

# Potentially Unsafe Automated Gate Installations

A consumer leaflet produced by **dhf**



# Advice For Domestic Owners of Automated Gates

The legal framework for the safety of automated gate installations has changed very little since 1995 when the original Supply of Machinery Regulations became mandatory in the UK. What has happened since then however, is that there has been a gradual increase in understanding and application of the rules.

In 2006 the first of a series of high profile child deaths associated with automated gates occurred followed by what was a watershed moment in 2010 when two children died in separate automated gate incidents in the same week. It would be entirely fair to say that since then there has been a huge change in perceptions and understanding of the rules, standards and culture of the industry.

**dhf** entered the automated gate arena late in 2010 with encouragement from HSE and has seen a steady flow of companies joining its Automated Gate Group ever since. In 2012 **dhf** Automated Gate Group issued its Guide to Gate Safety, Legislation and Standards and in 2013 started delivering its Gate Safety Diploma qualification to member companies. During 2014 the diploma was made available to non-member companies and other related industry partners.

The current range of European standards affecting automated gates is generally accepted to be less than perfect within the industry, primarily because they were drawn up by a committee that was primarily focussed on industrial doors rather than perimeter gates. In 2011 HSE issued a formal objection to the standards as a result of its 2010 child death investigations, then in 2013 the serious injury of another child in a sliding gate incident led to reinforcement of this position. The draft of a replacement European standard was circulated for comment in 2014 which generated multiple comments and objections, the European committee responsible for this new standard is now in the process considering and addressing those comments. The final scope and proposed publication date for the new standard is still as yet, not known. It is with this seemingly confusing background that companies are attempting to operate. It is though, universally now accepted that a safe automated gate is one which has all crush, impact, shear, draw in, cutting, hooking, structural and electrical hazards identified and resolved such that persons will not be trapped or otherwise injured by the gate.

In 2014 two companies associated with one of the 2010 child death incidents were convicted of breaching the Health and Safety at Work Act. Interestingly the companies that were prosecuted were not the original installers, but those who had been involved in repair and maintenance of the gate since installation. Understandably today, those involved in repair and maintenance of automated gates are wisely, very sensitive to the safety of systems they repair or maintain.

**In response to the HSE formal objection to the current standards the European commission issued a warning on 20th July 2015 that EN 13241-1 is not considered adequate in respect of two critical Essential Health and Safety Requirements:**

- 1.3.7 - Risks related to moving parts
- 1.4.3 - Special requirements for protective devices

Anyone relying on the standard and its referenced standards for the safety of a automated gate or barrier are urged to conduct an additional risk assessment to make sure that their product can comply with these two critical Essential Health and Safety Requirements.

The period since 2010 has seen a gradual and ongoing improvement in the understanding of the rules within the industry. It is understandable then, that there are a large number of unsafe gates still in operation today and that as maintenance or repair companies encounter them they will be informing the owners of safety problems with their gates.

At a recent industry seminar HSE made the following observation.

**“The prime function of identifying the responsibilities of duty holders is not to hold them accountable when things go wrong, but to ensure that things do not go wrong in the first place.”**

**“Don’t think what do I need to do to avoid prosecution?”**

**“But what do I need to do to make the situation safe?”**

The regulations applicable to maintenance and repair companies are now quite clear, due in some part at least, to the legal precedent set by numerous prosecutions during 2013 and 2014. Repair and maintenance companies are bound by the Health and Safety at Work Act to ensure that any works they undertake will result in a safe outcome.

Owners of workplace automated gates are bound by the Workplace Regulations 1992 and the Health and Safety at Work Act to ensure their gates are maintained in a safe condition.

Landlords and managing agents are bound by the Health and Safety at Work Act to ensure their gates are maintained in a safe condition.

Domestic owners of automated gates are advised to keep them in a safe condition or face the possibility of being sued for negligence should anything go wrong.

Any party whether owner or practitioner who by their actions or inactions causes injury or damage to property of others faces the possibility of civil action for damages due to negligence, this applies equally to owners, maintainers, repairer or installers of automated gates.



If your automated gate service provider comes to you with concerns over the safety of your gate system please understand that they are not just looking to protect themselves, but also they are attempting to protect you, your employees, tenants, clients or anybody else who may come into contact with your gate system. You may have concerns that it seems rather late in the day to be raising this issue, or that the gate may not have been entirely safe when it was first installed, please take into account that there has been a steep learning curve for all concerned in the industry (including HSE) and that the most important thing now is to ensure that the correct course of action is taken going forward.

It is entirely possible that a **dhf** member company will advise that an unsafe gate be switched off or otherwise secured to make it safe. Please take note of their advice but also be aware that the gate system is yours and that the ultimate decision will also be yours. If you elect to leave it in service you do so entirely at your own volition and against good sound professional advice. In many cases an automated gate can revert to manual use pending upgrade of the safety systems or sometimes the means of control can be changed to hold-to-run, whereby the gate is controlled by a trained operator who has to keep a switch pressed, in view of the gate, from a place of safety, for the gate to move.

If a maintenance contractor were to attempt to enter into a disclaimer agreement with the owner of an unsafe gate in an attempt to transfer their responsibility to the owner, they may well be seen to have colluded

to maintain an unsafe situation and hence this course of action is ill advised. As a result, if an owner refuses to have an unsafe gate made safe then it could be that the contractor may have no other option than to exit the contract. If the result is an unsafe gate remaining in service then both **dhf** and HSE see this as an unacceptable situation.

More information on automated gate safety can be found at:

#### HSE advice for landlords and workplace owners:

[www.hse.gov.uk/work-equipment-machinery/powerd-systems/responsibilities.htm](http://www.hse.gov.uk/work-equipment-machinery/powerd-systems/responsibilities.htm)

#### HSE advice for domestic owners:

[www.hse.gov.uk/work-equipment-machinery/faq-powered-systems.htm](http://www.hse.gov.uk/work-equipment-machinery/faq-powered-systems.htm)

#### **dhf** Code of Practice TS 011:2016 - Installation, repair and maintenance of automated gates and traffic barriers:

<http://www.dhfonline.org.uk>



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