

# ENVIRONMENT CABINET MEMBER MEETING

**Agenda Item 48**  
Brighton & Hove City Council

**Subject:** Gating Orders – Protocol for Implementation  
**Date of Meeting:** 11 September 2008  
**Report of:** Director of Environment  
**Contact Officer:** Name: **Simon Bannister** Tel: **29-3925**  
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**Key Decision:** No  
**Wards Affected:** All

## FOR GENERAL RELEASE

### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 In April 2006, under the Clean Neighbourhoods & Environment Act 2005 (through inserting addition clauses into the Highways Act 1980) councils were given the power to restrict access to alleyways with a highway classification through the application of a 'Gating Order' – a mechanism which allows for alleyways to be closed 24/7 or for certain times without removing the underlying highway status and based upon the reduction of crime and antisocial behaviour.
- 1.2 Gating Orders are currently delivered by the Environment Improvement Team, and a number of requests for Gating Orders have been received from resident communities. The intention of this protocol is to assist in managing demand for this work by outlining the steps which an enquiry will be subject to and an indication of how we may prioritise applications, and ensuring that resident communities seeking a Gating Order are aware of the process followed and the issues and likely timescale involved in taking forward their request.

### 2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member approves the attached protocol (See Appendix A) which will be used to inform the councils response to requests for Gating Orders.

### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The power to grant Gating Orders came available in April 2006 and the power to implement a Gating Order is discretionary.
- 3.2 The Environment Improvement Team (EIT) delivered the first Gating Order for Brunswick Row in Brighton in September 2007.
- 3.3 The EIT are currently considering requests for Gating Orders in 8 locations around the City. The EIT is able to process up to 2 Gating Orders at any time, and guidance for council officers and for resident communities on how requests

may be prioritised and what criteria is used for taking requests forward will be of value in managing expectations.

#### **4. CONSULTATION**

- 4.1 Consultation has been carried out internally and with key external partners. The following have been contacted for views: Sussex Police, Crime Reduction Initiatives, BHCC Antisocial Behaviour Team, Community Safety Team, Conservation, Highways, Planning and Legal.
- 4.2 Responses to the consultation are outlined in Appendix B.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

The delivery of Gating Orders is currently being managed through the Environment Improvement Team agreed budget, although no dedicated budget exists. A funding source for each order will need to be identified before being implemented. The protocol does reference to the financial constraint

*Finance Officer Consulted: Patrick Rice Date: 06/08/08*

##### Legal Implications:

Section 2 of the Clean Neighbourhoods and Environment Act 2005 has introduced new sections 129A to 129G in the Highways Act 1980. This enables a council to restrict public access to any public highway by gating it within certain hours of the day (if applicable), without removing its underlying highway status. Although the Clean Neighbourhoods and Environment Act enables gating in a similar manner to the Countryside and Rights of Way (CROW) Act 2000, the 2005 Act goes further to make provision for anti-social behaviour together with power to revoke and vary.

It is advised that all required conditions are complied with in making a gating order as Section 129D of the Highway Act allows individuals to challenge an order in the High Court if the conditions for making it have not been complied with.

*Lawyer Consulted: Ginika Ogidi Date: 07/08/08*

##### Equalities Implications:

An Initial Screening Checklist has been completed which concludes that a full Equality and Diversity Impact Assessment is not necessary for this protocol. A copy of the completed checklist is available from the Environment Improvement Team.

##### Sustainability Implications:

This protocol has no identified sustainability implications.

##### Crime & Disorder Implications:

A Gating Order is a measure aimed at supporting reduction in crime and antisocial behaviour. The attached protocol will assist the council in delivering appropriate and effective Gating Orders.

Risk and Opportunity Management Implications:

As guidance to support the delivery of existing work, the attached protocol has no negative or additional risk management implications.

Corporate / Citywide Implications:

The delivery of Gating Orders support Corporate Priority 4 – A fair enforcement of the law/4.1 Reduce Crime and Antisocial Behaviour. The attached protocol will assist the council in delivering appropriate and effective Gating Orders.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

6.1 None considered.

**7. REASONS FOR REPORT RECOMMENDATIONS**

7.1 Considerable interest in Gating Orders has been expressed by resident communities, but the council currently lacks a framework for responding to requests or delivering Gating Orders. Additionally the process is poorly understood, leading to frustration and misplaced expectations on behalf of resident communities.

7.2 The attached protocol offers a step by step 'roadmap' which will assist the council in managing demand and offer clarity and realistic timescales and an idea of priorities to resident communities making requests for Gating Orders.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Appendix A - Protocol for the assessment and delivery of Gating Orders
2. Appendix B - Summary of responses to consultation
3. Appendix C – Guidance to the making of Gating Orders – Home Office

**Documents In Members' Rooms**

1. Guidance to the making of Gating Orders – Home Office

**Background Documents**

None.

