and Stiles BS 5709:2006 explained, 2007, The Pittecroft Trust

Miles without Stiles, Lake District National Park Authority (Routes suitable for people with limited mobility), <http://www.lakedistrict.gov.uk/visiting/thingstodo/walking/mileswithoutstiles>