

Wards affected:  
ALL WARDS / CITY WIDE

**ALL AREA COMMITTEES**  
SEPTEMBER 2006

## **REPORT OF LEAD SERVICES DIRECTOR CITY DEVELOPMENT**

### **GATING ORDERS TO REDUCE CRIME AND ANTISOCIAL BEHAVIOUR**

#### **1. SUMMARY**

This report provides information on the role of the Area Committee in the use of new powers known as “gating orders” for closing footpaths, alleyways and other public rights of way to reduce crime and antisocial behaviour and their associated financial implications.

#### **2. RECOMMENDATIONS**

It is recommended that the Area Committee:-

- (1) Note the resolutions of Executive Board at its meeting on 20 June 2006;
- (2) Note its role in the gating order process; and
- (3) Resolve how it will determine applications for gating orders, having regard to the options set out at paragraphs 4.9.1 and 4.9.2 to this report.

#### **3. BACKGROUND**

- 3.1 At its meeting on 20 June 2006 Executive Board resolved that the City Council use the gating order provisions under the Clean Neighbourhoods and Environment Act 2005. This introduced a new power for highway authorities to make such orders for the purpose of reducing crime or antisocial behaviour. Unlike other legislation permitting the closure of highways, a gating order does not remove highway status but (as with a traffic regulation order) simply restricts the public from being able to use the highway at all times. An order may be full or part-time so that, if the circumstances justified it, a highway may be open by day and closed at night. The legislation permits the installation of security gates and fencing to enforce the restriction.
- 3.2 At its meeting on 20 June 2006 the Executive Board also resolved that each Area Committee authorise no more than one gating order during each financial year.

#### **4. PROPOSALS**

- 4.1 It is proposed that applications for gating orders should be directed initially to the Traffic Management Team in City Development to review the application and supporting evidence and make any additional enquiries which appear necessary. The application will be referred to the “Joint Tasking” process which is already operating within the City to tackle crime, disorder and antisocial behaviour hot spots. Joint Tasking is a partnership between the Council, Crime Disorder Reduction Partnership, Police, Probation Service, Nottingham City Homes, local NHS Trusts and the Fire and Rescue Service. Representatives of each of these bodies attend regular meetings at which geographical areas of crime, disorder and

antisocial behaviour are identified and incident data is considered. Resources are then allocated, with priority being given to tackle identified hotspots.

- 4.2 Under the Council's Constitution the appropriate body for deciding whether a gating order should be made in a particular case is the Area Committee for the area within which the highway is situated. Following receipt of an application, a report will be brought to the Area Committee in which the information and evidence which officers have received and assessed will be summarised. The report will include any information and/or data provided by the Joint Tasking process (see paragraph 4.1 above).
- 4.3 Before making a gating order the Council must be satisfied that properties adjoining or adjacent to the highway are affected by crime or antisocial behaviour, that the existence of the highway is facilitating the persistent commission of crime or antisocial behaviour, and that it is expedient in all the circumstances to make a gating order to reduce crime or antisocial behaviour. The Council must have regard to the likely effect of a gating order on occupiers of premises adjoining or adjacent to the highway, the likely effect of making the order on other persons in the locality, and the availability of a reasonable convenient alternative route.
- 4.4 The Council is required to give notice of the making of a proposed order to the Police, the Fire and Rescue Service, the local NHS trust, statutory undertakers, the local access forum, all occupiers of premises neighbouring the highway and any person who has asked to be notified of any proposed gating orders (for example, the Ramblers' Association, which has so requested). In addition, notices must be erected on or adjacent to the highway itself, and a notice giving details of the proposed order and its effect must be published in a local newspaper. The statutory 28 day objection period will not begin to run until these steps to notify the public and others have been taken.
- 4.5 If during the objection period an objection to the proposed order is received from the Police, the Fire and Rescue Service or the local NHS Trust, the Council cannot proceed to make the order. In those circumstances, the Council has the choice either of not proceeding with its proposed order, or of arranging a public inquiry to resolve the opposed order. Government guidance recommends that inspectors from the Planning Inspectorate be appointed to conduct any such inquiry. Alternatively, it may be possible for the terms of the proposed order to be revised in such a way that the likelihood of objections is reduced.
- 4.6 If during the objection period an objection to the proposed order is received from any person other than one of those specified at paragraph 4.5 above, the Council has a discretion as to whether to arrange to hold a public inquiry or not. If it decides not to do so, it may proceed to make the order. Alternatively, it may be possible for the terms of the proposed order to be revised in such a way that the likelihood of objections is reduced.
- 4.7 If no objection to the proposed order is received during the objection period, officers will proceed to make and publicise the order in accordance with legislative requirements, without referring the matter back to the Area Committee.

- 4.8 If an objection is received to a proposed order during the objection period, it is proposed that a report be brought to Area Committee confirming the nature of the objection(s) and the options available to the Council having regard to the matters set out at paragraphs 3.5 and 3.6 above. Authorisation will be sought from the Area Committee as to how it wishes to proceed.
- 4.9 At its meeting on 20 June 2006 Executive Board resolved that each Area Committee authorise no more than one gating order per financial year. Based on the number of enquiries in relation to gating orders already received by Traffic Management it is anticipated that each Area Committee will be requested to consider more than one application per year. The Area Committee is therefore requested to confirm its approach to the exercise of the power within this constraint. The following options are suggested:
- 4.9.1 Option 1 - the Area Committee may wish to consider an individual application on its own and irrespective of any other applications which have been made or may be made in the future. This "first come first served" approach will not allow the same degree of comparison of levels or crime or antisocial behaviour applicable to other applications as would be the case under the approach set out at paragraph 4.9.2 below. In addition, the Area Committee might find itself in the position of wishing to grant an application for a gating order, but being unable to do so because it had already spent its "allowance" of one authorised order (possibly on a weaker application) earlier in the year. Against that, this approach would provide a reasonably prompt determination of an application, which would be beneficial for the individual or community seeking an order.
- 4.9.2 Option 2 - the Area Committee may wish to consider together all the applications received during the year towards the end of the financial year. This approach will permit assessment and comparison between applications within the area and ensure that where a highway is facilitating the persistent commission of crime or antisocial behaviour, the community which is suffering most from that crime or antisocial behaviour will be given priority.

## **5. TIMESCALE FOR IMPLEMENTATION OF PROPOSALS**

- 5.1 The use of the gating order powers were approved by Executive Board at their meeting on 20<sup>th</sup> June 2006. If the recommendations to this report are approved the powers to consider an application and where appropriate to make an order will be available immediately.
- 5.2 Because of the untried nature of the legislation, providing estimates of likely timescales for processing applications for gating orders is difficult. Much will depend on the adequacy or otherwise of the information and evidence submitted in support of the application. At this stage, it is anticipated that the timescale for the tasks identified in paragraphs 4.1 and 4.2 above will be approximately six months. Timescales may change if objections are received and a public inquiry is deemed necessary to determine an opposed order.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 The appendix attached to this report contains estimated costs of the implementation of various aspects of the use of gating orders for Area Committees and Council Departments. At its meeting on 20 June 2006

Executive Board approved the performance of functions and responsibilities and required allocation of resources as set out in the appendix. Specifically, if a gating order is authorised, the Area Committee will be required to:

- (a) make any necessary application for planning permission and pay the application fee (Task III);
- (b) meet the cost of advertising the proposed order (Task V);
- (c) meet the cost of advertising the order once made (Task IX);
- (d) meet the cost of gates and fencing (Task X);
- (e) meet the cost of providing security keys (Task XII).

6.2 If a public inquiry is held, the consequential work by officers will be met from existing budgets (see Task VIII in appendix). Additionally, the Planning Inspectorate (from which inspectors would be appointed to conduct the public inquiry) has indicated that it will require the Council appointing the inspector to meet the inspector's costs, which are currently £630 per day. It is proposed that this expenditure should be met from Area Committee budgets.

6.3 No additional budgets have been allocated to cover the costs of making and implementing gating orders. Those costs, which are set out in the appendix to this report, will need to be contained within the existing budgets allocated to the relevant Area Committee and Department. It is anticipated that the approximate costs to Area Committee to cover the actions identified in section 6.1 and 6.2 will be in the region of £5,000. Actual costs will be dependent on width/height of gates, additional fencing and number of security keys and whether objections are received and an Inquiry is deemed necessary to determine the order.

## **7. OBSERVATIONS OF OTHER OFFICERS**

Corporate Services (Legal Services) and Neighbourhood Services (Community and Neighbourhood Protection Service) have been involved in setting out the legal arrangements for processing the orders, for identifying who will be responsible for locking/unlocking the gates and in the preparation of the gating order report to Executive Board on the 20<sup>th</sup> June 2006. The contents of this report have their approval.

## **8. EQUALITY AND DIVERSITY IMPLICATIONS**

The introduction of a gating order in appropriate circumstances will help reduce crime, disorder and antisocial behaviour in the local community and therefore the use of these powers will improve the quality of life for vulnerable and disadvantaged groups within the community. Additionally, as set out in sections 4.3 and 4.4 above, before the Council may consider making a gating order, full public consultation will be undertaken to allow any adverse implications to be identified and addressed. Any objections to an order will be reported to the Area Committee as detailed in section 4.8 above.

## **9. CONSULTATIONS**

Before the Council may consider making a gating order consultation will be undertaken as provided for by the statutory legislation as detailed in section 4.3 to 4.8 above.

## **10. STRATEGIC PRIORITIES**

### **10.1 City Development**

The use of gating orders in appropriate circumstances will help the City Council to reduce crime, disorder and antisocial behaviour and make Nottingham City a more attractive and safe place for residents and visitors.

### **10.2 Neighbourhood Focus**

Gating orders in appropriate circumstances will help the City Council to reduce crime, disorder and antisocial behaviour and will make a positive contribution to improving the quality of life for the local community.

### **10.3 Improving Performance**

The availability of gating orders as a tool to reduce crime, disorder and antisocial behaviour will enable the Council to be more responsive to residents' concerns and needs.

## **11. CRIME AND DISORDER ACT 1998**

Under section 17 of the 1998 Crime and Disorder Act the Council has a duty to take account of community safety in all areas of its work and under the *Safe For Nottingham: Nottingham City Crime, Drugs and Anti-Social Behaviour Strategy 2005 – 2008*, all policies, plans, activities and budgets need to be considered from the standpoint of their potential contribution to the reduction of crime and disorder. The introduction of a gating order in appropriate cases will provide the Council with an additional tool to complement other corporate initiatives for reducing crime, disorder and antisocial behaviour in the community.

## **12. VALUE FOR MONEY**

The principles of Value for Money will be followed in the processing of applications for gating orders and in the action taken to implement such orders. Consideration will also be given to whether other measures such as improved lighting or boundary fencing may provide better Value for Money when considered against the costs of a gating order to reduce crime, disorder and antisocial behaviour.

## **13. LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

None

## **14. PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

Report to Executive Board meeting on 20 June 2006 headed "Gating Orders"  
Minute No. 23 of Executive Board meeting on 20 June 2006  
Constitution  
Clean Neighbourhoods and Environment Act 2005

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## APPENDIX

| <u>Task</u>   | <u>Suggested Officer/Team(s)/Body to Perform Task</u>  | <u>Approximate Cost of Task Per Order</u>   | <u>Budget Source and Department Responsible</u>  |
|---|--|---|--|
| I. Considering and investigating application(including assessing and collecting data)   | Rights of Way Officer –<br>Traffic Management –<br>City Development<br>Planning and<br>Environment Team –<br>Legal Services –<br>Corporate Services  | Will vary according to quality and quantity of information provided. Likely to be between £385 and £600 based on between 11 and 175 hours of officer time | To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services)  |
| II. Liaising with Joint Tasking, Members, residents, the Police and other Council departments regarding evidence to support order | Rights of Way Officer –<br>Traffic Management –<br>City Development<br>Planning and<br>Environment Team –<br>Legal Services –<br>Corporate Services  | Will vary according to particular application but likely to be between £275 and £ 495 based on between 7 and 13 hours of officer time                     | To be contained within existing revenue budgets allocated to City Development (traffic and Safety Service Area) and Corporate Services (Legal Services)  |
| III. Applying for any necessary planning permission to erect gates  | Relevant Area<br>Committee   | Planning application fee of £135 plus cost of officer time (estimated 5 hours) of £165  | Relevant Area Committee to make planning application and pay fee.  |
| IV. Reporting to Area Committee regarding application for order   | Rights of Way Officer –<br>Traffic Management –<br>City Development;<br>Planning and<br>Environment Team –<br>Legal Services –<br>Corporate Services | Estimated as between £154 and £188 based on between 4 and 5 hours of officer time   | To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services ) |
| V. Publicising proposed order and preparing order   | Rights of Way Officer –<br>Traffic Management –  | Estimated as between £165 and £198 based on between 5 and 6 hours of officer time plus  | The work is to be carried out by the Traffic Management Section (City  |

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|  | City Development   | £700 being fees for advertising  | Development) within its existing revenue budget. The cost of advertising is to be met by the relevant Area Committee   |
| VI. Considering objections and liaising with objectors             | Rights of Way Officer –<br>Traffic Management –<br>City Development;<br>Planning and<br>Environment Team –<br>Legal Services –<br>Corporate Services | Estimated as between £220 and £308 based on between 6 and 8 hours of officer time  | To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services).                             |
| VII. Reporting back to Area Committee                              | Rights of Way Officer –<br>Traffic Management –<br>City Development;<br>Planning and<br>Environment Team –<br>Legal Services –<br>Corporate Services | Estimated as between £154 and £243 based on between 4 and 5 hours of officer time  | To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services).                             |
| VIII. Preparing for and attending public inquiry                   | Rights of Way Officer –<br>Traffic Management –<br>City Development;<br>Planning and<br>Environment Team –<br>Legal Services –<br>Corporate Services | Will vary according to particular circumstances of case but estimated at between £883 and £1760 based on between 20 and 40 hours of officer time | To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services).                             |
| IX. Carrying out further publication requirements after order made | Rights of Way Officer –<br>Traffic Management –<br>City Development  | Estimated at £66 based on 2 hours of officer time  | The work is to be carried out by the Traffic Management Team (City Development) within existing revenue budgets. The cost of advertising is to be met by the relevant Area Committee |



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| X. Arranging installation of fencing and gates   | Rights of Way Officer<br>Traffic Management Team – City Development                      | Estimated at £99 based on 3 hours of officer time plus cost of gates and fencing at between £2000 and £3000   | The work is to be carried out by the Traffic Management Team (City Development) and contained within existing revenue budgets. The cost of gates and fencing is to be met by the relevant Area Committee |
| XI. Carrying out repairs and maintenance to fencing and gates  | Highways Maintenance – City Development  | Will vary from case to case but estimated at between £66 and £99 based on between 2 and 3 hours of officer time plus materials  | To be contained within existing revenue budgets allocated to City Development (Highways Maintenance Section )  |
| XII. Arranging cutting and distribution of keys and arranging supply of duplicate keys (if applicable) | Traffic Management Team – City Development   | Estimated at between £ 33 and £66 based on between 2 and 3 hours of officer time plus £10 per security key  | The work is to be carried out by the Traffic Management Team (City Development) within existing revenue budgets. The cost of the keys is to be met by the relevant Area Committee                        |
| XIII. Locking and unlocking gates periodically (if order requires it)                                  | Neighbourhood Services – task to be performed by Community Protection Officers (Wardens) | Estimated at £5000 per order per year including vehicle use for task to be carried out by Neighbourhood Services<br><br>A request for an estimate from an external security firm has indicated that they would charge £11 per day on the basis of two visits. This would equate to a yearly cost of £4015 per order | To be contained within existing revenue budgets allocated to Neighbourhood Services  |