

Policy on Making, Variation and Revoking of Gating Orders

1. The Council shall adopt the provisions of the Clean Neighbourhoods and Environment Act 2005 relating to Gating Orders.
2. The authority to make, vary or revoke a Gating Order is delegated to the Executive Member for Communities.
3. Details pertaining to the making, varying or revoking of Gating Orders, including consultation, notification and addressing objections are contained within The Highways Act 1980 (Gating Orders) (England) Regulations 2006. Agreed procedures will be followed in the making, variation or revoking of gating orders. Procedures will be in accordance with statutory guidance issued by Government and have regard to any non-statutory guidance.
4. The use of a gating order will only be considered in the following circumstances:
 - i) on public highways where it can be shown that persistent crime and/or serious anti-social behaviour is occurring and is expressly facilitated by the use of the public highway;
 - ii) in locations where local residents and Safer South Gloucestershire have been consulted and both support a highway closure to deter persistent crime and/or serious anti-social behaviour.
 - iii) where residents and members of the public who use the relevant highway would not be inappropriately inconvenienced by its gating, and a suitable alternative access route exists.
 - iv) when alternative solutions for tackling the specific problems being experienced have been fully investigated or tried.
 - v) suitable arrangements can be made for the opening and closing of the gates.
5. Third parties may fund the provision and full maintenance costs of gates that meet policy conditions.
6. Gating Orders will be reviewed at least once a year to ensure they are still appropriate, and varied or revoked as appropriate.
7. Highway subject to a Gating Order retains its status as Highway land, and the Council has responsibility for its maintenance.

Procedure on Making, Variation and Revoking of Gating Orders

Procedure for Making a Gating Order

The Department or external agency leading the request for the Gating Order will be responsible for carrying out all the consultation, administration and meeting all costs associated with the Gating Order.

Informal consultation must take place with the Council's Street Care, Highways and Public Rights of Way teams in advance of the formal consultation so advice can be sought on the most practical method of restricting access and any rights of way issues that will need to be addressed.

Applications for Gating Orders should be forwarded to the Head of Street Care. Applications must contain:

1. A supporting statement from Safer South Gloucestershire confirming exceptionally high levels of crime or anti-social behaviour. This should contain evidence in the form of police crime data or other formal reporting, such as fly tipping reports, or anti-social behaviour log sheets.
2. A statement explaining why the Gating Order is required, identifying what other options have been explored, and providing a clear link between the highway and the criminal/anti-social behaviour.
3. Confirmation that the consultation process has been carried out in accordance with the requirements of the Regulations and Home Office Guidance. The Regulations are included at the end of this document. The Council's Highways and Public Rights of Way teams must also be consulted.
4. Confirmation that a Notice has been displayed on or adjacent to the affected highway (at least at each end), included in the local press, and available on the Council's website.
5. A summary of the consultation responses, explaining what action has been taken in response to any objections.

The Head of Street Care will review the application and make recommendations to the Executive Member as to whether the Gating Order is appropriate.

The Gating Order must contain the following:

- A statement that the conditions set out in Section 129(A) of the Highways Act have been met
- The periods, dates and times that the public right of way along the relevant highway shall be restricted
- Details of any persons excluded from the restrictions
- Details of alternative routes for pedestrians and vehicles during the period of the restrictions
- The contact details of the person(s) responsible for maintaining and operating any barrier authorised by the Gating Order.

If the Gating Order is made, the applicant will then be responsible for:

- Liaising with the Street Care Highways team to arrange for the gate/barrier to be installed together with any alterations to the highway or highway infrastructure necessitated by the order.
- Ensuring that keys are issued to emergency services and other people requiring access
- Arranging for copies of the order to be displayed at least at each end of the affected highway
- Ensuring that the condition of the gate is inspected on a regular basis and arranging for any repairs.
- Reviewing the effectiveness of the Gating Order on addressing crime or anti-social behaviour within 12 months of the Order being made.

Procedure For Varying Gating Orders

If the Gating Order needs to be varied, a request should be made to the Head of Street Care. This should contain:

1. Details of the requested changes to be made
2. An explanation of why the changes are required
3. Confirmation that the consultation process has been carried out in accordance with the requirements of the Regulations and Home Office Guidance. The Council's Highways and Public Rights of Way teams must also be consulted.
4. Confirmation that a Notice advising of the proposed variation has been displayed on or adjacent to the affected highway (at least at each end), included in the local press, and available on the Council's website.

The Head of Street Care will review the application and make recommendations to the Executive Member as to whether the Gating Order should be varied.

If the Gating Order is varied, the applicant will then be responsible for:

- Liaising with the Street Care Highways team to arrange for the gate/barrier to be moved if appropriate
- Ensuring that any repairs or reinstatements are made to the highway
- Ensuring that keys are issued to emergency services and other people requiring access
- Arranging for copies of the order to be displayed at least at each end of the affected highway

Procedure for Revoking Gating Orders

If the Gating Order needs to be revoked, a request should be made to the Head of Street Care. This should contain:

1. An explanation of why the gating order is no longer needed
2. Confirmation that the consultation process has been carried out in accordance with the requirements of the Regulations and Home Office Guidance. The Council's Highways and Public Rights of Way teams must also be consulted.
3. Confirmation that a Notice advising of the proposed revocation has been displayed on or adjacent to the affected highway (at least at each end), included in the local press, and available on the Council's website.

The Head of Street Care will review the application and make recommendations to the Executive Member as to whether the Gating Order should be revoked.

If the Gating Order is revoked, the applicant will then be responsible for:

- Liaising with the Street Care Highways team to arrange for the gate/barrier to be removed, and any repairs and reinstatement necessary to the highway
- Collecting keys back from key holders
- Arranging for copies of the order to be displayed at least at each end of the affected highway

Public Registers

The Head of Street Care will maintain public registers of Gating Orders and any variations or amendments.

2006 No. 537

ENVIRONMENTAL PROTECTION, ENGLAND

The Highways Act 1980 (Gating Orders) (England) Regulations 2006

<i>Made</i>	<i>1st March 2006</i>
<i>Laid before Parliament</i>	<i>8th March 2006</i>
<i>Coming into force</i>	<i>1st April 2006</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred upon him by sections 129C, 129E and 129F of the Highways Act 1980^[1].

Citation, commencement and extent

1. —(1) These Regulations may be cited as the Highways Act 1980 (Gating Orders) (England) Regulations 2006 and shall come into force on 1st April 2006.

(2) These Regulations apply to England.

Interpretation

2. In this Order—

"the Act" means the Highways Act 1980;

"communications provider" has the meaning given by section 405 of the Communications Act 2003^[2];

"fire and rescue authority" means a fire and rescue authority under the Fire and Rescue Services Act 2004 ^[3];

"NHS trust or NHS foundation trust" means a National Health Service trust, Primary Care Trust or NHS foundation trust providing an emergency ambulance service;

"relevant highway" means the highway which is the subject of a gating order or a proposal for a gating order (as the case may be); and

"statutory undertaker" has the meaning given by section 98(6) of the Environmental Protection Act 1990^[4].

Publicity relating to a proposal for the making of a gating order

3. Before making a gating order under section 129A of the Act, a council shall—

(a) cause to be published on its website and in a newspaper circulating in its area a notice—

(i) identifying specifically or by description the relevant highway;

(ii) setting out the general effect of a gating order being made;

(iii) identifying alternative routes which would be available to pedestrians and vehicular traffic if the proposed order were to be made;

(iv) setting out a draft of the proposed order; and

(v) inviting written representations, within such period as is specified in the notice, being not less than 28 days, as to whether or not a gating order should be made;

(b) cause to be erected on or adjacent to the relevant highway such notices as it considers sufficient to draw to the attention of members of the public using that highway the effect of a gating order being made.

4. Copies of the notice referred to in regulation 3(a) shall be given by the council to—

- (a) all the occupiers of premises adjacent to or adjoining the relevant highway;
- (b) every council through whose area the relevant highway passes;
- (c) every chief officer of a police force through whose police area the relevant highway passes;
- (d) every fire and rescue authority through whose area the relevant highway passes;
- (e) every NHS trust or NHS foundation trust through whose area the relevant highway passes;
- (f) any local access forum through whose area the relevant highway passes;
- (g) any statutory undertaker who maintains services in the locality in which the relevant highway is situated;
- (h) any provider of gas, electricity or water services in the locality in which the relevant highway is situated;
- (i) any communications provider in the locality in which the relevant highway is situated;
- (j) any persons who the council reasonably considers might have an interest in the proposed gating order;
- (k) any person who requests a copy of the notice; and
- (l) any person who has asked to be notified of any proposed gating orders.

Representations as to the making of a gating order

5. A council shall consider any representations as to whether or not the proposed gating order should be made whether in response to a notice under regulation 3 or otherwise.

Public Inquiries relating to the making of a gating order

6. —(1) Subject to paragraph (2) the council may cause a public inquiry to be held in relation to a proposed gating order.

(2) The council shall cause a public inquiry to be held if—

- (a) the chief officer of a police force through whose police area the relevant highway passes;
- (b) a fire and rescue authority through whose area the relevant highway passes;

(c) a NHS trust or NHS foundation trust through whose area the relevant highway passes; or

(d) a council through whose area the relevant highway passes,

objects to the proposed gating order.

Making of a gating order

7. A council may not make a gating order before—

(a) a period of 28 days, beginning on the day the notice referred to in regulation 3 is published, has elapsed; or

(b) any public inquiry held under regulation 6 has been concluded.

Form and content etc. of gating orders

8. —(1) A gating order must contain—

(a) a statement that the conditions set out in section 129A(3) of the Act have been met;

(b) the dates and times that the public right of way along the relevant highway will be restricted;

(c) details of any persons who are excluded from the effects of the restriction referred to in paragraph (b);

(d) details of alternative routes which would be available to pedestrians and vehicular traffic during the period the relevant highway is restricted;

(e) contact details of the person who is responsible for maintaining and operating any barrier whose installation is authorised by the order.

(2) A council shall cause to be erected on or adjacent to the relevant highway such notices as it considers sufficient to draw to the attention of members of the public using that highway to—

(a) the fact that a gating order has been made; and

(b) the effect of the order.

Publicity relating to the variation and revocation of gating orders

9. Before varying or revoking a gating order under section 129F of the Act, the council shall—

(a) cause to be published on its website and in a newspaper circulating in its area a notice—

(i) identifying specifically or by description the relevant highway;

(ii) setting out the general effect of the proposed variation or revocation (as the case may be) of the gating order being made;

(iii) where a variation of the gating order is proposed, setting out a draft of the order

as it would be if the variation proposed was made; and

(iv) inviting representations as to whether or not the variation or revocation (as the case may be) should take effect;

(b) cause to be erected on or adjacent to the relevant highway such notices as it considers sufficient to draw the attention to members of the public using that highway to the effect of the proposed variation or revocation (as the case may be) taking effect.

10. Copies of the notice referred to in regulation 9(a) shall be given to—

- (a) all the occupiers of premises adjacent to or adjoining the relevant highway;
- (b) every council through whose area the relevant highway passes;
- (c) every chief officer of a police force through whose police area the relevant highway passes;
- (d) every fire and rescue authority through whose area the relevant highway passes;
- (e) every NHS trust or NHS foundation trust through whose area the relevant highway passes;
- (f) any local access forum through whose area the relevant highway passes;
- (g) any statutory undertaker who maintains services in the locality in which the relevant highway is located;
- (h) any provider of gas, electricity or water services in the locality in which the relevant highway is situated;
- (i) any communications provider in the locality in which the relevant highway is situated;
- (j) any persons who the council reasonably considers might have an interest in the proposed gating order;
- (k) any person who requests a copy of the notice; and
- (l) any person who has asked to be notified of any proposed gating orders.

Representations relating to the variation or revocation of a gating order

11. A council shall consider any representations as to whether or not a gating order should be varied or revoked (as the case may be) whether in response to a notice under regulation 9 or otherwise.

Public Inquiries relating to the variation or revocation of a gating order

12. —(1) Subject to paragraph (2) the council may cause a public inquiry to be held in relation to a proposed variation or revocation (as the case may be) of a gating order.

(2) A council shall hold a public inquiry if—

- (a) the chief officer of a police force through whose police area the relevant highway passes;
- (b) a fire and rescue authority through whose area the relevant highway passes;
- (c) a NHS trust or NHS foundation trust through whose area the relevant highway passes; or
- (d) a council through whose area the relevant highway passes,

objects to the proposed variation or revocation (as the case may be) of a gating order.

Variation or revocation of a gating order

13. A council may not vary or revoke (as the case may be) a gating order before—

- (a) a period of 28 days, beginning on the day the notice referred to in regulation 9 is published, has elapsed; or
- (b) any public inquiry held under regulation 12 has been concluded.

Procedure relating to public inquiries held under regulation 6 or 12

14. —(1) A public inquiry held under regulations 6 or 12 shall be conducted by an inspector appointed by the council.

(2) An inquiry shall begin not less than 42 days after the first publication of the notice given under regulation 3 or 9.

(3) A council shall—

- (a) publish at least once in a local newspaper circulating in the area in which the relevant highway is situated a notice containing the particulars specified in regulation 15;
- (b) give notice in writing containing the particulars specified in regulation 15 to each person who has made representations as to the making, variation or revocation (as the case may be) of a gating order; and
- (c) take such other steps as it may consider appropriate for ensuring that adequate publicity about the inquiry is given to persons likely to be affected by the provisions of the order to which it relates, and, without prejudice to the generality of this subparagraph, such other steps may include—
 - (i) the display of notices in roads or other places affected by the order;
 - (ii) the delivery of notices or letters to premises, or premises occupied by persons, appearing to the council to be likely to be affected by any provision in the order.

15. The particulars to be contained in the notice specified in regulation 14(3) are as follows—

- (a) the title of the gating order or proposed order;
- (b) the name of the council;

- (c) the identity specifically or by description of the relevant highway;
- (d) a statement which refers to the notice of proposals for the making, variation or revocation (as the case may be) of the gating order and which indicates that a public inquiry will be held in connection with the proposal;
- (e) a brief statement of the general nature and effect of the making, variation or revocation (as the case may be) of the gating order;
- (f) the date, time and place of the inquiry and the name of the inspector;
- (g) a statement that documents giving detailed particulars of the proposals for the making, variation or revocation (as the case may be) of the gating order are available for inspection and of the addresses at which those documents can be inspected and of the times when inspection can take place at each address;
- (h) the address to which any written representations for consideration by the inspector may be sent by any person wishing to make such representations; and
- (i) the time by which any written representations made under paragraph (i) or otherwise must be received.

16. —(1) Subject to paragraphs (2) to (4), the procedure at a public inquiry shall be determined by the inspector.

(2) Any person interested in the subject matter of the public inquiry may appear at the inquiry in person or by counsel, a solicitor or other representative.

(3) Any person so interested may, whether or not he proposes to appear at the inquiry, send written representations for the consideration of the inspector to the address given in the notice given under regulation 14(3)(a).

(4) The inspector may refuse to hear any person, or to consider any objection or representation, if he considers that the views of that person or the objection or representation are irrelevant or have already been adequately stated at the inquiry.

Register of gating orders

17. —(1) A copy of a gating order must be displayed for at least 12 months from the date of the order in a council office.

(2) The council must publish a gating order on its website.

(3) A council must keep a register of gating orders which is open to inspection during normal business hours and which must contain—

(a) copies of all notices of proposals for the making, variation or revocation (as the case may be) of gating orders; and

(b) copies of all gating orders made by the council.

(4) A council must supply a copy of a gating order to any person who requests a copy and pays a reasonable charge.

Hazel Blears, Minister of State, Home Office, 1st March 2006