A STEP-BY-STEP GUIDE TO GATING PROBLEM ALLEYS: SECTION 2 OF THE CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005
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INTRODUCTION

Anti-social behaviour (ASB) and crime can often be exacerbated by the very nature of our surroundings. Crimes such as graffiti, burglary and drug dealing can thrive in areas that lack people and visibility.

This problem is often exemplified by secluded alleyways that allow crime and anti-social behaviour to take hold. If this happens, it results in a degenerative impact against the community as a whole and deters people from using the alley further, thereby encouraging further crime and ASB.

While it is always desirable to tackle the behavioural aspects of crime and anti-social behaviour, it may be possible to protect communities by taking simple physical steps that do not allow alleyways to be exploited in this manner. One such solution is the use of ‘gating orders’, under section 2 of the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005). See www.opsi.gov.uk/acts/acts2005/pdf/ukpga_20050016_en.pdf for a full copy of the Act.

This legislation inserted seven new sections into the Highways Act 1980 (sections 129A–129G), and associated secondary legislation has also been developed (Highways Act 1980 (Gating Orders) (England) Regulations 2006, no. 537). See www.opsi.gov.uk/si/si2006/uksi_20060537_en.pdf for a full copy of the regulations, and www.opsi.gov.uk/si/em2006/uksiem_20060537_en.pdf for a copy of the explanatory notes. The provisions allow councils to make, vary or revoke gating orders in respect of highways affected by crime or anti-social behaviour within their area, permitting a gate to be installed at each end of an alleyway. The orders are a quick, flexible and effective way to restrict public access to a problem alley without removing its underlying highway status.

This guidance is not statutory, but provides a practical, step-by-step approach to using gating orders in an effective and easy-to-use manner. It is specifically intended to assist practitioners who are taking action, by providing guidance at each stage of the process. Critically, it is informed by practitioners who have had experience with using the measures, and who have identified examples of best practice.

It is not intended to replace the current guidance on using gating orders published by the Home Office in March 2006, which can be accessed at www.respect.gov.uk/members/article.aspx?id=7924, although a degree of overlap between the two documents will inevitably occur.

Annex 7 illustrates the steps set out in this guide in an easy-to-follow process flowchart.
WHEN IS AN ORDER APPROPRIATE?
The conditions described below are intentionally broad in their scope, in order to ensure that they are not unnecessarily prohibitive. As long as they are met, it is for practitioners to judge – in partnership with the local Crime and Disorder Reduction Partnership (CDRP) – whether an order would protect the community from crime and anti-social behaviour, taking into account matters such as necessity, cost and prioritisation.

When assessing whether to gate an alley, practitioners should always take into account that gating orders are only one of many different tools that can be used to tackle crime and disorder. Gating orders will only prevent crime and ASB in one location and will not address the underlying behavioural issues. In isolation, gating orders can be an excellent method of preventing opportunities for crime and ASB; however, they also run the risk of displacing the criminal activity to other areas where it can take hold. Consequently, CDRPs should give serious consideration to using gating orders as one part of an over-arching strategy on tackling crime and ASB.

WHICH GATING LEGISLATION SHOULD BE USED?
Powers to close alleyways were first introduced by the Countryside and Rights of Way Act 2000 (CROW Act 2000). Alleyways that are rights of way can be ‘stopped up’ under this legislation if the crime prevention reasons are sufficient. However, there are significant restrictions placed upon the use of gating orders made under the CROW Act 2000, namely:

- the alleyway needs to be designated by the Secretary of State;
- it can only be gated for crime (and not anti-social behaviour) reasons;
- the alleyway in question must be gated all the time;
- orders are irreversible;
- the highway status is revoked; and
- if one person objects to the proposed closure, the order cannot be made.

These limitations make removal of highway status under the CROW Act 2000 suitable for use as a permanent, final measure which can be considered when there is no scope for variation or revocation in the future.

However, in other cases it is recommended that practitioners use gating powers under sections 129A–129G of the Highways Act 1980, as this legislation allows action to be taken quickly, easily and with a degree of flexibility not available with the CROW Act 2000 legislation. For example:

- the alleyway does not need to be designated by the Secretary of State;
- alleys can be gated if they cause anti-social behaviour, rather than just crime;
- the alley can be gated at certain times of the day;
- orders can be revoked or varied; and
- if objections are made, the council can choose to press ahead with the order if the majority of the community are in favour.

Gating orders under section 129A of the Highways Act 1980 are preferable even when the intention is to gate an alley for many years. These orders can be used indefinitely, and allow for an order’s impact to be evaluated while there is still the opportunity to vary it, prior to permanent removal of highway status.
How to use this guide

The sections below set out the individual steps that practitioners (may) have to go through before a gating order can be implemented. This includes a combination of legal obligations (things practitioners must do) and good practice (measures that are not obligatory, but may make the process quicker, easier and more cost-effective). Where necessary, the steps have been augmented with further guidance on how they should be interpreted.

The gating order process has been split into 3 parts, each of which has been split into a number of steps, amounting to 12 in total:

• PART 1: INITIAL ASSESSMENT
  – Step 1: Does the alleyway facilitate crime or anti-social behaviour?
  – Step 2: Can the alleyway be gated?
  – Step 3: Informally consulting the public and organisations
  – Step 4: Is the order expedient for residents and the community as a whole?
  – Step 5: How many orders are needed?

• PART 2: FORMAL PROCEDURE
  – Step 6: Publicising the order
  – Step 7: Assessing representations from the public
  – Step 8: Assessing representations from organisations
  – Step 9: Holding public inquiries

• PART 3: AFTER AN ORDER IS MADE
  – Step 10: Registering gating orders
  – Step 11: Maintaining gating orders
  – Step 12: Varying and revoking gating orders

A case study based in the fictional town of Hanwell has been included in this section. Throughout the guide, the case study will act as an example of how each step can be satisfied in an actual gating situation.

In addition, at certain points throughout this guide, references to a real example have been provided by Blackpool Borough Council, while Annex 6 contains information about completed orders provided by Stoke-on-Trent City Council.

Case Study:

Situated in the small town of Hanwell in the Borough of Eastrise on the outskirts of South London, Rutherford Mansions are a set of medium-sized ex-local authority low-rise estates.

The Eastrise community is mixed; historically the area is relatively deprived, with a significant proportion of ethnic minorities. However, recent improvements in social mobility, combined with an influx of more affluent individuals and families (due to its proximity to London while still retaining immediacy to the Surrey countryside) has altered the character of Hanwell.

Rutherford Mansions were owned by the council until the 1980s, and the inhabitants are a mixture of owner/occupiers and tenants – mainly young families, elderly couples and a few young professionals.

Located in a convenient residential area with easy access to the local shops and pubs on Morecambe Street in the south, the flats are split into four main buildings. Running between the blocks are two narrow lanes that have provided a convenient cut-through to the local shops for residents living to the north. The north and east of the block is bordered by Sheersmith Road – a busy highway bordered by a pedestrian-friendly pavement – that curves round to meet Morecambe Street. To the west lies Laurie Park.
The area has always suffered from crime and anti-social behaviour of varying degrees. However, there are infrequent night-time burglaries within the estate. It appears that ground-floor flats in particular are targeted, via the window or back door. This is a problem that has been going on for years, but in recent months a couple of pubs have stayed open later on Morecambe Street, and residents have experienced a slight increase in noise and disorder caused by individuals returning home late at night.

Some residents have also complained of an increasing youth presence loitering in the alleyways between the blocks, particularly in the evening. Initially their presence seemed to be relatively benign, despite certainly increasing the fear of crime among some of the residents (although none of the youths have been linked with the burglaries).

However, the youths appear to be becoming increasingly disruptive: there have been a couple of noisy altercations between residents and the young people, which have mainly been little more than shouting, and there have been increased reports of graffiti within the alleys, most of which is blamed (by residents) on the youths. This anti-social behaviour has been accentuated by occasional mini-moto (miniature motobike) misuse in the alleyway (coming from the park), leading to a noise nuisance and a number of near-misses with residents (and once with a car on Sheersmith Road). It appears that very few of the youths are residents within the blocks, but they choose to loiter there after Laurie Park closes at 7pm rather than attending the local youth centre at the end of Morecambe Street.
The council has decided that the best thing to do is
to gate the alleys using the new powers in the Clean
Neighbourhoods and Environment Act 2005. A
section 30 dispersal order was discussed with police
colleagues, but it was decided that this might not be
the most suitable option in this situation, as it would
need extra police resources to be enforced, including
at night time. Substantial gates at each end of the
alleys would have a more immediate impact,
preventing access to the rear of properties. They
would also prohibit the use of these alleys as a
makeshift racing track for mini-motos.

It is not anticipated that this will have a displacement
effect; mini-moto misuse is already a problem in
Laurie Park, and the police have confirmed that they
will step up their seizure campaign in parallel with
this measure. Early intervention is necessary and so
acceptable behaviour contracts (ABCs) will be sought
against known perpetrators in an attempt to thwart
any escalation of their behaviour.
Part 1: Initial assessment

STEP 1: DOES THE ALLEYWAY FACILITATE CRIME OR ANTI-SOCIAL BEHAVIOUR?
Section 129A(3) of the Highways Act 1980 sets out the conditions that must be met before legal procedures for making an order can be implemented. The conditions are that:

- premises adjoining or adjacent to the highway are affected by crime or anti-social behaviour;
- the existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour; and
- it is in all circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour.

These requirements ensure that gating orders can only be used in alleyways that are experiencing or triggering crime and anti-social behaviour. Gating orders cannot be used for other purposes. Practitioners should make an assessment using any relevant evidence of crime and anti-social behaviour in the area, and must also be satisfied that gating the alley will contribute to its reduction.

Case Study:
Rutherford Mansions are clearly affected by crime and anti-social behaviour, namely the increase in burglaries and varying types of youth nuisance. This has been confirmed by the police who have written a letter to the council, corroborating that residents have registered complaints and compiled detailed diaries of ASB incidents.

The letter also makes it clear that the alleyways are a facilitator of crime and anti-social behaviour. It is probable that the graffiti in the alleyways would be less likely to occur if access was restricted, and a similar impact is expected on the number of burglaries. In this sense, whether the youths who loiter there are responsible for the graffiti is a separate (though still important) issue; gating the alleys should prevent further crime and anti-social behaviour in this location, regardless of who the culprits are.

The final requirement, that “it is in all circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour”, is slightly more complex. For this reason, it probably should not be addressed in detail until after other issues (such as the alleyway’s highway status) have been clarified, as initial discussion over the expediency of an order would be futile if the alleyway does not have the correct highway status. It is covered in more detail in Step 4.

STEP 2: CAN THE ALLEYWAY BE GATED?
Before the decision can be made to gate an alley, practitioners need to clarify whether the alleyway’s status legally allows it to be subject to an order.

Highway status: Gating orders can only be used on certain highways. Private roads cannot be the subject of a gating order.

Section 129A(1) of the Highways Act 1980 allows any “relevant highway” to be subject to a gating order. This is defined (by section 129A(5)) as any highway other than:

- a special road;
- a trunk road;
- a classified or principal road; or
- a strategic road, within the meaning of sections 60 and 61 of the Traffic Management Act 2004 (Strategic Roads in London).
Regulations may also specify other types of highway that may not be gated. However, the current regulations do not include any other type of highway.

The ability to gate a highway using this legislation also depends on whether it is recorded or adopted. This is explained in the following table:

<table>
<thead>
<tr>
<th></th>
<th>Recorded highway</th>
<th>Unrecorded highway</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adopted highway</td>
<td>Covered by sections 129A–129G of the Highways Act 1980 because it is recorded as a public highway</td>
<td>Covered by sections 129A–129G of the Highways Act 1980 because we can assume that a highway maintained at public expense is a public highway</td>
</tr>
<tr>
<td>Unadopted highway</td>
<td>Covered by sections 129A–129G of the Highways Act 1980 because it is recorded as a public highway</td>
<td>Whether it is covered depends on whether the local authority decides it is a public highway. If it is not a highway, it will be private and can be gated without using gating legislation (although planning permission may still be required)</td>
</tr>
</tbody>
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**Principal means of access:** Section 129B of the Highways Act 1980 prevents the making of an order in alleys if this will result in access being restricted in certain ways. Notably, section 129B(4) states that a gating order may not be made so as to restrict the only or principal means of access to any dwelling, i.e. gating orders cannot be used to prevent people (for example, postal services) from getting to residents’ front doors. Similarly, under section 129B(5), a gating order cannot be made that restricts the only or principal means of access to a business or premises used for recreation, during the periods which these premises are in use.

**Consultation between councils in a two-tier authority structure:** Within a two-tier authority it would be useful to involve both authorities throughout the life of the process, to prevent having to redo processes or duplicate actions.

**Access for occupiers:** Section 129B(3) of the Highways Act 1980 states that a gating order cannot be made that restricts any access to premises by occupiers, including back doors. Therefore, any occupier whose access would be restricted by the gating order must be given the ability to open the gates, for example through the provision of keys.
Example of a two-tier authority structure between Gedling Borough Council and Nottinghamshire County Council

A key factor for two-tier authority areas in addressing residents’ concerns over requests for gating orders is communication. The introduction of gating orders arising out of the Clean Neighbourhoods and Environment Act 2005 was quickly recognised as being of great potential benefit to local communities who are victims of ASB, criminal damage, littering and, in some cases, more serious offences. To respond to this, Nottinghamshire County Council provided guidance to all local Nottinghamshire borough and district authorities on how the new legislation would be delivered. This included the provision of an application form template to be completed for identified alleyways. The guidance also made clear definitions of who was responsible for what actions.

Gedling Borough Council and Nottinghamshire County Council followed this process:

- Problem identification – information/incident reporting from the community is gathered with the use of diary sheets over a period of at least three weeks.
- During this time, police and fire data is accessed, seeking to identify reported incidents.
- The information gathered covers a period of the past 12 months for incidents of crime and ASB, reported to the police, any other recorded information from partner organisations and anecdotal community information/intelligence.
- All cases are discussed at both the local ASB problem-solving group and the multi-agency CDRP tactical officers group meeting.
- At these meetings it is possible not only to promote further information gathering but also to seek any further actions to tackle the issues through effective partnership working, seeking a solution outside the gating order or at least a control strategy/action plan for the interim period.
- Once the information is gathered, the application form is completed. This is signed by a representative from the CDRP such as the neighbourhoods and crime manager.
- The submission is made to Nottinghamshire County Council Highways Department. Consultation with the local community, including the posting of orders, is undertaken by the county council.
- Once the consultation period is over, the County Council gathers all the information and the portfolio holder at the County Council makes the decision on whether or not to grant a gating order.


**STEP 3: INFORMALLY CONSULTING THE PUBLIC AND ORGANISATIONS**

When deciding whether to gate an alleyway, practitioners need to consult the local community and assess whether an order is necessary. It is anticipated that this will initially be done on an informal basis; it is members of the community who use and live by the alleyway, and who will draw local agencies’ attention to the problem in the first instance. An example of the type of letter that Blackpool Borough Council uses is given in Annex 1.

Similarly, it is good practice to liaise with organisations – particularly CDRP members – prior to pushing ahead with an order. What this entails will depend on the organisation – for example, in the case of energy suppliers and statutory undertakers (who may need to regularly access the alleyway) this may simply mean an informal notification. In other cases, face-to-face consultation may be more appropriate, as some CDRP members such as the police can cause a public inquiry to be held if they formally object to the order (covered in Step 8B). Therefore, it is advisable to find out about any opposition that may occur before publishing a proposed order, so that this opposition can be mitigated. It is also important that the correct people (at appropriate levels of seniority) are made aware of the order at this stage, in order to ensure that the appropriate organisations’ endorsement is valid.

**Checklist: Can the highway be gated?**

**Remember to check that:**

- The road is **not** private.
- It is **not** a special road, trunk road, strategic road, classified or principal road.
- It is **not** the only or principal means of access to any dwelling or business (during its normal opening times).
- The presence of gates **would not** restrict use of the highway for residents who live adjacent or adjoining it.
- If the highway is within a two-tier authority structure, both authorities have been consulted.

**Case Study:**

Although Rutherford Mansions used to be owned by the council, they are now privately owned on a shared-freeholder basis. However, the deeds of the property demonstrate that the alleys dividing the blocks are not privately owned. If they were, the alleyways could be gated by residents without using this legislation.

Instead, the alleyways are not recorded as a highway but are adopted. This means that they are maintained by the council, which therefore has the right to use the Highways Act 1980 legislation to gate them.

Gating the alleys will not prohibit the only principal means of access to the flats, but it will restrict access for residents who use the highways, and will prevent them accessing the rear of their properties without use of a key. Council practitioners agree that this can be overcome by the provision of sets of keys to residents of the Mansions. See Annex 1 regarding the issuing of keys to residents by Blackpool Borough Council.
Practitioners should not necessarily be deterred by objections; they should use the opportunity to incorporate compromises into the draft order, or to strengthen their justifications for making the order. Opposition that is deemed trivial (other than from organisations that can cause public inquiries – see Step 8B) can be overruled, and other objections can usually be overcome through discussion, compromise and practical measures (e.g. keys for power suppliers that may need to access the alley). However, if there are fundamental issues pertaining to the installation of the gates that cannot be resolved, it is useful to be able to terminate the process before spending resources on advertising and a potentially costly public inquiry.

**Case Study:**

After informal consultation with the community, it is clear that residents in the blocks are widely in favour of gating the problem alleyways; it was residents’ reports to the police that led to the council becoming aware of the problems the alleyways were causing. When questioned, most residents appeared to be in favour of gating the alleys. (Annex 2 shows how Blackpool Borough Council gives residents the opportunity to have their say on why a gating order is needed.)

However, there have been reservations expressed by a few residents who live north of the estate, including a local councillor. They are concerned that the gating order will prevent them from using the north–south alleyway connecting Sheersmith Road and Morecambe Street, a convenient and popular cut-through to the shops and pubs on Morecambe Street.

Consultation with the police during the periodic CDRP meeting has led to a favourable response to the measure, while there have been no objections from the fire and ambulance services after assurance was given that primary access to flats would not be restricted.

**STEP 4: IS THE ORDER EXPEDIENT FOR RESIDENTS AND THE COMMUNITY AS A WHOLE?**

Section 129A(3)(c) of the Highways Act 1980 states that an order can be made if it is “in all circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour”. However, local authorities need to balance the crime/ASB reduction benefits of an order against any inconvenience that the gating order causes to residents and the community as a whole. Section 129A(4) states that these “circumstances” include:

- the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;
- the likely effect of making the order on other persons in the locality; and
- in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.

Given the points above, practitioners will need to embark on a formal consultation with the community later in the process (see Part 2), but the initial assessment should be based on evidence provided by those who use the alleyway – in particular, local residents. This can be achieved by using a form like that attached at Annex 2, which shows how Blackpool Borough Council has dealt with obtaining evidence from residents in an area facing anti-social behaviour.

In practice, it is likely that it will be the residents in the immediate area who have brought the alleyway to the attention of the council. As the primary victims, it is improbable that they will object to anything that addresses crime and anti-social behaviour, particularly as the principal means of access to their dwellings cannot be gated.
However, members of the wider community who are less affected by the crime and ASB that the alleyway stimulates, but who use it as a through route, may object to its gating. It is for local authorities to judge whether alternative routes are suitably convenient. If the gating of an alley means that people now have their journey increased by a very significant amount, or have to use roads suitable only for vehicles, a gating order may not be appropriate.

Nevertheless, if the majority of residents in the immediate area wish to see the alleyway gated because of the crime and anti-social behaviour that is present, this should carry more significance than the views of others who may just wish to walk down the alleyway. Even if there is more opposition to the order than support for it, the local authority may still continue with a gating order if it feels that the problems experienced by the affected residents are overwhelming, and that other interventions to stop the problem will not be expedient.

**Case Study:**

The crime and ASB benefits of gating the alleyways are clear. However, the impact on the community as a whole is more ambiguous.

Until six months ago, an anti-social family lived in the north-east block of Rutherford Mansions. They were responsible for a large degree of noise and intimidation within the alleyways, and at this time it was concluded that a gating order would not be expedient for the simple reason that they lived in the block and so could not be prevented from accessing the alleys that ran between the buildings. Once they were evicted, a drop in the number of incidents was recorded, but this increased again soon as other perpetrators stayed on and members of the family returned to the alleyways. However, as the problem is now caused by non-residents, the prospect of gating the alley is far more expedient.

The council is aware that a small minority of residents are opposed to gating, arguing that it will mean an unreasonably longer walk to get to Morecambe Street.

The council has assessed the implications of gating these alleys and the alternate routes that exist. Two alternate routes that could be used between Sheersmith Road and Morecambe Street exist (via Laurie Park or remaining on Sheersmith Road), the latter being very well lit and easily accessible by people with mobility difficulties. Although these routes are slightly longer than the cut-through provided by the alleyways, in practice they would both only add a few minutes to a journey. Balancing this against the crime and ASB benefits, it is clear that the latter must take precedence. In order to be as open and transparent as possible, the council has written to those who objected, explaining briefly the reasons for the decision but making clear that they will have an opportunity to formally object once the order is publicised. A telephone call to the local councillor who expressed reservations has helped to clarify the reasoning for the order and secured his support.
**STEP 5: HOW MANY ORDERS ARE NEEDED?**

Many alleyways are not simple thoroughfares, with two obvious entrances/exits. Often, alleyways thread through large developments such as estates or large terraced areas, diverging into many entrances/exits. This frequently leads to confusion over whether such a passage counts as one alley, or whether the various intersecting lanes count separately. This raises questions about how many gating orders will be required.

In the opinion of the Home Office and the Department for Environment, Food and Rural Affairs, only one gating order should be needed for alleyways with multiple exits. The key issue is for the local authority to make it very clear what is covered by an order; gating order regulations do not require an order to be accompanied by a map, but in cases such as the Blackpool example used in this guide, it may be good practice (see Annex 4). However, separate orders will need to be made where an alleyway is intersected by a highway that cannot be covered by the order.

The map below shows an area in Blackpool where multiple gating orders have been made and the entrances and exits to the alleys have been gated. In this instance:

- one gating order could satisfactorily be used to gate the alleyway in terrace 1, despite it having eight exits; and
- if the alleys in the other terraces were to be gated as well, separate orders would be needed for each terrace. This is because the alleys are intersected by separate highways that will not be gated.

**Illustration: Alleys running through terraced housing**
STEP 6: PUBLICISING THE ORDER
Once the decision has been made to progress the order formally, there are statutory publicity requirements that need to be observed.

Regulations 3 and 4 of the Highways Act 1980 (Gating Orders) (England) Regulations 2006 specify the publicity requirements. Local authorities have a duty to publish a notice that:

- identifies specifically or by description the relevant highway;
- sets out the general effect of a gating order;
- identifies alternative routes;
- sets out a draft of the proposed order; and
- invites written representations as to whether or not a gating order should be made. This should be done within a specified period of **not less than 28 days**.

This notice must be published:

- on the council’s website; and
- in a local newspaper.

It must also be given to organisations and individuals who will have a specific interest in the management of the alleyway. These are designated by Regulation 4 as:

- all the occupiers of premises adjacent to or adjoining the alleyway;
- other public bodies and companies that maintain or provide services in or around the location of the alley, including:
  - statutory undertakers;
  - gas or electricity services providers;
  - water services providers; and
  - communications providers;
- anyone who requests a copy of the notice, or who has asked to be notified of any proposed gating orders; and
- every other local authority tier, the relevant fire authority and NHS trust, the relevant police authority (informing the Chief of Police) and the local access forum through which the alleyway runs.

WHAT DOES THIS MEAN IN PRACTICE?
This looks like a substantial requirement, but in reality this is not as involved as it seems. This is because the draft order will already include (under Regulation 8) the general effect of the order and alternative routes. It is advantageous to minimise the information provided while remaining within the legal framework because:

- it will be simpler and easier for the general public to understand; and
- it will result in a smaller advertisement, reducing advertising and printing costs.

A model notice is set out overleaf. Annex 4 provides an example of a gating order notice used by Blackpool Borough Council.
Model notice informing the public of a proposed order

PUBLIC NOTICE

This is to inform the public of the proposed Gating Order on [insert location], which is situated [insert description of location]. The general effect of the order will be [insert brief details – three sentences maximum].

Draft Order

1. The Council is satisfied that the conditions set out in section 129A(3) of the Highways Act 1980 have been met.

S129A
(3) Before making a gating order in relation to a relevant highway the Council must be satisfied that:
(a) premises adjoining or adjacent to the highway are affected by crime or anti-social behaviour;
(b) the existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour; and
(c) it is in all the circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour.

S129A(4) The circumstances referred to in subsection (3)(c) include:
(i) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;
(ii) the likely effect of making the order on other persons in the locality; and
(iii) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.

2. Access to the alleyway will be suspended to the general public through the erection of a gate at [insert location] and [insert location] between the hours of [insert time].

3. Persons who are excluded from the effects of the restriction include [insert names/position/organisation].

4. Members of the public can access [insert location] by [insert alternative route].

5. Responsibility for the gate’s maintenance lies with [insert position – it is not necessary to name a specific person]. He/she may be contacted on [insert contact details].
STEP 7: ASSESSING REPRESENTATIONS FROM THE PUBLIC

A council must consider any representations as to whether or not a proposed gating order should be made.

When considering representations, it is essential that practitioners judge them against sections 129A(3) and (4) of the Highways Act 1980. It is the responsibility of the local authority to assess the representations and to make a decision on the basis of these.

Representation consideration criteria

Genuine concerns of crime and anti-social behaviour should generally outweigh opposition from those non-residents – i.e. people not living directly adjacent to or adjoining the alley – who are inconvenienced by loss of through-access to the alley:

- unless no suitable alternative routes exist within a reasonable distance;
- even if an order is opposed by a majority of residents, if the crime/ASB occurring is deemed authentic and substantial; and
- particularly if alternative measures have been tried and have proven unsuccessful, or – for whatever reasons – there are no appropriate alternative measures available.

A full justification, with evidence, should be something that local authorities have on file to provide to anyone who objects to the proposed order, or who requests an explanation for it. Practitioners’ responses to those who object should be comprehensive, and should specifically address their concerns. The objective of the gating order is residents’ protection from crime and/or anti-social behaviour, so it is essential that local authorities aim to conclude this process promptly and without unnecessary delay.

Checklist: Publicising the order

Remember to check:

- The advertising choices available.
- That a notice is published both in a newspaper and on the council’s website.
- That a notice has specifically been given to all individuals and organisations listed by Regulation 4.
- That at least 28 days are allowed for representations to be provided.
Nevertheless, before proceeding with a gating order, a period of 28 days starting on the first date of the publication note must have elapsed. If the publication note has specified a longer period, then this should be complied with before proceeding with an order.

If representations are strongly polarised, and the decision to gate is unresolved, councils may consider undertaking a public inquiry to decide. An inquiry will mean that the council can demonstrate they have acted in an impartial manner and all views have been accounted for. However, public inquiries are costly and time-consuming, and councils are not obliged to hold them unless triggered by one of the agencies set out in the legislation (see Step 8(B) below). Therefore they should only be used when necessary. More details on the procedure for public inquiries is detailed in Step 9 of this guidance.

**Case Study:**

During the formal consultation process, a minority of Rutherford Mansions residents living north of the block again have expressed their reservations about the removal of their cut-through to the shops. Most of these concerns are based around the increased journey time to the shops.

Although circumstances have not changed since the council made its initial assessment, it agrees to have another look at the situation. It calculates that, on average, gating the alley will add four minutes to the walk to the shops on Morecambe Street, and that this is not considered a sufficient inconvenience to deter the order. Upon discussion with the residents objecting to the order, it appears that most do not use the alleyway, owing to its existing anti-social behaviour problems. Therefore the council does not feel that the limited number of objections should stop the gating order going ahead. Given the small number of objections, the council decides not to embark on an expensive process of writing to all residents; instead, it writes specifically to residents who have made objections, although a summary of responses and a council response to the exercise are published on its website.

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**STEP 8: ASSESSING REPRESENTATIONS FROM ORGANISATIONS**

**A) REPRESENTATIONS FROM PUBLIC AND PRIVATE ORGANISATIONS**

It is essential that local authorities consider the representations (if any) of local organisations as well as those of the general public. Practitioners should seek, wherever possible, to avoid a situation where organisations are prevented from undertaking essential work. For example, providers of gas or electricity may need to access the alley for maintenance purposes.

These issues can easily be overcome by ensuring that the relevant authorities have keys that enable them to access the alley, and issues will often not arise if the organisations have been notified before the public notice is released. This will mean that any reservations they have can be made clear – and eased through discussion and compromise – rather than arising during the consultation, when a formal response may be more appropriate.

However, if a formal representation is received from an organisation that opposes the order, practitioners should assess it carefully. In these circumstances, an authority must consider the following questions:

- Is this objection reasonable?
- Can it be overcome through compromise, e.g. the possession of keys by vital personnel?
- Is the organisation's objection against the order more important than the crime/ASB reasons that propose it?

If opposition is received from rights-of-way organisations, remember that the right of way will only be suspended rather than revoked under this legislation; these concerns should not supersede crime reduction priorities if reasonable alternative routes exist.
In general, authorities should seek to avoid a public inquiry, which will prove costly and time-consuming; that is why it is important to consult these organisations before reaching this stage (see Step 3). If a council has satisfactorily done this, objections should not be expected.

**STEP 9: HOLDING PUBLIC INQUIRIES**

Councils have an obligation to ensure that the initial consultation phase is thoroughly completed before starting an inquiry. Consequently, an inquiry may not commence (and may not be advertised) until at least six weeks have passed since the initial proposal was publicised.

If the circumstances are such that a public inquiry is unavoidable, the council must appoint an inspector to run it. It is imperative that the inspector is impartial and suitably qualified.

The council must publicise a notice in a newspaper (at least once) and write to those who have already made representations, enclosing the notice. The components of this notice should include:

- the title and draft of the proposed order;
- the name of the council;
- the identity of the relevant highway, either by description or specification;
- a statement referring to the initial notice that proposed the gating order, notifying people that a public inquiry is to be held in connection with the proposal;
- the date, time and place of the inquiry and the name of the inspector;
- opening and closing times of premises where further information (if any) can be found on the proposals for the relevant gating order; and
- the address to which any representations for consideration by the inspector should be sent, and the time by which they should be received.

**Case Study:**

As a result of successful informal consultations with organisations, the council has received no objections from organisations such as utility companies, which need to access the alleyway on occasions. However, a written objection has been received from a local walking group which considers the path between Sheersmith Road and Laurie Park to be a right of way that should remain accessible. On the far side of Laurie Park there is a footpath that leads out to the Surrey countryside, and the alleyway in question is occasionally used by walkers who visit the local shops before setting out. The letter acknowledges that many other routes to Laurie Park exist but refers to this order as “the thin end of the wedge”. The council writes to the local walking group, clearly setting out the rationale for making the gating order and highlighting that:

- the right of way has only been suspended;
- there are easily accessible alternate routes;
- the walkers have the right to legally challenge the order if it is used inappropriately; and
- in this case the concerns of crime and ASB must outweigh minor rights-of-way issues.

Again, a copy of this response is published as part of the final response and made available for viewing on the council’s website.

**B) REPRESENTATIONS THAT CAN CAUSE PUBLIC INQUIRIES**

 Legislation dictates that there are certain organisations whose representations cannot be responded to or dealt with through written correspondence. If an opposing representation is received from any of the following organisations and the highway passes through their area, it is a statutory requirement that a council must hold a public inquiry:

- the chief officer of a police force
- a fire and rescue authority
- an NHS trust or NHS foundation
- another local council.
Good practice dictates that the notice should be published on the council's website alongside previously published correspondence on the order. A model of a public notice that local authorities may use if they wish is set out below.

Procedure at the public inquiry shall be determined by the inspector. However, councils should be aware that there are certain requirements that must be adhered to in order to comply with the Regulations. Specifically:

- anyone interested in the proposed order may appear – either in person, by counsel or by other representative – at the inquiry;
- anyone may send written representations for the inspector to consider; and
- the inspector may refuse to consider or hear representations – either written or in person – if he or she considers that this view is irrelevant or has already been satisfactorily addressed.

When assessing the case for a gating order, the inspector will carefully consider the balance of priorities between public rights of way and crime and ASB. It is strongly recommended that councils comply with the inspector's decision. If the council chooses not to (when the inspector advises against an order), it can be challenged in the High Court and the decision to ignore the inspector's recommendation will be scrutinised. Consequently, this should only occur in the most exceptional of circumstances, and practitioners must ensure that they have a comprehensive (and legal) justification for their choice of actions.

PUBLIC NOTICE – [insert name of council]

1. This is to inform the public of the proposed Gating Order, [insert name] on [insert location], which is situated [insert description of location]. The general effect of the order will be [insert brief details – three sentences maximum].

2. On [insert date], a notice was published in [insert newspaper] and on the Council’s website, notifying residents and interested parties of the Council’s proposal to gate the aforementioned highway, under Sections 129A–G of the Highways Act 1980. After initial consultation, a public inquiry will be held in connection with the proposal.

3. Detailed information on the proposals (including the draft order) are available at [insert address] and can be accessed [insert times].

4. The inquiry will be held on [insert date].

5. The appointed inspector is [insert name].

6. Representations for consideration by the inspector should be sent to [insert address]. The deadline for receipt is [insert date].
Part 3: After an order is made

STEP 10: REGISTERING GATING ORDERS
Once all the previous steps have been completed and the decision to make the order has been granted, councils are obliged to ensure that this process can be scrutinised by anyone who wishes to do so. Regulation 17 sets out how orders should be recorded. Specifically, it requires that:

- a copy of the gating order is displayed in a council office for at least 12 months from the date of the order;
- the order is published on the council’s website;
- a register of all gating orders and the notices of proposal for their making/variation/revocation must be kept and must be open to inspection during normal office hours; and
- the council must supply a copy of the gating order to any person who requests a copy (upon payment of a reasonable charge).

Councils should also strongly consider putting notices by the alleys themselves to inform the public why they are now shut. See Annex 3 for a suggestion of what kind of notice can be used – this example is from Blackpool and is placed directly on the gate.

Further, good practice is to include on the council website the justification and evidence (which may have been published already) for the gating order. In addition, where gating orders have not been made, the justification and evidence for this decision should also be provided.

STEP 11: MAINTAINING GATING ORDERS
Given the ‘temporary’ status of gating orders (the right of way has been suspended, not revoked), it is important to ensure that they are working as intended by undertaking evaluations of the gating sites to see whether local circumstances have changed. This is to make sure that the residents affected by the gating orders are satisfied with their purpose and also that no further anti-social behaviour has ensued after the implementation of the gating order.

In Blackpool Borough Council, they conduct 12-month reviews of gating orders and gating sites. However, as there are time constraints on visiting all sites within the year, it may be useful to send letters to the residents living within the areas that the gating orders cover.

A questionnaire could be included with these letters, asking whether the gating orders seem to be working and what general comments the residents have. This would provide a representative public opinion of their satisfaction in relation to the gates.

If the questionnaires highlight problems with the gates, a visit can be made to assess the situation and whether the gating order is effective.

Alternatively, a random sample can be taken from the areas that have gating orders in place, and those selected can be visited to ensure that the gates are efficient and are reducing crime and anti-social behaviour.

See Annex 5 for a copy of the questionnaire used by Blackpool Borough Council.
STEP 12: VARYING AND REVOKING GATING ORDERS

Following the review of the gating order, as set out in Step 11, situations may arise that require the original terms of the gating order to be changed.

This may be because the initial order was unsuccessful in stopping the problems – for example, the gates remained open during part of the day and the problems continued.

Alternatively, the problems may have been stopped by the order, and the local community may wish to reinstate some access to the highway, for example by opening the gates during the day.

Therefore, it is possible under section 129F of the Highways Act 1980 to vary or revoke an existing order. The process for variation or revocation is the same as that for introducing an order.

When these circumstances arise, practitioners can follow the steps in this guide with a view to variation or revocation.
ANNEX 1: RESIDENT LETTERS

July 2008

Dear Resident

RE: CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

Further to the letter enclosed with this form, I am asking for your assistance in complying with the relevant legislation.

The Clean Neighbourhood and Environment Act requires that a ‘gating order’ makes certain stipulations if there are dwellings such as flats and cottages which have the only or principal means of access in the alley to be gated.

I would therefore be obliged if you could inform me if this property has any such dwelling(s).

It is also important for us to make contact and consult with the owners of the property, and it would be of assistance to me if you are not the owner if you could give me details of the owner by completing the tear-off slip below and returning it to me in the enclosed prepaid envelope.

Yours faithfully

Martin Parry
Community Gating Co-ordinator

..............................................................................................................................................................................

OWNER OF PROPERTY (if different to the occupier)

Address of property .......................................................................................................................................................

Name ............................................................................................................................................................................

Address of owner ...........................................................................................................................................................

......................................................................................................................................................................................

......................................................................................................................................................................................

Postcode ........................................................................................................................................................................

Telephone number .......................................................................................................................................................
Dear Resident

RE: CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

A request has been received by the community gating project for the council to make a gating order and install gates on the alley adjacent to your property as a result of concerns about crime and anti-social behaviour. This letter invites your response to this request.

A council may make a gating order under the above Act to reduce crime or anti-social behaviour where it can be shown that premises adjoining a highway are affected by crime or anti-social behaviour, made easier by the existence of the highway. An order can authorise the installation of gates so that access is permitted only to certain people, such as residents of adjoining properties and the emergency services.

If an alley is gated, adjoining residents and others who are granted access rights are asked to purchase keys, unique to the gates, at a cost of £8.00 each. For a gating order to be made, evidence is required to demonstrate that crime or anti-social behaviour is being committed in or from the alley. This evidence could take the form of statistics obtained from the police analyst or written statements from residents, business users, Neighbourhood Policing Teams, local councillors and any other parties who have personal knowledge of the situation. Information has already been requested from the police. Crime and anti-social behaviour include matters such as criminal damage, arson, fly tipping and youth nuisance.

A gating order can only be made after a formal process of advertisement and notification and consideration of responses has been followed. However, your views on this request are being sought at this stage, as a preliminary consultation. If you support the request and can provide evidence of anti-social behaviour or crime, you are invited to complete the attached statement as fully as possible and return it in the enclosed prepaid envelope. Equally, if you are of the view that the order should not be made, you are invited to comment to this effect.

If, following this consultation and other enquiries, sufficient evidence of crime or anti-social behaviour is obtained to continue the process, then a formal notification of the intention to make the gating order will be given to adjoining occupiers as well as to other interested parties. Additionally, the proposal will be advertised and public notices displayed and all representations will be considered, including those received in response to this letter. Please note that the evidence, with the exception of personal details, may be made available for public inspection.

If you have any queries or wish to discuss this matter, please do not hesitate to contact me on the telephone number below.

Please return the enclosed evidence sheet to me by Friday 1 August 2008.

Yours faithfully

Martin Parry
Community Gating Co-ordinator

Blackpool Community Safety and Drugs Partnership
Seasiders Way, Blackpool, FY1 6JY
Telephone: (01253) 651165
www.csp.blackpool.org.uk
ANNEX 2: STATEMENT OF EVIDENCE FOR INSTALLING A GATE

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<tr>
<td>Address</td>
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<td>Telephone number</td>
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<td>Date</td>
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</tbody>
</table>

This statement is true to the best of my knowledge and belief. I understand that this statement may be made available for public inspection. Private information **will not** be divulged.

Signed:  
Dated:  

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ANNEX 3: NOTICE FOR THE PROPOSED INSTALLATION OF GATES

A GATING ORDER UNDER SECTIONS 129A–G OF THE HIGHWAYS ACT 1980 HAS BEEN ISSUED BY BLACKPOOL BOROUGH COUNCIL TO RESTRICT ACCESS ALONG THIS ALLEYWAY.

FOR FURTHER ENQUIRIES OR TO REPORT FAULTS PLEASE CONTACT:

CUSTOMER FIRST CENTRE
CORPORATION STREET
BLACKPOOL

TELEPHONE NUMBER
01253 477477

OR
WWW.BLACKPOOL.GOV.UK

CAUTION:
DO NOT CLIMB ON THE GATE
ANNEX 4: PUBLIC NOTICE WITH MAP

THE BOROUGH OF BLACKPOOL (MAYFIELD AVENUE) GATING ORDER 2008

Notice is hereby given that Blackpool Borough Council in exercise of its powers under sections 129A to G of the Highways Act 1980 proposes to make the above Order. The Order will have the following general effect:

1. To restrict the public right of way at all times over all the highway that runs from its junction with Scarsdale Avenue between 598 Lytham Road and 4 Scarsdale Avenue in a northerly direction terminating at the rear of 17 Highfield Road and all the interconnecting highway that runs therefrom in an easterly direction at the side of 7 Mayfield Avenue terminating at its junction with Mayfield Avenue, Blackpool, by all persons except for adjoining owners and occupiers, the emergency services and other service providers.

2. To authorise the erection and maintenance of gates on the highways close to every point of joining unrestricted highway in order to enforce the restriction.

3. Alternative routes for public passage are via Scarsdale Avenue, Lytham Road, Highfield Road and Mayfield Avenue, Blackpool.

A draft of the proposed Order is set out below. A map and statement of reasons for making the Order may be inspected during normal office hours at the Customer First Centre, Corporation Street, Blackpool.

If you wish to make representations concerning the proposed Order, you should send them in writing to the Head of Blackpool Community Safety and Drugs Partnership, Blackpool Borough Council, Seasiders Way, Blackpool FY1 6JY to arrive on or before Monday 19th May 2008 (please quote ref no AG124 in your correspondence)

Please note that all representations received may be considered in public by the Council and that the substance of any representation together with the name and address of the person making it could become available for public inspection.

DATED this 7th day of April 2008

Mark Lewis
Head of Legal and Democratic Services
THE BOROUGH OF BLACKPOOL (MAYFIELD AVENUE) GATING ORDER 2008

WHEREAS the Blackpool Borough Council (hereinafter referred to as “the Council”) is satisfied that conditions set out in section 129A(3) of the Highways Act 1980 (hereinafter referred to as “the Act”) have been met in relation to the lengths of highway listed in the First Schedule hereto (hereinafter referred to as “the highway”) namely that premises adjoining the highway are affected by crime and/or anti-social behaviour, that the existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour and that it is in all the circumstances expedient to make this Order for the purposes of reducing crime or anti-social behaviour.

NOW THEREFORE the Council in exercise of its powers under sections 129A to 129G of the Act as amended by the Clean Neighbourhoods and Environment Act 2005 and under the Highways Act 1980 (Gating Orders) (England) Regulations 2006 and under all other powers it enabling in that behalf hereby makes the following Order:

1. The public right of way over the highway is restricted at all times to all persons so that passage and repassage thereover may not occur with the exception of those persons listed in the Second Schedule to this Order.

2. The installation of gates by the Council close to every point on the highway at which the highway joins highway that is unrestricted by this Order for the purpose of enforcing the restriction provided for in this Order is hereby authorised.

3. The alternative route available for vehicular and pedestrian access is via Scarsdale Avenue, Lytham Road, Highfield Road and Mayfield Avenue, Blackpool.

4. The aforesaid gates shall be maintained and operated by the Council and the contact details of the responsible officer are: Community Gating Co-ordinator (Tel: 01253 651165) (email: info@bsafeblackpool.com). The gates are to be locked and unlocked by keyholders.

5. This Order may be cited as the Borough of Blackpool (Mayfield Avenue) Gating Order 2008 and shall come into operation on (to be advised).

FIRST SCHEDULE

Lengths of Highway: All that highway that runs from its junction with Scarsdale Avenue between 598 Lytham Road and 4 Scarsdale Avenue in a northerly direction terminating at the rear of 17 Highfield Road and all the interconnecting highway that runs therefrom in an easterly direction at the side of 7 Mayfield Avenue terminating at its junction with Mayfield Avenue, Blackpool.
SECOND SCHEDULE

Persons
1. All owners and all occupiers of premises adjoining the highway

2. Police, Fire and Rescue Service and NHS Trust/Foundation Trust staff when in exercise of their duties

3. Persons using the highway in connection with the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the said length of highway of any sewer, main, pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or of any telecommunications apparatus as defined in Schedule 2 to the Telecommunications Act 1984

4. Council staff and its authorised contractors when in exercise of their duties

5. Persons using the highway with the permission or at the direction of a duly authorised council officer in this regard

GIVEN under the Common Seal of the Council of the Borough of Blackpool on the

day of 2008

THE COMMON SEAL of the
Blackpool Borough Council
was hereunto affixed
in the presence of:

Mark Lewis
Head of Legal and Democratic Services
MAP OF MAYFIELD AVENUE
ANNEX 5: QUESTIONNAIRE USED BY BLACKPOOL BOROUGH COUNCIL AFTER GATING

ALLEY-GATING PROJECT

Dear Sir/Madam

It has now been some time since we installed the alley gates to the rear of your property in an attempt to reduce reported anti-social behaviour and crime, while trying to provide a safer, healthier community for the residents. We would now be interested in your views as to how successful you feel the gates have been in achieving these aims. We would be grateful if you would complete the questionnaire below by ticking the boxes and return it in the envelope provided.

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<td>Other comments</td>
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</table>

Your details

Name ____________________________________________
Address _________________________________________
Postcode _______________________________________

With thanks for your help from your BSafe alley gating team.
BSafe Blackpool, Seasiders Way, Blackpool FY1 6JY
Telephone 01253 651165
www.csp.blackpool.org.uk
ANNEX 6: EXAMPLES FROM STOKE-ON-TRENT CITY COUNCIL

FRONT COVER: MOUNT STREET
The photograph on the front cover of this guide shows a gate from a system of alleyways that link a densely populated area of owner-occupied/privately rented Victorian terraced properties. The alleyway was the site of alcohol and drug abuse and associated anti-social behaviour, and some of the problems stemmed from residents within the area. First, the alleyway network was tidied to open it up and improve visibility, which made it less inviting to those who were using it for drink and drugs, then the fitting of the gates forced drug activity to the front of properties and so made the location less attractive for users and dealers alike. Incidents were greatly reduced, and residents have seen a great improvement in their lives. Gates were fitted in January 2007.

PICTURES 1, 2 AND 3: BEXHILL CLOSE AND WHYGATE DRIVE
These pictures show an area from a private housing estate approximately 15–20 years old. There was a great deal of underage drinking and drug abuse (and associated litter problems) taking place in the alleyway that links the two gates, coupled with verbal abuse by schoolchildren from the local high school to residents who were complaining about the noise, graffiti, litter and foul language. Since the fitting of the gates, the alleyway has remained tidy, and there are very few problems experienced by residents. Gates were fitted in February 2007.

PICTURE 4: TAVISTOCK PLACE
This photograph shows an alleyway that backs onto a children’s play area. The play area had been abused by local youths for a while and used for alcohol and drug abuse most nights until the early hours. There was also a local demolition site that had not been secured or cleared. Residents were threatened by the youths if they reported any incidents, and damage to a value of many thousands of pounds was caused to private property by youths using missiles from the uncleared demolition site. Once the gates were installed and enforcement action was taken against the owners of the demolition site, the damage ceased. Gates were fitted in July 2007.

PICTURE 5: PALMERS GREEN
This picture shows part of a system of alleyways that links a small shopping area to a mainly owner-occupied estate with an older population. It is also a link to a local high school and a local primary school. At night, the alleyways were used by local young people after they had bought alcohol from the shops and were making their way to the school fields. At the primary school there were arson attacks, vandalism, criminal damage and graffiti. Local residents had been threatened and verbally abused when confronting the young people, and noise nuisance affected residents until the early hours of the morning. The gates have reduced the number of incidents greatly, but owing to the use of the alleyways they are under a timed order and are open between 7am and 8pm. Gates were fitted in April 2007.

PICTURE 6: ABINGDON WAY
These gates are on a secluded cul-de-sac which is used as a cut-through for a local primary school. Severe anti-social behaviour was experienced by local residents to the point that it was the scene of a non-fatal shooting. Since the gates have been fitted, with a timed order that opens the gates at 7am and closes them at 8pm, there have been virtually no reports of anti-social behaviour. Gates were fitted in May 2007.
5: Palmers Green

6: Abingdon Way
Initial assessment:

- Are premises adjoining or adjacent to the alleyway affected by crime or anti-social behaviour?
  - Yes: Assess highway status
  - No: Gating order not appropriate

Assess highway status:

- Is the alleyway:
  - a private road?
  - a special road?
  - a trunk road?
  - a classified road?
  - a strategic road?
  - No: Assess access to highway
  - Yes: Gating order not appropriate

Assess access to highway:

- Would an order restrict residents' access to premises, e.g. to back doors?
  - No: Is the alleyway a through route?
  - Yes: Informally consult with Crime and Disorder Reduction Partnership members and other organisations where deemed appropriate

Informally consult with Crime and Disorder Reduction Partnership members and other organisations where deemed appropriate:

- Are there any initial objections to the order?
  - Yes: Assess representations from organisations
  - No: Finalise initial assessment

Assess representations from organisations:

- Can these be resolved or overlooked?
  - Yes: Gating order not appropriate
  - No: Assess representations

Assess representations:

- Are there any opposing representations from the public?
  - Yes: Wait until 28 days have elapsed
  - No: Have 28 days elapsed since the notice was first published?
    - Yes: Have any representations been received?
    - No: Finalise initial assessment

Finalise initial assessment:

- Publish notice on council website and in local newspaper, proposing the gating order and providing the details specified in Regulation 3 of the Highways Act 1980 (Gating Orders) (England) Regulations 2006 (see Step 6 of this guide for further details)
- Give copies of the text to the organisations and individuals specified in Regulation 4 (Step 6)

Gating order not appropriate:

- Arrange for keys to be provided to residents in the event of order commencement

Have 28 days elapsed since the notice was first published?

- Yes: Have any representations been received?
  - Yes: Finalise initial assessment
  - No: Finalise initial assessment

Wait until 28 days have elapsed:

- No: Finalise initial assessment

Have any representations been received?

- Yes: Finalise initial assessment
  - No: Finalise initial assessment

Initial assessment:

- In all circumstances is it expedient to make the order for the purposes of reducing crime or anti-social behaviour?
  - Yes: Informally consult with Crime and Disorder Reduction Partnership members and other organisations where deemed appropriate
  - No: Finalise initial assessment
A Step-by-Step Guide to Gating Problem Alleys: Section 2 of the Clean Neighbourhoods and Environment Act 2005

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**PROCESS FLOW CHART**

1. **Are there any opposing representations on behalf of organisations?**
   - Yes: **Hold inquiry** (procedure to be decided by inspector)
   - No: **Gating order not appropriate**

2. **Are these from organisations that automatically cause a public inquiry?**
   - Yes: **Wait until 42 days have elapsed**
   - No: **Have 42 days elapsed since the notice was first published in the formal consultation?**
     - Yes: **Will you hold a public inquiry?**
       - Yes: **Appoint inspector**
       - No: **Gating order not appropriate**
     - No: **Can these be resolved or overlooked?**
       - Yes: **Gating order not appropriate**
       - No: **Display a copy of the gating order in council office for at least 12 months**

3. **Are there suitable alternative routes available?**
   - Yes: **Public inquiry**
   - No: **Are there any opposing representations on behalf of organisations?**
     - Yes: **Can the opposing representations be resolved or overlooked?**
       - Yes: **Will you still want to gate the alleyway?**
         - Yes: **Prepare comprehensive justification and contact planning inspectorate**
         - No: **Do not gate the alley**
       - No: **Gating order not appropriate**
     - No: **Public inquiry**

4. **Will you hold a public inquiry?**
   - Yes: **Does the inspector conclude that an order should be made?**
     - Yes: **Do you agree with the inspector’s decision?**
       - Yes: **Do you still want to gate the alleyway?**
         - Yes: **Prepare comprehensive justification and contact planning inspectorate**
         - No: **Do not gate the alley**
       - No: **Gating order not appropriate**
     - No: **Gating order not appropriate**
   - No: **Public inquiry**

5. **Keep a register containing:**
   - copies of notices of gating order proposals
   - copies of gating orders

6. **Publish gating order on council website**

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**MAKE GATING ORDER**