

The law and management of public access rights vary widely between the four countries of the United Kingdom. Practical elements of the following advice apply in all of them but the legal requirements in Scotland and Northern Ireland may differ from those in England and Wales.

More advice is available on www.bhs.org.uk/accessadvice.

IMPORTANT This guidance is general and does not aim to cover every variation in circumstances. Where it is being relied upon, The Society strongly recommends seeking its advice specific to the site.

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Definition

A cattle grid, for highway purposes, is “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, and includes any fence or other works necessary for securing the efficient operation of the said device” (Highways Act 1980 (HA80) Section 82(6)).

Hazard for Horses

A horse which runs or steps into a cattle grid is likely to be very severely injured and may have to be destroyed. Therefore, it is very important that cattle grids are only installed in full compliance with the law and with best practice, and where no alternative solution to confine livestock is practicable. It is also important that any redundant grids are removed or filled in completely with a hard compacted material or concrete, so that they are not a

safety hazard; once they become overgrown with grass or filled with mud or leaves, a rider may not see them until it is too late.

Authority for installation

The installation of cattle grids on any road is covered by the Highways Act 1980 Section 82-90 and Schedule 10. Exceptionally, cattle grids in the New Forest can be provided under the New Forest Act 1964 Section 3 but are not dealt with here.

Who may install?

On public carriageways, only the highway authority may install cattle grids, though they may do it at the request of another party.

Where can they be installed?

Under the Highways Act 1980 Section 82 a cattle grid may only be constructed in a carriageway. This does not include bridleways and footpaths. See Private Cattle Grids (below) for installations in bridleways.

Procedure

When it is proposed to construct a cattle grid in a road, the procedure in the Highways Act must be followed and these include the publication of notices in the local press and posted adjacent to the site. There is provision for objections to be heard (Highways Act 1980 Schedule 10).

Bypasses

Restricted byways and byways open to all traffic are carriageways. The bypass on any carriageway (road or byway) must be wide enough to carry all legitimate traffic and any gate fitted may not be less than 10 feet wide (Highways Act 1980 Section 145).

When a grid is constructed in a carriageway, it must have "facilities for the passage of ... all other traffic unable to pass over the cattle-grid" within the width of the carriageway; "other traffic" includes driven or led animals, handcarts, ridden horses and wheeled vehicles drawn by animals (Highways Act 1980 Section 82(2)). If the road or byway is too narrow for both the cattle grid and bypass, then additional width must be dedicated as highway.

On a public bridleway or footpath which coincides with a private road, it is far simplest to construct the cattle grid in a bypass, not within the width of the public right of way (see [Private cattle grids](#)) unless the public bridleway or footpath is diverted by legal process (Highways Act 1980 Section 119).

Any structure on a highway must protect the safety of the user. The Highways Act does not specify how this must be done, but as cattle grids in a carriageway must provide for 'other traffic', the BHS states that it would be unsafe to install a bypass gate next to a cattle grid without a barrier between the gate and grid and, therefore, **there must be a barrier between the grid and the bypass**, extending beyond the grid throughout its length (its width being across the carriageway), so that horses cannot inadvertently step onto the grid when manoeuvring through the gate. The barrier should be about the height of a standard gate, or between 1.2m and 1.5m. Post and rail fencing is recommended. It should not be of wire or metal with any sharp edges.

The Society recommends that the hinges of the gate be on the side of the gate nearest the grid so that a horse is facing away from the grid in the safe position for opening gates (horse parallel to gate, facing away from hinge). When existing bypass gates that have been hung with the catch next to the grid are being replaced or repaired, they should be re-hung with the hinges next to the grid.

Where recommendations and indicative layout differ from British Standard specifications the Society will be proposing revisions to the standard next time it is revised.

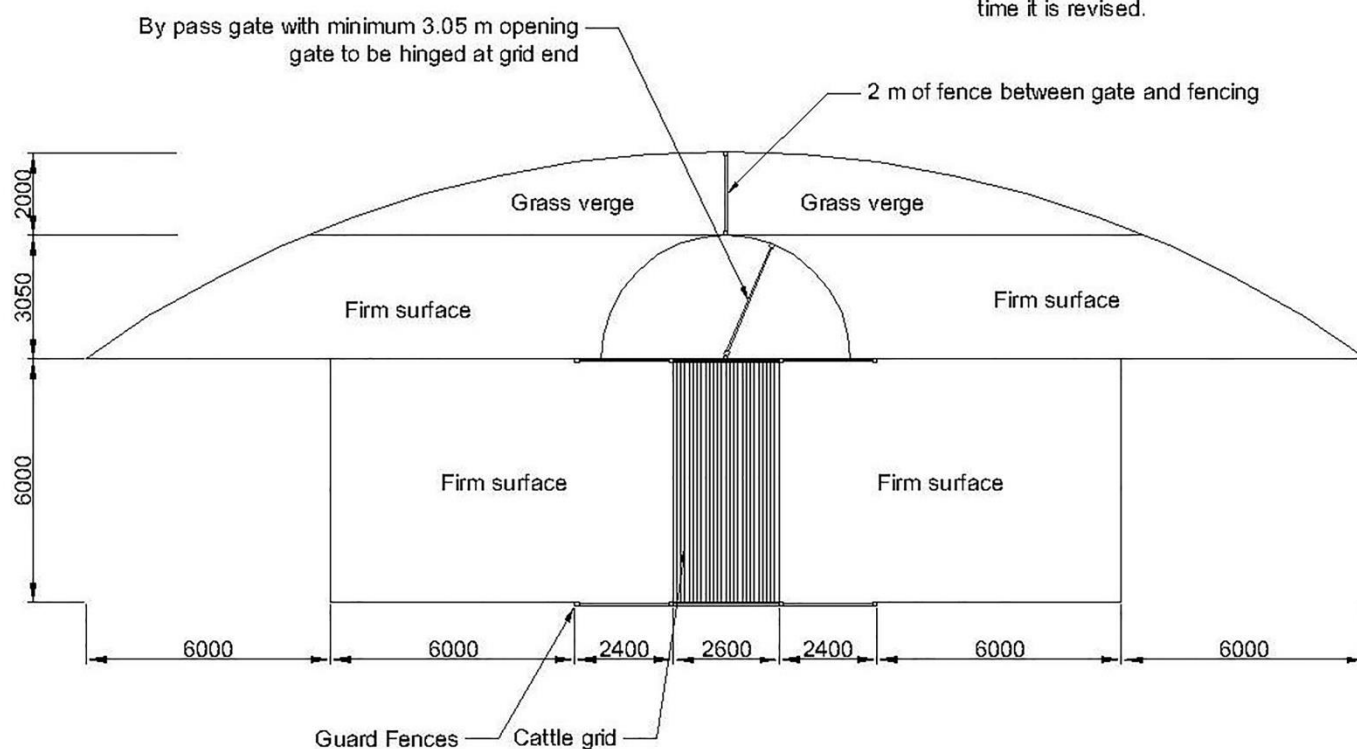


Figure 1 - Cattle grid dimensions

With larger farm machinery and wider access required, a cattle grid and bypass gate combination may occur where the latching post of the gate is next to the grid and both the post and the fence protecting users from the grid can be temporarily removed to allow use of the full width of the track by the machinery. In this situation, the gate must be installed at the centre point of the side of the grid, so that a horse is still protected from the grid by the barrier when opening the gate from either direction (the 'side' of the grid being parallel to the edge of the road).

All bypass gates should be across the highway, in line with the middle of the grid, and not at an angle to the grid or set in a fence parallel to the highway, since the latter means that there is no guard between a horse and the grid.

There should be sufficient clear manoeuvring space (a minimum of 1.8 metres and preferably 2 metres) between the gate catch and any fencing at right angles to the gate, to enable riders to operate the gate safely from horseback.

The Society's advice notes about gates and gate installation should be read in conjunction with this advice note as the advice it contains applies to cattle grid bypass gates.

The Society recommends that on roads with two lanes, unless the road has a separate two way track for equestrians alongside it, bypasses should be provided on both sides of

the cattle grid, so as to avoid the hazards caused by ridden and driven horses crossing and re-crossing the other lane of traffic in order to use the bypass.

Private cattle grids

An access road may coincide with a public right of way and cattle grids may be requested for stock control to replace a gate on a track that is a bridleway or byway (or footpath).

If the public right of way is a carriageway (a byway open to all traffic or a restricted byway) then a grid may be installed in the highway subject to the provisions of the 1980 Act as indicated above. However, under the Act, the highway authority would then be responsible for maintaining the cattle grid, bypass and any gates associated with it. The highway authority will need to consider very carefully whether it is expedient for it to take on this responsibility when the cattle grid is to facilitate the passage of private motor vehicular traffic and not public access.

If the public right is that of bridleway or footpath, then a cattle grid cannot legally be constructed within the width of the right of way and to do so would cause an obstruction.

It has been argued that a cattle grid may be provided on a bridleway or footpath under Section 147 of the Highways Act and, in a letter of 10 August 2009, the Secretary of State adopted this view if the width of the bridleway or footpath could accommodate a gate and safety fencing as well as the cattle grid. The Society considers this interpretation to be legally doubtful, substantiated by the conclusion in *Kind v Northumberland County Council*¹ that the Act does not permit 'other works' which force users off the right of way and because it compromises equality of access where there is currently no obstruction to free passage of all users.

Kind was a High Court case in which a footpath along a farm track road access was upgraded by modification order to a bridleway with a cattle grid across the full width of the track and a bypass gate off the line of the highway. It was upheld that a cattle grid cannot be authorised as an obstruction of the whole width of a right of way and that an informal bypass off the highway is not adequate.

The Society recommends that where it is proposed to install a cattle grid in a private road which carries a public bridleway, the landowner should either:

- (i) build the grid beside the bridleway so that the public right of way remains on its existing line, and apply for authorisation for a gate on the bridleway; or

¹ [2012] EWHC 603

- (ii) seek a legal order to divert the bridleway through a bypass at the side of the proposed grid and authorisation for a gate on the bridleway

If the gate is to be a new provision, then authorisation for the structure must be sought from the highway authority. Any new gate on a bridleway must be at least 1.525m (5ft) wide between the posts and be operable while mounted. It should meet the Society's recommendations for manoeuvring space, latch and all other criteria in its guidance (BHS advice on Gates or Gate Installation) and comply with the British Standard 5709. The bypass must be at least 4m wide to accommodate the manoeuvring space required to operate the gate, as per BHS Advice on Gates.

Cattle grids on common land

The Highways Act 1980 Section 82(4) governs the placing of any part of a cattle grid and its bypass(es) in common or waste land adjoining a carriageway. However, the provision of cattle grids elsewhere on common land is governed by the Commons Act 2006 Section 38, and will require the Secretary of State's permission unless it is covered by one of the exceptions.

Many commons carry rights of access for air and exercise on horseback (often wrongly referred to as permissive access for ridden horses) and riders are strongly recommended to contact their County or Regional BHS Access and Bridleway Officer, or the BHS Access and Rights of Way Department, immediately they become aware of a proposal for any new cattle grid on, or adjacent to, common land as such would compromise equestrian rights of access.

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