

Structures Policy: achieving least restrictive access on Central Bedfordshire's Rights of Way



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Structures Policy

Least Restrictive Access on Central Bedfordshire's Rights of Way

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Least Restrictive Access on Central Bedfordshire's Rights of Way

INTRODUCTION

Central Bedfordshire Council (as Highway Authority) is committed to making sure that as much of Central Bedfordshire's countryside and rights of way network is open and available for all.

There are over 1336 kilometres (835 miles) of Public Rights of Way in Central Bedfordshire, linking



towns and villages to the diverse countryside and landscape of the county. The Highway Authority is responsible for the management of this access network, which consists of 979 kilometres of Public Footpaths, 330 kilometres of Public Bridleways and 27 kilometres of Public Byway. There are also a number of promoted routes ranging from village walks to regional trails.

Public rights of way in Central Bedfordshire should be available for use and the 'natural' state is for paths to be free of structures such as gates and stiles.

Structures, in most cases, are not there to help the public - they are there to enable the land to be managed effectively and are, therefore, for the benefit of the landowner. However, we seek to work with landowners to ensure that a balance is struck between land management and providing access.

Central Bedfordshire's public rights of way network has many different examples of structures that have been installed over many years and vary in the quality of access that is available for people of all abilities.

This policy seeks to outline the legal framework concerning rights of way, but more particularly, details the changes in legislation which states that the public rights of way network should be available for all. This document became formal policy on 13th January 2009.

Review of policy – Unitary Transition.

It is anticipated that all current Highway Authority working policies will be carried forward into both the new Authorities and will be reviewed as appropriate.

This version of policy has had some cosmetic changes – i.e. changing the Authority's name and logo, but has not undergone a full policy review.

What are public rights of way?



Public Footpaths – for walkers only

It is a civil wrong to ride a bicycle or a horse on a footpath; action could be taken by the landowner for trespass or nuisance by the user.

Public Bridleways – for walkers, horse riders and pedal cyclists.

Restricted Byways – may be used by walkers, cyclists, horse riders and carriage drivers. Private vehicular rights may also exist.

Byways open to all traffic (BOATs) – routes are available for use by walkers, horse riders, pedal cyclists, motorcyclists, horse drawn carriages and motor vehicles.

Any vehicle using public byways must be licensed and insured, properly taxed and fit for use on public roads. In some areas use may be restricted by a traffic regulation order.

On rights of way you can:

- ⇒ Take a pram, pushchair or wheelchair, or mobility vehicle where possible
- ⇒ Take a dog on a lead or under close control
- ⇒ Admire the view, stop for a rest, have a small picnic on the verge (but not to obstruct the way for other users)
- ⇒ Take a short alternative route to get round an obstruction

Structures on Bridleways

The principles of this policy apply as equally to users on horseback as they do for pedestrian users, users with restricted mobility, mobility vehicles, etc. The principle of least restrictive access applies and the issues of overhanging vegetation and surface condition are particularly relevant. Where bridleway gates are to be erected they must be to British Standard, furthermore, should be 'two way' and be able to be opened and closed from horseback.

Our legal duty

As the 'Highway Authority', the Highway Authority has a legal duty 'to assert and protect' the public's right to use footpaths, bridleways and byways. Using the law to resolve disputes and to impose solutions is slow, costly and does not always help to achieve our broader aims. Whilst highway law will still form a basis for what we do, we wish to minimise disputes and avoid the need to impose legalistic solutions wherever possible. Rather than spending time and effort enforcing regulations, we want to be able to involve local people in shaping the network for the needs of the twenty first century. We want our work with the network to achieve a positive effect on the quality of life of residents and communities and to take account of all aspects of outdoor access. However, where there are flagrant breaches of the legislation and this policy – appropriate action will be taken.

Condition of the network

We are directly responsible for the condition of the network. Issues which directly affect public access are also our direct responsibility. These include use of motorised vehicles on byways, the safety of crossing roads, the installation of structures (such as gates and stiles) on public access, the quality of surfacing, and signing or 'waymarking'.

Least Restrictive Access

Recent legislation requires that rights of way provision for disabled people has to be considered equally with that of other visitors. The spirit of this policy is based on the principle of 'Least Restrictive Access' and requires that all structures erected on rights of way must meet the highest possible standards.

The principle of least restrictive access is that the improvements will benefit all users not only those with restricted mobility.

Country walking, cycling and riding is on the increase and the proportion of users with decreased



mobility is also increasing. These users range from parents with pushchairs, who are keen to take their young children out into the countryside, to people who may have mobility related disabilities.

The selection of a gap, gate or stile which permits people to use a path crossing a field boundary such as a hedge or fence should result in as little restriction as possible for potential users

including users of mobility vehicles whilst meeting the land management needs of the landowners.

Scope of Policy

This policy will include all structures placed across public rights of way including those structures erected for livestock purposes, structures erected for safety reasons and all other structures that are a permanent or temporary barrier to full access along the right of way. This policy does not include bridges (and culverts) but does cover structures which are attached to bridges.

Development

Where a right of way is affected or being provided or enhanced as the result of any development being carried out then Part 2 and/or Part 3 of this policy will apply.

Working with Landowners

Our relationship with landowners, as partners in providing access to the countryside, is very important. When considering a request for new or replacement structures, consultation with the landowner is carried out to assess their land management or agricultural needs together with the needs of the public rights of way user. The variables affecting people's access can vary considerably between paths and will be governed by the surrounding land features such as watercourses, bridges, roads, buildings, gradients and surface conditions.



"I am very happy to agree to changing the stiles to kissing gates. We have found them much easier and safer for the general public". **Bedfordshire Farmer - June 2007.**

Historically some landowners have installed stiles that vary in design and ease of use and have resisted attempts to replace such structures with more accessible structures. The duties set out in the Disability Discrimination Act 2005 and increasing usage of public rights of way by people (of all abilities) now means that all landowners will be approached with the aim of improving access on their land.



Stock Security

"Stock Security is always a priority topic and we have unfortunately suffered losses caused by uncontrolled dogs."

Les Geary - Bedfordshire NFU.

We understand and appreciate the need for high levels of stock security and will always seek to ensure that the method of access provided is the most secure. However, in most circumstances this can be achieved without the need for restrictive stiles.

We will continue to educate and inform users on the issues of stock security and provide appropriate signage to landowners.

Officer Discretion

The legislation, British Standard and this policy provide a clear framework to assist the officers involved in deciding which are the most appropriate structures to be installed. However, officers should have some freedom (with authorisation from their manager) to use their experience to balance all of the factors (including ground conditions and any peculiarities of the case) to decide the best way forward.

LEGAL CONSIDERATIONS

There is a large body of legislation that now covers access to the countryside. The legislation places duties on both the landowners and the Council to make sure that structures are safe and accessible. The legislation gives the Council powers to take enforcement action where necessary.

Disability Discrimination Act 2005

The Disability Discrimination Act 2005 makes it unlawful to discriminate against anyone on the grounds of disability in connection with employment, public transport, education and the provision of goods and services. The Disability Discrimination Act affects all those responsible for providing access to the countryside – including landowners. The Disability Discrimination Act covers the provision of structures on rights of way.

Highways Act 1980

Section 66. Footways and guard-rails, etc, for publicly maintainable highways. Allows the Council to provide and maintain structures which safeguard the users of the right of way.

Section 146. Duty to maintain structures on rights of way. This part of the law places a duty on landowners to maintain structures on rights of way to a satisfactory standard.

Section 147. Power to authorise erection of structures on rights of way. The Council may authorise structures on rights of way if they are to prevent the ingress or egress of animals. These structures must meet the Council's specification and conditions will be attached to the authorisation.

Section 175A. Duty to have regard to needs of the blind and disabled. This section of the act places a duty on the Council to fully consider the needs of disabled visitors when structures are to be erected.

Countryside and Rights of Way Act 2000

Section 69. The erection or improvement of structures. Places a further duty on the Council to consider the needs of persons with mobility problems and allows for the Council to pay for structures if there will be improvements for people with mobility problems.

British Standard 5709:2006

All structures on Central Bedfordshire's rights of way network should meet the relevant specification contained within the British Standard. There may be some structures which meet an approved Central Bedfordshire Council (CBC) specification rather than the British Standard, however, the installation of these structures should still be in line with the principles of accessibility within the British Standard. The British Standard provides options for kissing gates to incorporate either large refuges or a bypass, for mobility vehicle users, allowing larger space or the opening of the gate using a RADAR lock. These options should be considered to avoid discriminating against a number of disabled path users.

OUTDOOR ACCESS IMPROVEMENT PLAN

One of the headline themes of the Outdoor Access Improvement Plan is 'Open for Access'. The plan aims to deliver improved access for everyone. People using the countryside will encounter fewer obstructions and all structures will conform to 'least restrictive' standards for access. Users will make informed choices on where to go and be able to take into account the ease of access and facilities they can expect to find before leaving home.

The plan has a target to work towards a 95% stile free path network in 'Priority 1' areas over the next 5 years. Priority 1 areas are those in the urban fringe of our largest communities (those with populations over 3500).

COUNTRYSIDE ACCESS SERVICE BUSINESS PLAN

"We want people to appreciate and enjoy the beauty and rich diversity of the Countryside for a wide range of uses - peace and tranquillity, enjoyment of its wildlife, leisure and recreation, sport and physical activities. We intend balancing our need to protect and preserve this inheritance with the desire to take opportunities to improve and extend it, to make it more accessible for people."

"We want the countryside to be a place to visit and enjoy that benefits the county and its communities. We see good access to it as helping to make Bedfordshire a better place to live and visit - a place where local routes, places and sites are seen as accessible for everyone, recognised and valued as special, and celebrated by their communities."

This implementation of policy will require strong and consistent management and financial investment. In order for the policy aims to be delivered over the next 5 – 10 years there will have to be increased funding made available to undertake the task of replacing the sub-standard structures.

CROSS COMPLIANCE

Reforms to the European Common Agricultural Policy change the payment of subsidies and place an emphasis on the environment. Future payment is more concerned with good husbandry of the environment and will acknowledge and reward the looking after and increasing of public access. Meeting the new requirements is described as cross compliance.

Cross compliance regulations explicitly mention structures across rights of way and emphasise that structures need to be safe and not out of repair.

When the Council is taking enforcement action over defective structures (including those that specifically restrict access for disabled people), illegal obstructions then the details of structures will be reported to the cross compliance enforcement team at the Rural Payments Agency. This action will only be taken after the Council has fully explored options with the landowner.

CONSULTATIONS

Consultations were carried out with a number of local and national user organisations and special interest groups.

- Bedfordshire and Luton Joint Local Access Forum
- The National Farmers Union
- The Country Land & Business Association
- The Ramblers Association
- The Open Spaces Society
- The Bedfordshire Rights of Way Association
- Land Access and Recreation Association
- The British Horse Society
- The Cyclist Touring Club
- Age Concern England
- Disabled Ramblers
- Fieldfare Trust
- MENCAP
- RADAR (Royal Association for Disability and Rehabilitation)
- Royal National Institute of the Blind

The Draft Policy was generally well received and, particularly, received the following positive comments:

"This policy has the wholehearted support of Bedfordshire Area Ramblers' Association" **The Ramblers Association**

"The document looks likely to be of great benefit to Bedfordshire's residents and visitors and is a very welcome and pro-active policy document." **The Open Spaces Society**

"Thank you for consulting the British Horse Society on this important policy document. Whilst the document understandably concentrates on access for disabled and less able walkers and the problems that stiles present for such users, I am pleased to see that it also addresses gates that are difficult to use from horseback." **The British Horse Society**

"The Disabled Ramblers welcomes this document as an attempt to set out policy on a logical, structured, basis which is based upon legal requirements and custom and practice.

We particularly like the policy laid out regarding stiles. Although historically favoured and well established across the Countryside, stiles present serious problems to many, including disabled people of all kinds, to the elderly, to children, to family groups with baby buggies, and often cause injuries through falls and tripping accidents." **Disabled Ramblers**

POLICY

This policy applies to all structures on the public rights of way network in Central Bedfordshire. The main aspects of the policy are set out in the 'policy statements', however, the statements should be read together with the introductory and explanatory paragraphs and supporting appendices.

Part 1: Existing Structures

Is the structure lawful?

In order for a structure to be lawful it has to be recorded as a limitation in the Definitive Statement (not merely part of the description of the right of way) or has been previously authorised under S147 of the HA or erected under other legal powers, for example, to safeguard users under S66 or as part of a traffic regulation order. In some circumstances structures may have lawful authority if there is sufficient evidence of a dedication subject to the limitation of the structure.

It is acknowledged that there are a great number of structures on the rights of way network that are capable of being authorised under S147 which have not received authorisation. These structures will be in place to prevent the ingress and egress of animals and will have to meet the British Standard.

An existing structure is defined as a structure that was on the right of way network as of 1st January 2001. This was the date of our last complete county-wide survey and provides an accurate baseline measure for the 'state' of the structures on the rights of way network.

Existing structures will broadly fall into one (or more) of the following categories:

- likely to be lawful by reason of initial *restricted* dedication (will have to be assessed on balance of probability)
- included in the Definitive Statement as a limitation
- previously authorised under S147
- those that existed on or before 1st January 2001 which currently comply with BS5709
- those erected (at any time) without lawful authority

POLICY STATEMENTS

P1. The principle of 'least restrictive option' as laid out in British Standard will apply to all structures on public rights of way – new and replacement.

P2. All structures that satisfy (and continue to satisfy) the conditions of the Council's S147 procedures, meet the British Standard (or current approved CBC specification) and were in place on or before 1st January 2001 will deem to have been authorised.

P3. Any structure that does not satisfy the conditions of the Council's current S147 procedures will be deemed unauthorised and a new structure will have to be installed or appropriate enforcement action will be taken.

P4. Any structures erected after 30th September 2001 will be deemed as 'New' structures and PART 2 of this policy will apply.

Central Bedfordshire Council is committed to making the rights of way network free from stiles. Therefore, over time the Council is looking to phase out the use of stiles on the rights of way network – even if they meet the British Standard. Stiles will only be covered by the P2 authorisation for a period of 5 years and will then be authorised on a case by case basis. Over the 5 year period the Council will be contacting landowners with a view to replacing stiles with more accessible structures.

P5. Stiles (whether previously authorised under S147 or authorised under this policy) will only be covered by the authorisation in Policy Statement P2 for a period of 5 years from when this policy comes into force (January 2009).

Removal of Structures

There will be circumstances where a structure (authorised or not) is no longer necessary. In all circumstances the Council will contact the landowner with a view to seeking its removal. Where there is agreement with the landowner the Council may contribute towards the costs of its removal. If there is no agreement on the part of the landowner and where a structure cannot be shown to be lawful this Council will, by serving of notice, seek its removal. The Council appreciates that there may be periods of time when a landowner will manage the land in such a way that the stock will be rotated on the land and a structure may be necessary in the near future. In such cases a reasonable period of time will be allowed before a structure is deemed unnecessary and removed.

P6. The Council may contribute 100% towards the cost of removing structures (to improve access) that are deemed unnecessary – except in those cases where the Council is taking enforcement action to remove a structure.

P7. Where a landowner wishes to erect a structure, where a structure previously existed in that location that structure will be deemed to be a 'new' structure and PART 2 of this policy will apply.

Repair and Replacement Structures

Structures across a right of way are generally the responsibility of the landowner to maintain. It is the responsibility of the landowner to ensure that the structure meets British Standard (or CBC approved specification) and is kept in good repair. Matters that should be considered include (this list is not meant to be exhaustive): the land around being firm and not poached, being free from overhanging or encroaching vegetation, steps must be secure and safe, gates can be opened freely (including from horseback for bridleways) and the structure free from barbed wire. The Council is required to contribute not less than 25% towards the costs of repair and can contribute up to 100% of the cost in certain circumstances. The Council will encourage the upgrading of structures where there is an opportunity to improve access.

P8. The Council will contribute a maximum of 25% towards the repair of existing stiles (to British Standard). In those cases where the Council is taking enforcement action for failure to repair – there will be 0% contribution.

P9. The Council will contribute 100% towards the cost of repair or upgrade of existing structures (to British Standard) where there is an increase in access – except in those cases where the Council is taking enforcement action for failure to repair.

P10. The Council will contribute 100% towards the cost of a replacement structure (to British Standard) where that structure provides easier access than the existing structure.

PART 2: 'NEW' STRUCTURES

New structures in new boundaries (authorisation under S.147)

Landowners need to manage their land effectively and in some circumstances have to place new structures across rights of way in locations where nothing has existed before or where there has not been a structure recently. The Council will work with landowners to ensure that the most appropriate structure is put in place. All new structures have to comply with the law and this policy. It is the responsibility of landowners to pay for new structures and future maintenance. The Council can carry out the work as long as the landowner bears the cost. This will ensure that the structures are correctly installed and in the correct location.

There will be circumstances where a landowner has an authorised structure and seeks to remove it and replace it with a structure which is less accessible – i.e. replace a full mobility kissing gate with a standard kissing gate. These proposals (where there is justification) will be heavily scrutinised and allowed, only, in exceptional circumstances and part 2 of this policy will apply.

Landowners should carefully think about how they fence their land and should try to limit the number of fences that cross public rights of way. Too many fences will be deemed excessive and consequently structures will not be authorised in these locations.

Landowners will also have to ensure the surface condition is satisfactory on the approaches to structures.

P1 The principle of 'least restrictive option as laid out in British Standard will apply to the all structures on public rights of way – new and replacement.

P11. Stiles will not be authorised, under any circumstances, as 'new' structures.

P12. The landowner will be responsible to apply for authorisation to erect a structure prior to the structure being erected.

P13. The landowner will be responsible for the cost of the structure and its installation.

P14. The Council will not authorise structures on new boundaries that are deemed unnecessary or excessive in the opinion of the area rights of way officer.

P15. Foundrous, poached or boggy ground conditions around a new structure will deem the structure out of repair.

PART 3: OTHER STRUCTURES

Structures on Restricted Byways and Byways Open to All Traffic

The Council can install a structure on a highway for the purpose of enhancing the amenity of the highway and its immediate surroundings or for the purposes of safeguarding the highway. Structures can also be erected to enforce traffic regulation or prohibition orders.

P16. Where the Council has erected a structure on a Byway or Restricted Byway the principle of Least Restrictive Access will apply.

Structures for safety, security and to protect the highway

The Council sometimes has to consider the need for structures in locations and circumstances that are outside the scope of the Highways Act 1980 authorisation process. These situations include the need for a structure to protect users and prevent damage to the surface of the highway. There are also instances where structures may be needed where there are recorded incidents of persistent crime. In all such instances the principle of least restrictive access will apply and in most cases the right of way will still be accessible by means of gap.

In instances where there is a request for a structure on the grounds of security - the person(s) requesting the structure will have to demonstrate that there has been instances of crime (or there is a high likelihood) and will have to demonstrate that all other options have been explored. Legitimate users should not be penalised as a result of criminal activity. Denying the public full accessibility to a public right of way should be the last option - not the first considered.

Existing structures erected for safety, security and to protect the highway will be audited and will have to be in line with this policy. Structures previously erected may have to be removed or replaced with more accessible structures.

Any structures erected for the above purpose will have to be authorised by the Council.

P17. In those circumstances where a gate is to be placed across a right of way there should be a gap provided to the side (within 2 metres of the line of the right of way) which is to British Standard and has a surface to CBC specifications.

P18. Structures which are requested to prohibit motor cycles will only be considered if they allow for full access for all categories of legitimate users including mobility vehicles.

Electric & Barbed wire fencing

The Council has the power to remove barbed wire and electric fencing adjoining a public right of way. If there is a need to place such fences near a public right of way then the landowner will be required to fence, at least 1 metre, away from the legal line of the right of way, satisfy the British Standard and the current CBC specification on barbed wire / electric fences. i.e. a landowner will have to allow for the width of the path plus 1 metres either side.

In most circumstances such fences will be treated as an illegal obstruction and will be removed.

Structures with local or historical distinctiveness

There are a small number of structures throughout the County which have distinct historical or local distinctiveness. For example gates around churches. These structures may no longer be needed for livestock purposes but are part of the historic church-yard boundary and form part of the character of the area. Again, these structures may be preserved in special circumstances.

Structures in New Roads

It is common practice for new road schemes to place a structure, often a stile, at the junction with the right of way and the new road. These structures are often unnecessary and the convention should be challenged. Structures put in at the landowners behest, by the highway developers, may not be lawful and if unnecessary may have to be removed.

P19. Where a right of way is to cross a new road then the least restrictive option will be provided and stiles should not be erected.

Railways

The railway infrastructure operators have a duty to maintain access across the railway where there is a public right of way. They have a further duty to make and maintain convenient approaches to the line and good and sufficient gates and stiles in the line side fences. In line with Disability Discrimination Act requirements, all structures should be convenient for people who may have mobility problems and/or visually challenged.

P20. Railway infrastructure operators should always seek the least restrictive option.

P21. Railway infrastructure operators should be encouraged to carry out an accessibility audit with a view to replacing all stiles and unnecessary structures.

APPENDIX 1

**Understanding the British Standard for Gaps Gates and Stiles
BS5709:2006 explained. The Pittecroft Trust and Tom Bindoff.**

Understanding the British Standard for Gaps Gates and Stiles

BS5709:2006 explained

The Standard covers gaps, pedestrian gates, bridle gates, kissing gates, dog gates (dog traps or latches) horse stiles, kent carriage gaps, wide (swing leg-over) and narrow (step over) pedestrian stiles. It does not explicitly cover stiles with moving parts nor vee stiles nor ladder stiles, though these and other structures had been considered for inclusion during the writing of the standard.

These explanatory pages cover eight ‘rules’ applicable to all compliant structures. Examples are then given of a gap, a bridle/pedestrian gate, three kissing gates and two stiles. Rules specific to each structure type are shown beside them. Examples are not given of horse stiles (motorbike inhibitors), stone stiles, dog gates or the kent carriage gap. All of these are detailed in the standard itself.

**The full Standard
BS5709:2006**
(ISBN 0 580 48107 7)
is available from
libraries, bookshops and
BSi British Standards
389 Chiswick High Road
London W4 4AL
www.bsi-global.com

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Produced to assist anyone involved with gaps gates or stiles: highways officer, path order maker, land owner, contractor, gate and stile manufacturer, path user and user group.
by

The Pittcroft Trust (registered charity) and Tom Bindoff
(a PDF version of this paper, which may include later updates, is at www.pittcrofttrust.org.uk)

INTRODUCTION

BS5709, 2006 version, is performance based. The act of choosing which structure is suitable for a given situation is itself a requirement of the standard. Having made those choices the structural requirements are functional, and so long as the specified functional requirements are met then no matter what material is used in construction or what size or shape it is, the conformance with the standard will be satisfied.

History of this British Standard:

1. First published for 'stiles and gates' in 1979. This version was just for stiles and gates, and so long as the designs were met, it didn't matter if a stile or a gate was used.
2. The 2001 version was a major update. It was renamed for gaps, gates, and stiles, and the order of those words mattered. And even more significantly it was not, as the earlier version was, a bunch of fixed designs that, if erected, would comply. Instead it was a set of functional and mostly field measurable requirements, not requiring any particular design. Countryside Commission, landowners, highway officers, user groups, manufacturers, all worked together on it.
3. The 2006 version was basically a fairly minor revision of the 2001 version. Mostly clarification and small revisions following the major 2001 changes. In view of the interest in restricted byways it also now includes the kent carriage gap.

DIMENSIONS The standard is concerned only with the functionally relevant dimensions of the structures. So for example the maximum step height and the step surface area is specified but not the thickness or material.

EXPLANATION OF 'GAP' This new concept has sometimes caused difficulty and warrants explanation. A gap in BS5709 is not just a hole in the fence, but is the hole plus any structure defining it. The standard requires certain characteristics of that structure to conform to functional rules, so for example barbed wire within 1 metre of the actual gap would mean non-compliance.

Eight key rules are described on the following pages, these 'rules' are not referred to as such in the standard but are used here as a checklist of the main requirements of the standard.

Note: in rare cases it may not be practicable to keep to all of the BS5709 requirements. The Standard can still be cited but with the exception spelled out. This action is likely to be both better and simpler than not citing the BS at all and/or relying on some other local standard.

This document is aimed at enhancing understanding of the principles and salient features of the standard, for the full and authoritative details the official document, BS5709:2006 ISBN 0 580 48107 7, should be consulted.

Square brackets [] are used to refer to sections of BS5709:2006.

RULE 1: LEAST RESTRICTIVE OPTION.

Least restrictive option must be chosen. The standard's words are:

*The selection of a gap, gate or stile, which permits people to use a path crossing a field boundary such as a hedge fence or stone wall, **shall result in as little restriction as possible for potential users**, while meeting the actual agricultural needs of the landowners (principle of least restrictive option). [3.1][3.1.3]*

Notice **potential users**. On public footpaths that must mean all legitimate users including the mildly or seriously disabled, the elderly, children, mobility vehicles (pushchairs, wheelchairs) dogs. There will be some paths on which some of these users could not reasonably be expected ever to be able to travel, but they will be very few indeed. Just because other parts of the path are impassable to mobility vehicles (push chairs or wheelchairs) for example because of stiles, does not, under this standard, allow stiles or non-mobility-vehicle-passable gates to be put elsewhere on the path. To do so would be to make it harder in future to give access for all.

This is especially true of structures at the start of paths, where they leave a road. Some people with disabilities may get no further than the first field in the short term, but that is so much better than not getting anywhere at all.

The standard says that in the absence of explicitly identified counter reasons the following structures should be used in this order of preference [3.2]:

Gap, Gate, Kissing Gate, Stile.

Note the word 'explicitly'. Where a structure is being authorised under statute, for example under Highways Act 1980 sections 147 or 66 by a highway authority or their agent, it would be entirely reasonable to expect them to hold publicly available explicit reasons for not choosing a less restrictive structure.

Where something beyond a gap is needed then a two-way-opening self-closing gate is the preferred option (except adjoining roads where safety and vehicle exclusion may indicate a kissing gate).

Stiles. The Standard also says **new structures shall not be stiles unless exceptional circumstances require them** [3.1.3] [4.5.1].

RULE 2: REASONABLENESS.

Except where a gap is chosen, an **assessment of reasonableness** of putting a structure across a path must be made [3.1.2]. That assessment must include certain things being considered including whether there might be some other measure that would remove the need for any structure. An example would be where some side fencing or rerouting of cattle paths might allow elimination of the need for any cattle barriers at all on the path. As in Rule 1 it would be entirely reasonable to expect a highway authority to hold, publicly available, their assessment of reasonableness.

Square brackets [] are used to refer to sections of BS5709:2006.

RULE 3: MANOEUVRING SPACE. [4.3.e , 4.4.e, 4.5.d]

This is the space needed to be kept clear so as to allow users to get into position to open, pass through, and close a gate or to negotiate a fixed structure. This is something that is a requirement of the standard but was found difficult by the writers of that standard to specify clearly. A great deal more space is needed than is commonly assumed. One-way-opening gates need more manoeuvring space than two-way opening ones and some horses and mobility vehicles (wheel or push chairs) may need a three metre diameter space. It is desirable that those involved have some training involving actual people with wheelchairs, pushchairs or horses as appropriate. Best to get it right before installation, since just one or two potential users who are unable to manoeuvre through the structure would probably serve to prove non-compliance.

RULE 4: LOCATION OF STRUCTURES.

At vehicular roads, structures must be set back at least four metres from the (usually metalled) carriageway. Except that when on a footpath which is unlikely to be used by groups of walkers and which does not continue on the opposite side of the road, the structure need only be set back two metres from the carriageway edge [4.1.6].

RULE 5: ONGOING.

The standard requires **continuous and ongoing satisfaction**. That is even if at installation the structure is fully compliant, as soon as any of the functional requirements are no longer satisfied (for example by the placing of barbed wire on it) it is no longer compliant to the BS and must be repaired or replaced to comply [4.1.8].

RULE 6: GROUND. [4.1.5]

Ground within two metres of the structure to be free of surface water and provide a firm surface. Except immediately after rain.

RULE 7: BARBED WIRE ETC. [4.1.1]

No barbed wire, electric fence etc within one metre of the structure or the manoeuvring space.

RULE 8: PROTRUSIONS. [4.1.2 *et al*]

No protrusions likely to catch clothes or cause injury, edges radiused to 2mm or chamfered to 3mm minimum.

And certain other requirements about protruding direction posts [4.1.4], trapping of fingers by moving parts [4.1.3].

Examples of Stiles compliant with BS5709:2006

Notes with double lines (||) are mandatory. Dimensions in millimetres.

|| Dimensions marked max or min are mandatory.

|| BS5709:2006 says New Structures (that is new where nothing was before) shall not be stiles unless exceptional circumstances require them.

|| In order to comply with BS5709, the 8 RULES in the text pages of this document must also be met.

Whilst these stile diagrams may be useful where stiles are historically lawful structures and just need repair or upgrade, they are unlikely to be fully compliant with the BS because of Rule 1, the least restrictive option rule.

For both wide and narrow stiles:

|| Step width 200 min

|| Hand posts 70 to 100 mm diameter or across faces

|| Posts not to be used as straining posts for fencing

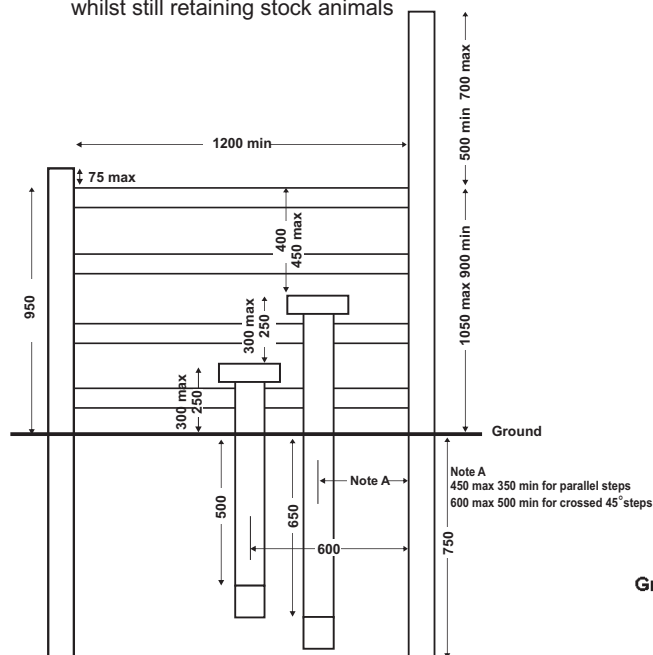
|| Steps level in all directions to 1 in 30

|| Posts vertical to 1 in 30

An example of a wide stile

Showing typical and max and min dimensions

This is a well known design updated by this Standard to make more convenient whilst still retaining stock animals



Specific to the wide stile:

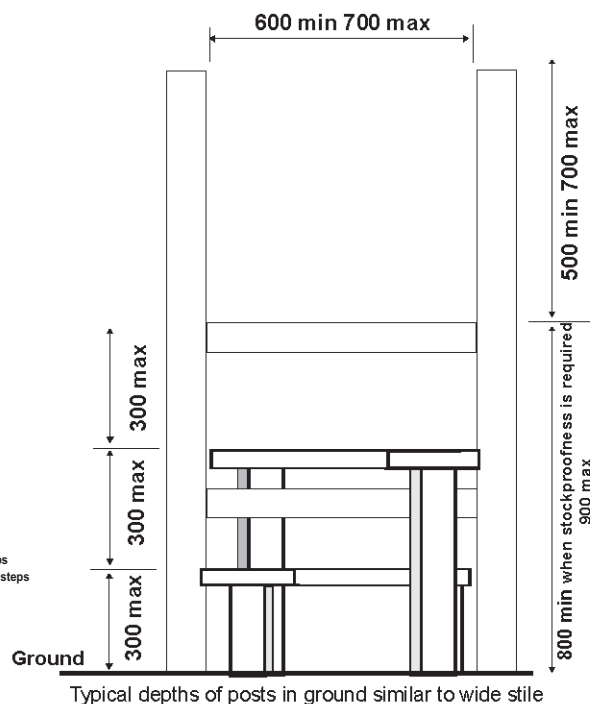
|| Steps either 90°+-10° to the stile rails or crossed over at 45° +-10° to them

|| Step length 900 min

|| Step width 200 min

An example of a narrow stile

Good stockproofness with two steps, but when stockproofness is less important this stile can have a single step, not more than 300 mm from the ground, making it easier to use especially if the top cross bar is omitted.



Specific to the narrow stile:

|| Steps to be crossed over at 45° +- 10° to the stile rails

|| Step length 1000 min

|| Step width 200 min

|| Two extended posts are required

Note where the stile route is on a steep slope the downhill side may have a third step.
|| This step must be twice the width of a standard step and the 300 mm step height rule applies.

These designs are examples of BS compliant structures, many different designs or constructions will also meet the BS's requirements.

BS5709:2006 has structure examples similar to these as well as: stone stile, horse stile(motorbike dissuader), dog gate, Kent carriage gap.

APPENDIX 2

Authorisation Form (including guidelines and 'out of repair' checklist)



**AUTHORITY TO PUT UP A STRUCTURE ON A FOOTPATH OR
BRIDLEWAY
HIGHWAYS ACT 1980 - SECTION 147**

Parish

--

Public right of way type

Footpath

☐

Bridleway

☐

Right of Way Number

Type of structure (attach specification)

--

Ordnance Survey Grid Reference (attach map)

SP / TL

--

The above structure was inspected and approved by:

Authorising Officer:

Date:

**THE STRUCTURE WILL NOT BE AUTHORISED UNTIL/UNLESS THE SECTION BELOW IS SIGNED AND
RETURNED TO THE COUNTY COUNCIL.**

I,

NAME IN BLOCK LETTERS

As,

OWNER / LESSEE / OCCUPIER of the land (circle the correct one).

agree to the following conditions:

1. The land is agricultural (or is being brought into agricultural use).
2. I need the structure to prevent animals getting in or out.
3. The structure meets the attached (British Standard) specification.
4. I will not attach barbed wire / electric fencing to any part of the structure.
5. I agree to keep the structure in good repair and to a standard that allows the right of way to be exercised without inconvenience to the public.

IF YOU DO NOT MEET ANY OF THE ABOVE CONDITIONS THE COUNCIL WILL REMOVE THE STRUCTURE AND
RESTORE FREE PASSAGE.

Signature

Date:

PLEASE NOTE – THAT ANY AUTHORISED STRUCTURE IS YOUR PROPERTY AND IT IS YOUR RESPONSIBILITY
TO KEEP IN GOOD REPAIR

Please sign and return a copy of this form to:

COUNTRYSIDE ACCESS SERVICE, CENTRAL BEDFORDSHIRE COUNCIL, PO BOX 1395, BEDFORD, MK42 5AN



A LANDOWNER'S GUIDE TO AUTHORISING STRUCTURES

These notes should be read in conjunction with the authorisation form

The structure detailed overleaf will not be deemed authorised unless the form has been signed by the landowner/tenant and the authorising officer of the Highway Authority (Central Bedfordshire Council).

You must get permission from Central Bedfordshire Council to erect any type of structure on or across a public right of way. Once you have permission the structure will be authorised by the council – as long as it satisfies the Councils policy on structures.

The law will only allow a structure, such as a gate or a stile, to be erected on a footpath or bridleway. A structure can not be erected on a Byway Open to All Traffic (BOAT).

Safety issues are dealt with on a case by case basis. If you think that there is a safety issue on your land that will affect the type of structure you have, contact the Rights of Way team at Central Bedfordshire Council for further advice.

- ⇒ You will be responsible for the cost of installing and maintaining the structure to the specified standards
- ⇒ You must not erect any other type of structure other than the one you have authorisation for
- ⇒ Gates on bridleways must be easy to open and close both from horseback and on foot
- ⇒ If the conditions that allowed the structure to be erected change the structure must be removed
- ⇒ If the route is upgraded the permission for the structure must be reapplied for
- ⇒ If any of these conditions are not met then Central Bedfordshire Council will require the structure to be removed

Once you have permission to erect a structure you have three choices:

1. The Countryside Access Service will supply you with a specification for the structure and you can construct it yourself. Once it is built it will need to be inspected by a Rights of Way officer.
2. You can pay Central Bedfordshire Council a fee to have a contractor sent to erect the structure for you.
3. You can pay Central Bedfordshire Council a fee and they can provide you with a structure kit and you can erect it yourself. Once it is built it will need to be inspected by a Rights of Way officer.



Out of repair checklist

Structures on public rights of way should be kept in good repair at all times. The structure should, generally, have the same functionality as when it was first installed. Structures will be assessed on whether they are functional and fit for purpose.

Structures should be regularly checked for structural integrity and safety.

Please note that if somebody is injured as the result of using an out of repair structure – then the landowners will be responsible.

	Yes	No
Is the structure free from overhanging vegetation?		
Is the ground in and around the structure free of standing water and firm? (i.e. not poached or boggy)		
Are the main posts secure?		
Are any steps secure and free from movement?		
Are the gates free to be opened and closed (including from horseback – for bridle gates) without having to be lifted or dragged?		
Is the structure appropriate for the type of right of way?		
Is the structure free of barbed wire and/or electric fencing?		
Can the gate be opened from horse back (if bridleway)?		
Is the gate unlocked or unchained?		
Is the structure in the correct location?		
Does the structure still meet the original specification?		

If the answer is 'No' to any of the above questions then this would indicate that the structure is 'out of repair'. In the first instance the landowner should seek to make good the structure (to the original or British Standard) or contact the Council for advice. If the structure is not repaired then the Council may take enforcement action to remove the structure.

The above list is, by no means, exclusive and there may be other reasons why a structure may be out of repair.