

A landowners guide to gates, stiles and other structures on Public Footpaths and Bridleways

A landowners guide to gates, stiles and other structures on Public Footpaths and Bridleways

Gwynedd Council aims to have a network of public rights of way that are as free from barriers as possible and are easy to use by everyone.

In practice, there are places where structures such as gates or stiles are needed by owners of agricultural land to control livestock. You must have permission from Gwynedd Council to erect any type of structure on or across a public right of way.

This document explains the law relating to structures on public rights of way. It explains when you can be given permission for a structure, your responsibilities and those of the Council. There is also guidance on how to apply for a structure on a public footpath or bridleway on your land.

When are stiles and gates allowed on public rights of way?

A stile, gate or other barrier can only be erected on a public right of way if either:-

The Definitive Map and Statement has recorded the presence of a structure on the public right of way. The Council can check this for you.

OR

The structure has been authorised by Gwynedd Council or predecessor Council's using the powers of the Highways Act 1980 section 147.

If a structure is not recorded on the Definitive Map and Statement or it has not been authorised by the Council, then it is an unlawful obstruction.

There are times when the Council installs a barrier on a public footpath for the safety of the public users. This is justified through the Highways Act section 66 with the Council having substantial evidence that the public is at risk, including the support of the Community Council, the local police and actual physical evidence on the ground. The rights of private users also have to be taken into account.

Getting permission for a structures such as a gate or stile – the Highways Act Section 147

The Council can give you permission to erect a gate, stile or barrier, if you need to control livestock on agricultural land. Agricultural land includes land that is being brought into use for agriculture, nurseries, land used for grazing and for forestry. This also includes land for the breeding and keeping of horses.

You can only be given permission if the provisions of section 147 of the Highways Act can be met: namely, if it can be justified that the land crossed by the public footpath or bridleway is being used for agriculture, and that in order for this agriculture to be carried on efficiently, a structure is needed to control the ingress and egress of animals. For example, land used to graze sheep or commercial forestry plantations needing to keep deer and

rabbits out, would both meet the provisions of this section. If the land stops being used for agriculture and there is no longer any need to control livestock, then the structure should be removed.

The law does not allow structures to be erected on roads, Byways Open to all Traffic (BOATS) and Restricted Byways.

What type of structure?

The Council will give permission for structures that are easy to use for as many people as possible, balanced against the need for the structure to be stock-proof. The Countryside and Rights of Way Act also obliges the Council to consider the needs of disabled people when authorising structures. Simple self-closing pedestrian gates will be the first choice, followed by kissing gates then stiles.

Who is responsible for paying for stiles and gates?

As a stile or gate is usually erected for the benefit of the landowner, it is you, as applicant, who is responsible for providing the structure and looking after it.

For new structures, the applicant is responsible for the costs of the structure and installation. When there is an existing authorised structure, the Council will contribute 25% towards the reasonable costs of repair or replacement so long as this is agreed in advance with the appropriate Area Rights of Way Officer. In practice, this contribution is likely to be in kind by providing the materials, but this does not imply that the Council takes responsibility for the structure in future.

Who looks after the structure in the long term?

The landowner is responsible for looking after the structure and making sure that it is always safe and easy to use.

This is described in Section 146, Highways Act 1980, which places a duty on the owner/occupier 'to maintain the structure in a safe condition and to a standard required to prevent unreasonable interference with the rights of users.' As the structure is not part of the highway, the onus for liability is placed on the owner by the Occupiers Liability Act 1957.

If an owner refuses to repair a structure or the repair is unsatisfactory, then the law does give the Council power to do the necessary work and to charge the owner.

How to apply for authorisation

The first step is to contact the relevant Senior Rights of Way Officer. He can send you an application pack*** and also discuss your application and circumstances with you. The application form includes a copy of the Conditions that will apply to any authorisation and any specific conditions that may apply to your case.

The completed application form should be returned to the Senior Rights of Way Officer.

If after consultation with the Community Council and user groups consent is granted, you will be sent a consent form to sign, with one copy to return to the Area Office and one for you to keep. You should then notify the Area Office when the structure has been completed and it will then be inspected. If it is satisfactory, then the authorisation becomes valid. If any of the conditions cease to be met, then the Council will require the structure to be removed.

An application will be refused if it does not meet the provisions of Section 147 Highways Act 1980. Each application will be assessed to determine the most suitable type of structure appropriate to the use of the land and the needs of the users of the path. There is no appeal against the Council's refusal to grant authorisation or its imposition of conditions.

