

Automated Gates & the use of Sharp Toppings



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dhf is often asked if sharp toppings as a climbing deterrent are acceptable on a powered gate. Clearly, sharp toppings on fences and walls are commonplace; palisade fencing has points at the top of each pale.

However, can this be extended to gates that move under power?

To answer the question, it is necessary to split it up into two parts:

1. Are sharp toppings allowed at all, regardless of the gate being powered?

1.1 Planning permission

Applies to premises owners, occupiers, and contractors with responsibility for building works - including private domestic householders.

There is no need to apply for planning permission to erect a new or alter, maintain, improve, or take down an existing fence, wall, or gate if the following conditions are met in regard to its height:

- It is next to a highway used by vehicles (or the footpath of such a highway) and it would not exceed one metre in height (from ground level), or
- It would not exceed two metres in height (from ground level) if elsewhere, or
- If an existing fence, wall, or gate already exceeds the limits above, that its height would not be increased.
- No part of the site is a listed building or within the curtilage of a listed building.
- No part of the fence, wall, gate, or any other boundary involved, forms a boundary with a neighbouring listed building or its curtilage.
- The right to put up or alter fences, walls and gates has not been removed by a planning direction or condition.

If any of these conditions are not met, then planning permission must be applied for.

In most cases, the client or their principal designer are responsible for gaining any planning permission necessary. Automated gate installation companies

would be wise to enquire if the client has or needs permission.

1.2 Occupiers' liability law

Applies to premises owners, leaseholders, and tenants - including private domestic householders.

The Occupiers' Liability Act 1984 in GB, the Occupiers' Liability Order 1987 in NI, or the Occupiers' Liability Act 1995 in ROI.

An occupier can have a legal duty to persons other than their visitors where:

- They are aware of the hazard or have reasonable grounds to believe it exists, and
- They know or have reasonable grounds to believe that the other person is in the vicinity of the hazard or that they may come into the vicinity of it (in either case, whether the other has lawful authority for being in that vicinity or not), and
- The hazard is one against which, in all the circumstances of the case, they may reasonably be expected to offer the other person some protection.

Any duty owed in respect of a hazard may, as appropriate to the case, be discharged by taking reasonable steps (in all the circumstances of the case) to give warning of the hazard or to discourage persons from encountering the hazard.



Placing sharp toppings above 2m and providing warning signs would in most cases be deemed reasonable.

2. What impact do sharp toppings have on powered gate safety and compliance?

2.1 Machinery safety law

Applies to powered gate manufacturers and installation companies with manufacturer responsibilities.

The Supply of Machinery (Safety) Regulations 2008 in the UK or the EU Machinery Directive 2006/42/EC in the ROI.

Powered gates must be safe for their intended use and for any foreseeable misuse of them. Hence, any sharp toppings used must be protected where powered movement could cause a cutting or crushing hazard, eg where sharp toppings pass through the support frame of a sliding gate, or where sharp toppings on a hinged gate come within 500mm of a fixed object or could impact a person as the gate moves.

2.2 National health and safety law

Applies to installation and maintenance companies, owners and managers, landlords, and managing agents who, as part of their work, have a responsibility for gates (not private domestic householders).

The Health and Safety at Work Act 1974 in GB, the Health and Safety at Work Order 1978 NI, or the Safety, Health and Welfare at Work Act 2005 in ROI.

It is the duty of every person doing work to ensure, so far as is reasonably practicable, that other persons who may be affected are not exposed to risks to their health or safety as a result of that work. Whilst there are no specific requirements for powered gates, such systems are covered by the general requirement for safety. It is however the legislation that has been most commonly used to prosecute owners, managers and gate companies following a near miss incident, injury or fatality involving a powered gate.

2.3 Workplace safety law

Applies to owners and managers of workplaces (not private domestic householders).

The Workplace (Health, Safety & Welfare) Regulations 1992 in GB, the Workplace (Health, Safety & Welfare) Regulations 1993 in NI & Safety, Health and Welfare at Work (General Applications) Regulations 2007 in ROI.

It is the duty of the person in control of a workplace to ensure that gates are safe and subject to a suitable system of maintenance.

EN 12453 (published as BS EN 12453 in the UK or IS EN 12453 in ROI)

EN 12453 is listed as a designated standard under the UK Supply of Machinery (Safety) Regulations and as a harmonised standard under the EU Machinery Directive. These listings confer a legal presumption of conformity on a manufacturer who has complied with the standard and sets the minimum level of safety required for compliance with machinery safety law. Compliance with EN 12453 also has a significant impact on whether or not national investigating authorities think that the 'reasonably practicable measures' required by national health and safety law have been applied.

EN 12453 requires that all moving parts-related hazards caused by powered movement must be protected between 2.5m and the ground or any other permanent access level. Where the hazard zone is above 2.5m from ground or any other fixed access level, it can be disregarded from the perspective of powered movement.



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