

**LEICESTERSHIRE COUNTY COUNCIL  
TRAFFIC MANAGEMENT ACT 2004 - PART 3  
LEICESTERSHIRE PERMIT SCHEME FOR ROAD WORKS AND STREET  
WORKS ORDER 2017**

The Leicestershire County Council ("the Permit Authority") in exercise of its powers under Section 33A (2) and Part 3 of the Traffic Management Act 2004 ("the 2004 Act") and other enabling powers hereby makes the following Order.

1. This Order is made by the Permit Authority on 1<sup>st</sup> day of December 2017 and shall come into force on the 2<sup>nd</sup> day of February 2018 and may be cited as "The Leicestershire County Council, Traffic Management Act 2004 – Part 3, Leicestershire Permit Scheme for Road Works and Street Works Order 2017." Hereinafter referred to as Leicestershire Permit Scheme for Road Works and Street Works Order 2017
2. The Leicestershire Permit Scheme for Road Works and Street Works Order 2017 set out in the Schedule to this Order complies with all aspects of the Traffic Management Act 2004, the Traffic Management Permit Scheme (England) Regulations 2007 as amended by the Traffic Management Permit Scheme (England)(Amendment) Regulations 2015, and with all applicable primary and secondary legislation and the Permit Authority having had regard to applicable Guidance in relation to Traffic Management Permit Schemes.
3. The Leicestershire Permit Scheme set out in the Schedule to this Order shall have effect on and from the 2<sup>nd</sup> day of February 2018

THE COMMON SEAL OF  
THE Leicestershire County Council    )  
was hereunto affixed this First Day    )  
of December 2017 in the presence of    )

*AMS L*



34239



# Permit Scheme

September 2017



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## 1 Introduction

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### 1.1 ***The Permit Scheme***

The Leicestershire County Council (LCC) Permit Scheme, hereafter referred to as the Permit Scheme, has been developed under the powers provided in Part 3 of the Traffic Management Act 2004 (TMA); the Traffic Management Permit Scheme (England) Regulations 2007; the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015; and any subsequent amendments. These regulations are referred to as the “Permit Scheme Regulations” within this Permit Scheme. It is a Permit Scheme for the purposes of Section 32(1) of the TMA.

LCC when preparing this Permit Scheme, had regard to the guidance issued by the Secretary of State and the Department for Transport contained in the *Statutory Guidance for Permits (October 2015)* and the *Permit Schemes conditions (March 2015)*.

LCC, in preparing this scheme, also had particular regard to the requirements of Part 5a (in particular Section 49(a)) of the Disability Discrimination Act 1995 and associated codes of practice.

The Permit Scheme replaces part of the current ‘noticing’ system under the New Roads and Street Works Act 1991 (NRSWA) for works taking place on the highway. The Permit Scheme allows LCC, hereafter referred to as the “Permit Authority”), to better manage activities on the highway and minimise disruption and inconvenience. The Permit Authority shall demonstrate at all times parity between Promoters ensuring non-discrimination between Permit applicants.

### 1.2 ***Working Groups***

The Permit Authority will through discussions at joint working groups/meetings between the Permit Authority, Statutory Undertakers and other stakeholders to enable discussions and to give guidance on operational issues. If required the Permit Authority will establish a separate working group.

## 2 Permit Management and Analysis (Coordination in Action)

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### 2.1 **Technology**

Technology will facilitate the day-to-day co-ordination of the majority of proposals, especially given the relatively short lead times for Minor and Standard works.

Permit applications should include locations by means of Ordnance Survey National Grid References (NGR). This together with the use of the National Street Gazetteer means that the Permit Authority will be able to visualise the impact of different activities on their networks and the interaction between these activities.

To increase the benefit of these changes, the Permit Authority as the Highway Authority will work toward the inclusion of NGRs on other relevant documents.

### 2.2 **The Register**

The Permit Authority will maintain a register of each street covered in their scheme, as well as a register under Section 53 of NRSWA for other street information that are not part of the Permit Scheme. The register will be in accordance with Part 7 of *The Traffic Management Permit Scheme (England) regulations 2007*, and the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007..

### 2.3 **Collaborative Works**

Collaborative working may include

- Trench sharing
- Activities that share traffic management or road space
- Multi-agency activities that limit the number of days an area of road space is occupied

The Permit Authority will proactively seek to encourage collaborative working opportunities between any Activity promoters. It is accepted that there are often issues with such arrangements, particularly contractual complications and Construction Design and Management (CDM) or site management. Nevertheless, every opportunity will be sought to minimise the disruption to users of the highway.

In the event of collaborative working, the primary Promoter should take overall responsibility as the agreed point of contact with the Permit Authority. The secondary Promoter(s) retain the same responsibility for submitting Permit applications for work to be carried out by them or on their behalf.

If the nature of joint working is trench sharing, the primary Promoter will excavate the trench and install its own apparatus. The secondary Promoters will install their apparatus in the same trench. The primary Promoter will then backfill and reinstate the trench unless it has been agreed with both the Permit Authority and the relevant secondary Promoter beforehand that one of the secondary Promoters do it. In this case, the responsibility for the quality of the reinstatement will lie with the Promoter that completed it. A similar approach to primary and secondary Promoters will be followed for other forms of collaborative working.

Only those Permit applications submitted by the primary Promoter are required to show the estimated inspection units attributable to the street works. The primary Promoter should detail the other Promoters involved and the scope of the collaborative working in the initial application. The primary Promoter should also ensure that estimates of works duration are agreed and/or confirmed with the

secondary Promoter(s) when submitting permits. This is necessary in order to comply with the overrun charging requirements in the Permit Scheme Regulations.

To avoid any ambiguity, the Permit Authority will issue Permits to all the Promoters involved, not just the primary Promoter. However, the fees will be adjusted to reflect the collaborative approach, provided all the applications meet the criteria set out in Section 31(4) of the Permit Scheme Regulations see Section 8.4).

#### **2.4 Forward Planning**

Forward planning information on long-term programmes from all Promoters will help the Permit Authority to co-ordinate activities. It will also help Promoters to identify opportunities for joint working and to coordinate the timing of resurfacing. This might include mains replacement programmes or the reconstruction of main roads, which will be planned several years ahead.

Promoters are encouraged to maximise the use of forward planning notices even if the information being submitted is incomplete or uncertain. This will enable better coordination opportunities. Forward planning notices should be reviewed and updated regularly to include details as they are finalised. Promoters should follow the guidance given in the electronic transfer of notices (EToN) technical specification with regard to the content of forward planning notices and how they are recorded on the register.

It should be noted that forward planning notices do not remove the requirement to apply for a Provisional Advance Authorisation or Permit at the appropriate time.



## 3 Scope of the Permit Scheme

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### 3.1 **Streets Covered in the Permit Scheme**

As required by Permit Scheme Regulation 7, the “specified area” will be the geographical area encompassed by LCC’s administrative boundary.

All streets maintained by, or on behalf of, the local authority are included within this scheme, these are the “specified streets” as set out in Permit Scheme Regulation 8. These are identifiable within the authority’s Additional Street Data (ASD).

Trunk roads and motorways for which Highways England is the Highway Authority are not included in the scheme.

Privately maintained streets are not included in this scheme but will be added if they are subsequently adopted by the Highway Authority and will be shown as such within the local street gazetteer.

Activities on privately maintained streets will be recorded on the authority’s street works register as notices under Section 53 of NRSWA.

### 3.2 **Street Gazetteer**

For the purposes of the Permit Scheme, the term “street” refers to a length of highway associated with a Unique Street Reference Number (USRN) as determined by the National Street Gazetteer Concessionaire.

The Permit Authority will maintain and publish a gazetteer of all streets operating under the Permit Scheme to level 3 standard as required by the Statutory Guidance for Highway Authority Permit Schemes (October 2015) and an ASD which will contain the information required by, GeoPlace the NSG Concessionaires.

If the Permit Authority revises ASD designations, it will be carried out according to the criteria and procedures detailed in the Street Works (Registers, Notices, Directions and Designations) (England) regulations 2007 or subsequent guidance.

#### 3.2.1 **Reinstatement Designation**

Reinstatement categories are defined in Section 1.3 of the statutory *Specification for the Reinstatement of Openings in Highways* (SROH) and are the same as those used under NRSWA. Designations for each street in the local street gazetteer will be provided in the authority’s ASD.

#### 3.2.2 **Special Designations**

Protected streets, streets with special engineering difficulty (SED) and traffic-sensitive streets defined in the Street Works (Registers, Notices, Directions and Designations) (England) regulations 2007, will have the same designations under the Permit Scheme. Where those designations are revised, the criteria and procedures in the NRSWA Code of Practice for the Co-ordination of Works will be followed.

#### 3.2.3 **Strategically Significant Streets**

Strategically Significant Streets include traffic-sensitive streets, as well as streets that fall into reinstatement categories 0, 1 or 2.

This definition is provided in the DFT document *Statutory Guidance for Highway Authority Permit Schemes (October 2015)*.

In general, within the Permit Scheme the terms “Strategically Significant Streets” and “traffic-sensitive streets” are used interchangeably unless a difference is indicated.

#### **3.2.4 Early Notification of Immediate Activities**

Some streets or parts of a street are particularly vulnerable to traffic disruption. For these locations, the Permit Authority may wish to have the earliest possible information about an Immediate Activity to enable it to initiate traffic management arrangements and provide information to the public that will mitigate the impact of the Activity. The Permit Authority will identify these streets within the Permit Authority’s ASD as those where “early notification of Immediate Activities is required”. Section 12.8 provides further detail on emergency traffic management measures.

#### **3.2.5 Other Designations**

Where a street or section of street requires the consultation with another organisation, and that organisation has informed the Permit Authority, this will be recorded in the Permit Authority’s ASD.

Organisations that may require consultation with include, but are not limited to:

- The Environment Agency
- Historic England
- The Ministry of Defence
- Network Rail

Other departments of the Permit Authority such as the arboriculture department, Environmental Health, or traffic signals department, may also require consultation. The Permit Authority will provide assistance and advice on what agreements or assurances are required, however the Promoter remains responsible for obtaining them.

It is not necessary to have gained the approval of the relevant Authority prior to submission of the Permit application, and the Permit should not be refused unreasonably. However, it is necessary to have these approvals in place prior to commencement of the Activity, otherwise the Promoter may be committing an offence.

Permit Authority has to take into account the effect of planned activities to a Public Transport provider, such as bus companies, when considering the Permit application. These providers require consultation on the planned works to provide alternative services in order to minimise the impact of works.

Where trees are affected by an Activity proposal, the Promoter should contact the LCC’s arboriculture department. In general, this applies to excavations within the tree ‘prohibited’ zones, as defined in NJUG Publication Volume 4 NJUG Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Tree. However, it is good practice to seek advice from LCC when undertaking an Activity within the ‘precautionary’ zone

### **3.3 Activities Covered by the Permit Scheme**

For the purposes of the Permit Scheme the “specified works” as set out in the Regulations are:

- Street works – as defined in Section 48(3) of NRSWA
- Works for road purposes – as defined in Section 86(2) of NRSWA
- Major Highway Works – as defined in Section 86(3) of NRSWA

This includes all activities comprising “registerable works” in terms of The Street Works (Registers Notices Directions and Designations) (England) Regulations 2007 and any subsequent amendments. Further details of which activities are registerable and where there are exemptions, are in the NRSWA Co-ordination of Works Code of Practice: these exemptions are included in the Permit Scheme.

Permits must be obtained from the Permit Authority for these works when carried out in a specified street. However street works executed under a street works licence (Section 50 of NRSWA) do not require a Permit but must follow the normal NRSWA procedures through the street authority.

The term “specified works” is used generically in the Permit Scheme Regulations. The term “Activity” is used in this scheme to encompass any Activity that requires a Permit.

The term “Activity” also anticipates subsequent sets of Permit Scheme Regulations, which may extend the scope of Permit Schemes to other activities on the street.

### **3.3.1 Bar Holes**

Bar holes that result in further Activity, e.g. excavation for a gas leak will require a Permit for that Activity. Bar holes that do not result in any further Activity will require a reinstatement registration as described in the NRSWA Co-ordination of Works Code of Practice

When required, an application for a Permit in respect of a bar hole must be made within two hours of the commencement of any other registerable Activity, or in the case of the registerable Activity commencing out of normal working hours within two hours of the commencement of the next working day. In this latter case, these bar holes will not count as further excavations and reinstatements for the purposes of registrations but will be incorporated with the registerable Activity.

### **3.3.2 Works for Road Purposes**

All works carried out by the Highway Authority or on its behalf that fall within the definition of works for road purposes and are registerable works require a Permit.

Works carried out by an Undertaker on behalf of the Highway Authority, for instance new connections or disconnections to streetlights, are works for road purposes. It is for Promoters to ensure that Permit applications for such activities are made and that the Activity is registered, as appropriate.

Activities carried out by Undertakers to connect, disconnect or repair street lighting apparatus that forms part of their network are street works and the Undertaker will require a Permit

### **3.3.3 Other Highways Activities**

Works and repairs for District and Parish Councils acting on their own account and not on behalf of Highway Authority, including works on street lighting etc., are considered as street works and thus will attract the same charges and penalties as any other Statutory Undertaker.

It is for Promoters to ensure that Permit applications for such activities are made and that the Activity is registered, as appropriate.

### **3.3.4 Obtaining a Permit**

Other than for Immediate Activities, any Promoter is required to first obtain a Permit from the Permit Authority before it carries out an Activity.

Immediate activities require a Permit. However, since such activities are by definition emergency or urgent, an application may be given within two hours of the Activity starting or in the case of the Activity commencing out of normal working hours, within two hours of the commencement of the next working day. An Immediate application should comply with any conditions specified by the Permit Authority whether generic for such activities or specific to one Activity (see Section 5.10).

**3.3.5 *Activities not requiring a Permit***

The following activities do not require a Permit:

The testing of fire hydrants by fire service vehicles or their contractors provided the work is carried out outside traffic-sensitive periods. Activities carried out under a NRSWA Section 50 licences.

## 4 How to make Permit Applications

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### 4.1 General Principles

#### 4.1.1 Purpose

Any Promoter of a registerable Activity that wishes to carry out such an Activity must obtain a Permit from the Permit Authority. The intention is to better control activities to minimise disruption and inconvenience and for those activities to be carried out in a manner that takes into account the needs of others.

The Permit will allow the Promoter to:

- Carry out the specified Activity;
- At the specified location,
- Between the dates shown,
- For the duration shown (which is inferred from the start and end dates),;and
- Subject to any conditions that may be attached.

The Permit will include all of the information as supplied by the Promoter in the Permit application; a Permit shall be issued in accordance with the formats given in the Technical Specification for ETON.

Permits will be required for all registerable activities on all streets designated as public highway as specified on the local street gazetteer.

The content of applications and notifications and communications relating to all aspects of the Permit will be made using, and will comply with, the definitive format and content of the protocols as set out in the ETON technical specification, which may change from time to time. Where there is a failure in the system then other methods of communication will be acceptable (see Section 4.8).

#### 4.1.2 Types of Permit

LCC's Permit scheme allows two types of application:

- Provisional Advance Authorisation (PAA). These are only used for Major activities (as defined in Permit Scheme Regulations) which are likely to be large and/or more disruptive and provide advance notice but not necessarily with full details of the final Activity. PAAs are similar to Section 54 notices under NRSWA
- Permit Application (PA). These will contain fully accurate and timely details as prescribed and will be required for all registerable activities, including as a follow-up to a PAA. These are similar to Section 55 notices under NRSWA.

### 4.2 Activity Categories

The categories of activities in the Permit Scheme are shown below:

#### 4.2.1 Major Activities

Major activities are those that:

- Have been identified in a Promoters' annual operating programme or are normally planned or known about at least six months in advance of the proposed start date for the Activity; or,
- Require a temporary traffic regulation order (not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other registerable activities other than Immediate Activities; or,
- Have a duration of 11 days or more, other than Immediate Activities.

**4.2.2 Standard Activities**

Standard activities are those activities, other than Immediate or Major Activities that have a planned duration of between four and ten days inclusive.

**4.2.3 Minor Activities**

Minor Activities are those activities, other than Immediate or Major Activities, where the planned duration is three days or less.

**4.2.4 Immediate Activities**

Immediate Activities are either emergency works or urgent works:

Emergency works, as defined in Section 52 of NRSWA, are works required to end, or prevent, circumstances, either existing or imminent, that might cause damage to people or property. This applies to both street works and works for road purposes, which fall within the definition of activities. The term also includes activities not falling within that definition but which cannot be severed from those that do – such as activities away from the emergency site that are necessary to shut off or divert a supply. Remedial works to dangerous, defective reinstatements are classed as emergency works (but there will be a need to cross reference these to the Permit given for the parent Activity)

Urgent activities are defined in the Permit Scheme Regulations as activities:

- (Not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required):
  - (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the Promoter;
  - (ii) to avoid substantial loss to the Promoter in relation to an existing service; or,
  - (iii) to reconnect supplies or services where the Promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and,
- Includes works that cannot reasonably be severed from such works.

**4.3 Provisional Advance Authorisations (PAAs)**

In accordance with Permit Scheme Regulation 11, the Permit scheme requires a Provisional Advance Authorisation (PAA) to be sought for Major activities. A PAA is not required for activities classed as Minor, Standard or Immediate.

PAAs provide a mechanism for significant activities to provisionally 'book' road space prior to further planning and discussion between the Promoter and the Permit Authority. They replace the NRSWA Section 54 Advance Notice. A PAA may only contain one street or USRN.

All PAAs must comply with the definitive format and content of both paper and electronic Permit applications given in the EToN technical specification or subsequent amendments. This includes the requirement that a copy PAA is sent to any interested parties or organisations as detailed within the authority's ASD (see Section 4.4.4).

Applications for a PAA must be made not less than three months in advance of the proposed commencement date of those works. However early starts can be agreed with the Permit Authority. An application for a PAA must always specify proposed start and end dates. However, as it may be difficult to be certain of the start date three months before the event, the proposed start date is regarded as provisional and may be amended in the application for a final Permit.

A PAA must be followed-up by a full Permit application within the required timeframes, as set out in table 1, Section 6.1.

The information required in support of an application for a PAA is set out below. It is recognised that comprehensive information may not be known at this early stage however as much detail should be provided as possible to enable the Permit Authority to adequately assess the submission.

- Location of Activity
- Proposed start and end dates
- An outline description
- Times of working, including hours of the day and any weekend provisions
- The road space occupancy
- Method of working
- Traffic management

The Permit Authority must respond to an application for a PAA within one calendar month from the date of receipt of the application by the Permit Authority. The response may either grant the PAA or refuse it; giving reasons (see Chapter 6).

The information contained within the PAA will provide confirmation as to whether the proposed Activity has the potential to be especially disruptive to local residents, businesses or road users. In such circumstances, the Permit Authority will require the Promoter to provide advance publicity as it deems necessary.

Where the Permit Authority decides that the Promoter needs to provide additional information or undertake a publicity exercise prior to submission of the follow-up Permit application, they will inform the Promoter. This will be part of the ongoing planning and agreement process and the Promoter will be required to provide this information or provide evidence of the publicity exercises undertaken as part of the conditions of the full Permit application.

It is recognised that the dates and the detail of the PAA should be considered as provisional and should any of these details change significantly then the Promoter should inform the Permit Authority of the changes as soon as possible.

A PAA can only be resubmitted, not varied. The Permit Authority may therefore decide that a new PAA is required if the changes are significant. Alternatively, if the Permit Authority feels the changes are less significant then, these changes can be made as part of the full Permit application.

In accordance with Permit Scheme Regulation 11(5), the granting of the PAA does not guarantee that a Permit will be subsequently issued, particularly if the Permit Authority feels that the Promoter has not provided suitable detail as noted above or where dates have changed so significantly they clash with another Activity.

#### **4.4 Requirements for Permit Applications**

##### **4.4.1 *Timing of Permit Applications***

Table 1 in Section 6.1 provides minimum application timescales for PAAs and Permit applications. Larger activities or those on Strategically Significant Streets will have the potential to be more disruptive and therefore require a longer notice period to enable planning and coordination to take place.

Permits will include conditions under which the Activity may take place so it is in the best interests of the Promoter to contact the Permit Authority early to enable full discussions to take place. Early applications will improve the coordination process, enable the Permit Authority to better manage the activities taking place on the highway and assist the Promoter in better planning their activities. The Permit Authority will provide its contact details, including any out of hours contact information, on its website.

#### **4.4.2 *Method of Making Permit Applications***

All Permit notifications, including PAAs, Permit applications and variations, should be made electronically and must comply with the EToN technical specification.

The Permit Authority may accept non-EToN applications from Promoters who are unable to meet the requirements for EToN transactions, for instance for one off Promoters. In these cases, applications and notices must comply with the EToN technical specification and may be submitted by email, on agreement with the Permit Authority.

Applications and notifications may be given by email, fax or post to those recipients who expect copies of such notifications but do not have access to EToN, e.g. transport authorities, emergency services or frontages.

Where there is an EToN system failure by either the Promoter or the Permit Authority, an alternative strategy should be implemented as noted in Section 4.8.

#### **4.4.3 *Content of Permit Applications***

All applications must comply with the definitive format and content of both paper and electronic Permit applications given in the EToN technical specification.

To ensure that information made publicly available can be understood by the general public the description of activities and other information should be in plain English with minimal industry specific jargon.

Each application must contain information about activities in only one street. To improve co-ordination, projects covering more than one street should cross-reference all related applications. This is particularly important when applying for PAAs. Under no circumstances will an application containing activities in more than one street be acceptable.

Where an Activity or project crosses the boundary between authorities the Promoter must submit the relevant notices or Permit applications to each authority. Early discussion with both authorities will help avoid conflicting requirements.

The Promoter should anticipate the affect that an Activity may have on the network of a neighbouring authority when planning the Activity and ensure that this authority is also engaged early in the planning process. Early discussion with both authorities will help avoid conflicting requirements.

All Permit applications relating to a PAA should be cross-referenced so that the Permit Authority is able to consider all applications and coordinate the activities together.

#### **4.4.4 *Applications involving other Interested Parties***

Any Undertaker, Authority or relevant body or organisation that wish to be informed about any activities on a street should ensure their interest is entered in the street authority's ASD against that street. Promoters must ensure that they provide copies of all PAAs, PAs, variations and notifications to any such interested parties. Similarly, the Permit Authority must ensure that they provide copies of a response to a Permit application to these parties.



Electronic systems meeting the EToN technical specification should deal with this automatically. However, some interested parties may not have access to the electronic systems so they should be sent copies by an alternative method such as email or fax.

The Permit Scheme Regulations amend NRSWA Section 88, 89 and 93. Together with Sections 90 and 91, these deal with notifications to bridge, transport and sewer authorities to ensure that consultation takes place on streets with structures and other special engineering difficulties (as described in LCC's ASD).

Promoters must ensure that they gain approval to plans and Sections when the Activity involves a Special Engineering Difficulty (SED) as detailed in the NRSWA Co-ordination of Works Code of Practice before applying for a Permit and state that they have fulfilled the requirements of these Sections in their applications.

The consultation requirements with Network Rail are as set out in the NRSWA Co-ordination of Works Code of Practice.

#### **4.4.5 *Permit Start and End Dates***

A Permit will allow an Activity to be carried out between the start and end date (in calendar days) given on the Permit and this will also give the duration of the Activity, whether or not work is actually taking place on all those calendar days. The granted Permit will indicate if the Permit allows an Activity to be carried out on weekends or Bank Holidays.

A Promoter working outside the Permit dates would not have a valid Permit and potentially would be committing an offence. It should be noted that if the Permit should start on a Monday and finish on a Friday, the subsequent weekend cannot be used as additional days without the express approval of the Permit Authority through a Permit variation.

However, in other respects, the duration and Reasonable Period of the Activity remains operating on working days, as defined in the Permit Scheme Regulations. On Strategically Significant Streets, the duration of the Activity will exactly match the time from the start date to the end date excluding any non-working days between the two dates.

The duration (Reasonable Period) for s74 purposes should be the same as the duration given in the Permit, unless the application granted by the Permit Authority has limited the duration for s74 purposes to a period less than the Permit duration. Or where a duration variation has been granted and a Duration Challenge has been issued to limit the Reasonable Period.

An Promoter working beyond the agreed Reasonable Period will therefore be subject to Section 74 overrun charges; even if the Permit Authority has granted a Permit extension to allow, works to be completed where the Permit Authority does not agree with the reasons for extending the works duration (see also Section 7.1.3).

On Strategically Significant Streets, where an Promoter identifies in advance that an Activity cannot begin on the Permit start date then the Promoter should contact the Permit Authority on the previous day, by telephone.

For activities on Strategically Significant Streets where an Activity is delayed on the Permit start date, the Promoter should contact the Permit Authority as soon as possible on the due start date so that the Permit Authority can put into place any additional or mitigating actions it considers necessary.

The Promoter may decide they are able to begin the Activity on a subsequent day, submitting the Section 74 Actual Start notice. However, there is no automatic extension to the Permit or the Reasonable Period in these circumstances and the end date remains the same unless an agreement is reached between the Promoter and the Permit Authority, and a Permit variation is granted (see Chapter 7).

On non-Strategically Significant Streets, a Permit will be issued with a start and end date, with the duration being the number of calendar days between the estimated start and end dates. Because of the nature of these types of street, the start date will be estimated and there will be a window of opportunity for the works to being equivalent to the validity period of NRSWA notices:

- 5 days for Major and Standard activities
- 2 days for Minor activities

Once the works commence and a Section 74 Works Start notice is submitted, the Permit end date will adjust to take into account the actual start date and the previously agreed Reasonable Period and Permit duration.

In both cases above, if the Promoter could not complete the Activity before the Permit end date, they must apply for a Permit variation to extend the Permit. This would be required even if the extra days were at a weekend (a Permit expires at midnight). The Permit Authority may or may not agree to an extension of the Reasonable Period, depending on the circumstances, and the Promoter may be subject to over-run charges under Section 74.

#### **4.4.6 Non-working Days**

If the impact or duration of an Activity can be reduced by extending works on site into weekends and Bank Holidays, then Promoters are actively encouraged to consider these possibilities.

In such situations, the Promoter should include a condition on the Permit application. The Permit Authority may also place additional conditions on the Permit to define any other constraints, as deemed necessary by the Permit Authority (see Chapter 5).

#### **4.4.7 Early Starts**

An Activity must not start before the expiry of the application period except where the Permit Authority has agreed an early start.

The Permit Authority will not unreasonably refuse a Promoter's request for an early start. An early start should be applied for by telephone. Once the early start is granted, the Permit application should be submitted with the EToN early start flag selected accompanied by an EToN comment detailing the agreement and with whom it was reached.

#### **4.4.8 Actual Start Notification (Section 74)**

Once the Activity has begun, a Notice of Actual Start of an Activity must be given within the time scales required by NRSWA.

### **4.5 Content of a Permit Application and Provisional Advance Authorisation**

In deciding whether to include any conditions in a Permit, the Permit Authority will consider the information that has been provided in support of the application.

The EToN specification provides detail on the required fields to be submitted as part of a Permit application. Additional information or constraints will be provided as part of the condition text.

The Permit Authority recognises that full information may not be fully known at the time an application for a Provisional Advance Authorisation is made. However, Promoters should make every effort to provide the most accurate information available at each stage.

#### **4.5.1 Reference Number**

Each application must include a unique reference number. Details of the numbering system are given in the Technical Specification for EToN.

#### **4.5.2 Description of Activity**

This should be a comprehensive description of what the Activity is and its purpose to allow the Permit Authority to assess the likely impact. This should include:

- Detail on the works being undertaken
- Description of methodologies employed
- A description of the layout and impact of the activity Details of any collaborative working; such as details of the other Promoters and brief descriptions of the activities being undertaken
- Any other information pertinent to that activity

To ensure that information made available to the public can be understood the description of activities and other information should be, within reason, in plain English with minimal industry specific jargon.

#### **4.5.3 Location of Activity**

An accurate location should be provided based on Ordnance Survey National Grid References (NGRs). For a small excavation or opening then a point NGR should be provided. Where a trench is longer than 10m then a polyline or a polygon feature should be provided as described in the EToN technical specification.

The location should have a textual description that should match the NGR provided.

The street must be given based on the unique street reference number (USRN) provided in the street gazetteer as defined by the National Street Gazetteer Concessionaire. Each Permit may only contain one street.

Where the Activity is likely to cause significant disruption a description of the space taken up by the Activity should be provided. The Permit Authority may request additional information such as a traffic management plan or schematic to show the site footprint.

Promoters applying for immediate activities must do so within two hours of starting work. The location should reflect where the Activity is actually taking place. If the location then changes a Permit, variation must be obtained (see Section 7.1.5).

#### **4.5.4 Timing and Duration**

The proposed Permit start and end dates (in calendar days) will clearly define the duration that an Activity will take up road space.

Where the street is traffic-sensitive, details of the times of day the Activity is to be carried out must be provided, including any proposal to work at night, by selecting the appropriate EToN flag, deselecting the relevant designation and using the EToN comments.

Details must be provided where the Promoter proposes to undertake Activity on weekends or Bank Holidays to speed up the Activity or reduce disruption.

These constraints on the Activity will be submitted as conditions and will be taken into consideration by the Permit Authority.

#### **4.5.5 Illustration**

An illustration may be required for any Activity where the Permit Authority considers that the disruption caused by the Activity may be significant.

An illustration must include details of the Activity and location of apparatus and the extent of the highway occupancy. This additional information may be in the form of sections, photographs, traffic management drawings and any other relevant material. The illustration must cover the entire area of the Activity including areas used for storage of materials, parking of vehicles, coned areas and so on. In combination, all of this material will be referred to as the traffic management plan.

Activities on those streets or parts of a street, subject to a Special Engineering Difficulty designation will require a plan and section.

The illustration should be submitted to the Permit Authority as an EToN attachment. Where this is not possible, other electronic means may be used by agreement with the Permit Authority.

If required for Major works, it is expected that this initial illustration of the Activity will be part of the PAA planning process or the discussion resulting from a PAA submission. A final illustration of the Activity being provided at the Permit application stage.

#### **4.5.6 Methodology**

Details of the proposed techniques, such as open cut, trench share, minimum dig etc. must be provided as part of the works description.

#### **4.5.7 Traffic Management and Temporary Traffic Regulation Orders**

The EToN specification requires certain types of traffic management or traffic control to be indicated on the Permit application. Certain traffic management proposals will also require suitable conditions detailing the constraints on these proposals.

The Promoter should supply details of traffic management proposals together with any requirement for action by the local authority or others such as:

- A need for a Temporary Traffic Regulation Order (TTRO)
- Lifting of parking restrictions
- Approval for temporary traffic signals (TTS)
- Suspension of bus stops

Section 12. provides information on the legal processes for applying for a TTRO and the location of LCC's application process. It also provides further information on other traffic management requirements and related matters, including agreements on the use of temporary traffic signals.

The extra time required for gaining these approvals needs to be taken into account by the Promoter. Where an Activity will require a road closure, a PAA must indicate that a TTRO will be applied for and a Permit must indicate that one has been granted or applied for"..".

Additional costs associated with these are not included within the scope of this Permit scheme.

#### **4.5.8 Depth**

Promoters must provide their best estimate of the excavation depth. While this might be expressed as a range, it should nonetheless provide a meaningful indication of the nature and extent of Activity involved if it is expected that an excavation will be deeper than 1.5 metres.

**4.5.9 Reinstatement Type**

The application must indicate whether the Activity will be completed with interim or permanent reinstatement or a mixture of both. If it is the latter, then Promoters must provide details as to where interim or permanent reinstatements will be completed within that Permit.

The EToN technical specification details the use of the 'number of phases' data element which is used to describe this.

Where an Activity takes place in designated high amenity locations and areas with high quality surfaces, the Permit Authority may require a specific reinstatement method to be undertaken for that Activity, in which case suitable comments will be included in the granted Permit.

**4.5.10 Inspection Units**

The application must state the provisional number of estimated inspection units appropriate to the Activity, in accordance with the rules laid down in the Inspections Code of Practice and *The Street Works (Inspection Fees) (England) (Amendment) regulations 2004*. Where there is trench sharing, only the primary Promoter is required to give the inspection units (see Section 2.1.3).

**4.5.11 Contact Person**

The application should include the name and contact details of the person appointed by the Promoter to deal with any problems that may occur during the Activity, including any provision made by the Promoter for out-of-hours contact.

On Permit applications (and on PAAs if the information is known at the time) the application should include the name of the main contractor carrying out the Activity. This will help with the Permit Authority's consideration of the application and with any discussions that need to take place before the Permit can be issued.

**4.5.12 Proposed Conditions**

Where there are constraints in the Permit application, it must include conditions that specify in detail the Activity and support the application. These conditions are based on the Statutory Guidance for Permit Conditions. See also Chapter 5.

Where the Permit Authority considers necessary it will also request that certain conditions be added to the application before issuing the Permit.

Permit conditions in addition to the mandatory ones might be applicable to any Permit.

**4.6 Phasing and Multiple Activities**

A phase of an Activity is a period of continuous occupation of the street (whether or not work is taking place for the whole time) between the start and completion of the works.

One Permit can only contain one phase and the dates given in a Permit application will denote the dates for that phase. A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding have been removed from the site.

The Promoter should clarify that an Activity is to be carried out in more than one phase on the application (see Section 4.5.9).

Phased activities must relate to the same works. These could be single or multiple-but-linked excavations, or a trench dug progressively along the street as part of a continuous operation, or where a permanent reinstatement or remedial works are undertaken at a later date.

Linked activities carried out at separate locations in a street must be treated as belonging to the same set of works. However, unconnected activities carried out by the same Promoter in one street should not be treated as parts, or phases, of a single set of works.

Each phase will require a Permit and the same Activity reference must be used for all phases, or cross-referenced to the other phases. If the works are classed as Major they will also require a Provisional Advance Authorisation, except in the case of remedial works see Section 4.6.5. Each phase will be classed as a separate Activity or works, for the purposes of NRSWA (for instance Section 74, guarantee periods etc.).

#### **4.6.1 Cross Boundary Activities**

Where an Activity or project crosses the boundary between authorities the Promoter must submit the relevant notices or Permit applications to each authority. Early discussion with both authorities will help avoid conflicting requirements.

Where it is anticipated that an Activity may impact the network of a neighbouring authority then the Promoter should take this into consideration when planning the Activity and ensure that this authority is also engaged early on in the planning process. Early discussion with both authorities will help avoid conflicting requirements.

#### **4.6.2 New Customer Connections**

A new main or cable run, which includes new customer connections, can be classed as one Activity or phase if all the work is completed in a single occupation of the street. Otherwise, a new Permit must be obtained for the different stages.

#### **4.6.3 Projects**

Activities involving more than one street could form part of one project in management and contractual terms but separate Permits and Provisional Advance Authorisations will be required for each street. The EToN technical specification allows for project references, Activity references and phase types.

#### **4.6.4 Interim to Permanent Reinstatements**

When an Activity is completed with an interim reinstatement then the Activity will be regarded as having more than one phase and a new Permit must be obtained for the permanent reinstatement phase. The same works reference number must be used ("cross referenced" to the original Activity).

#### **4.6.5 Remedial Works**

Remedial works will require a new Permit to be obtained for the remedial phase. The same works reference number must be used as the original Activity ("cross referenced" to the original Activity). All remedial works will fall into one of the works categories as referenced above in Section 4.2

Where remedial works fall within the definition of Major works, a Provisional Advance Authorisation will not be required.

#### **4.6.6 Severable Works**

The definition of Emergency Works in Section 52 of NRSWA provides that items of work which "cannot be reasonably severed" from the emergency works are regarded as part of them. The same test applies to urgent works.

Work which can be "reasonably severed" from the Immediate Activity should therefore be regarded as separate activities and classified accordingly.

Typically, immediate activities shall consist only of a repair to end the emergency, or restore the service, and complete the necessary reinstatement. Follow-up activities undertaken to provide a permanent solution are “severed” and subject to a separate Permit application.

If the Promoter leaves site after dealing with the immediate problem, including carrying out an interim reinstatement and closing down the site, and returns later for further activities - it is clear that these are “severed”.

#### **4.6.7 *Interrupted Activities***

There may be circumstances where a Promoter is unable to complete their Activity in one phase as originally intended. This may be due to difficulties that could not have been reasonably foreseen, for instance adverse weather conditions or an engineering complication. The Promoter should contact the Permit Authority immediately this becomes apparent.

If the Permit Authority is content for the excavation to remain open then a Permit variation will be required to extend the current Permit. The Permit Authority may not consider the reason for the extension to be acceptable and may not extend the ‘Reasonable Period’; in such cases it should be noted that the Activity would therefore be subject to Section 74 overrun charges (see Chapter 9).

If the Permit Authority wishes the excavation to be closed down, reinstated, and the road returned to use then agreement should be sought with the Permit Authority on the timing of the subsequent Permit to complete works at a later date.

Whenever an Activity is interrupted, the Promoter should first agree a way forward with the Permit Authority before starting any of the processes above. Failure to do so may result in the Permit Authority treating the subsequent application as an illegitimate use of Activity phases (see Section 7.1.4).

#### **4.6.8 *Third Party Damage***

If third party damage caused by the Promoter or his contractor results in the Activity being interrupted, then it is the Promoter’s responsibility to seek the authority’s approval to a variation to allow the damage to be repaired by the owner of the apparatus. The Permit Authority will respond to the variation request in one of the following ways:

- Grant the variation and extend the s74 duration
- In exceptional circumstances grant the variation without extending the s74 duration
- Refuse the variation and request the initial Activity is closed and repairs to the third party damage continues under the Permit from the third party Promoter (see below)

In the interests of good practice, a Permit is required by the third party while they are undertaking these works to help the Permit Authority identify that another party is working at this location. This Permit will be chargeable and Section 74 charges apply to the third party. (see Chapter 7).

Where the variation to the original Activity is granted the Activity site and the reinstatement remains the responsibility of the original Promoter, unless this is agreed otherwise between all Promoters and the Permit Authority e.g. if the third party has to substantially extend the excavation, until it is able to clear site and issue a Works Stop notification. Where the original Activity Permit is closed and a new one granted to a third party for the repairs, each Promoter will be responsible for their respective reinstatements.

**4.7 Section 58 Restrictions on Further Activities**

The powers to restrict further works in all or part of a street following substantial road or street works (NRSWA Section 58 and 58a respectively) apply to streets covered by the Permit scheme.

The Permit Authority will exercise its powers under these Sections in accordance with the guidance given in the NRSWA Co-ordination of Works Code of Practice. Whilst these powers only apply to Undertakers, the Permit Authority will apply them in a similar manner to Permits for highway activities in the interests of parity.

**4.8 EToN System Failures**

Where there is a failure of the Permit Authority or a Promoter EToN system, the Permit Authority will implement an interim alternative strategy for managing Permit applications, variations, responses and other notifications to ensure that workflows are not unduly interrupted.

All applications and notifications must be resubmitted through EToN following recovery of service. Promoters must ensure that all resent notices are sequenced correctly as detailed in the EToN technical specification.



## 5 Conditions

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### 5.1 *General Principles*

The Permit must specify the Activity it allows in detail. The Permit conditions will reflect any other limits or constraints on the Activity as provided for in Permit Scheme Regulations 10.

The conditions of the Scheme will be those set out within the Statutory Guidance for Permit Conditions. The conditions may be applicable to any Activity. It is for the Promoter to supply the required conditions as part of their Permit application or Permit variation.

The Statutory Guidance for Permit Conditions contains conditions that will be applied to all Permits, or Permits for certain kinds of Activity in all cases. There is therefore no requirement for Promoters to attach these conditions to their Permit Applications.

For conditions that are not applied to all Permits, or to Permits for certain types of Activity in all cases, when using conditions from the Statutory Guidance for Permit Conditions. The Promoter will not be required to apply the entire condition text; instead, the relevant shorthand text contained within the Statutory Guidance for Permit Conditions may be applied with any required constraints or necessary detail.

Where the Permit Authority considers it necessary and appropriate to apply conditions that differ from the proposals in the application, then the Permit Authority will either refuse the Permit or request a modification (see Section 6.1.2), stating the reasons for this. The Promoter may then decide whether to reapply for a Permit or invoke the dispute procedure with the Permit Authority as detailed in Chapter 11.

If the Permit Authority considers that an Promoter is failing to comply with the conditions of a Permit, then it may revoke the Permit. Before revoking a Permit, the Permit Authority will contact the Promoter to warn them of its intention and discuss the situation.

Failure to comply with conditions may leave the Promoter liable to criminal prosecution. Information about appealing against conditions the Promoter considers unreasonable is set out in Chapter 11.

### 5.2 *Timing and Duration of Activity*

It may be considered necessary and appropriate to limit the days and times of day when an Activity may be carried out. In these cases, a Permit Condition for a date or time constraint will be attached to the Permit. Scenarios include, but are not limited to:

- To maintain traffic lanes during peak periods the site may only be occupied
- Between certain times on certain days
- To limit activities that might affect an event on the public highway
- To restrict works on weekends or Bank Holidays

These conditions may also be used to formalise extended and out of hours work patterns. For instance, if there has been an agreement to carry out an Activity in the evening or at night, or that an Activity should take place, or is prohibited, at any time on weekends and Bank Holidays.

### 5.3 **Road Space**

The amount of space that activities in the highway occupy can have a major impact on congestion and disruption levels. Equally, the impact of a relatively small Activity could be magnified considerably if associated plant and excavated material take up a substantial area, possibly resulting in lane restrictions and temporary traffic control.

The Permit Authority recognises that any conditions relating to the area of occupancy have to be realistic and allow the Activity to be carried out in compliance with statutory guidance and codes of practice, especially in relation to safety, and within the restrictions imposed by the available industry resources and technical capabilities.

Where a traffic management plan or illustration is required, a Permit Condition will be attached in order to reference this. Such an illustration may also include locations of where materials and plant are to be stored on site as well as the wider traffic management or site footprint (see Section 4.5.5).

For an Immediate Activity, the works area may be agreed after the works have started on site. Where changes to the site are agreed, these must be implemented within an agreed timeframe and a Permit application with the relevant condition must be submitted as soon as practicable, but no later than 10:00am on the next working day.

Where disruption can be minimised by the removal of both plant and/or materials that are unnecessary then a Permit Condition for a material and plant storage constraint will be applied. The conditions should only be used where the storage of the materials and/or plant may cause problems on site or impede traffic unnecessarily.

The Permit Authority may impose a Permit Condition after an Activity has begun if it becomes clear that the site requires more space than anticipated, or is being managed in a way that is detrimental to the network operation. In these cases the Promoter must comply with the Authority Imposed Variation (see Section 7.2) or the Permit Authority may use its provisions under Permit Scheme Regulation 18.

### 5.4 **Traffic Management Provisions**

The way traffic is managed during an Activity can have a major influence on congestion and disruption.

Promoters should use a Permit Condition to reference any traffic management plans or illustrations as detailed previously.

There may be occasions where additional approvals are required and a Permit Condition should be used to reference these. This includes, but is not limited to:

- Agreements for the use of temporary traffic signals. It should be noted that all use of temporary traffic signals require the approval of the Authority (see Section 12.10)
- A Temporary Traffic Regulation Order or Notice in order to close a road, or
- Section of a road, or to restrict traffic (Section 12.1)

Any applicable reference number should be quoted in the condition if approval has been gained. It is not necessary to have gained the approval of the relevant authority prior to submission of the Permit application, and the Permit should not be refused unreasonably. However, it is necessary to have these approvals in place prior to commencement of the Activity otherwise the Promoter may be committing an offence.

**5.5 Methodology**

It is accepted that the Permit Authority may not be in a position to make an engineering judgement on the methodology employed by the Promoter. However, under its duties to minimise congestion and disruption the Permit Authority should be satisfied that the methodology employed is best able to militate against disruption and inconvenience as well as taking into account the practicalities of working and safety.

Where there is an agreement for a specific manner in which the activities are to be carried out (typically where the method is not the normal way of working), then a Permit Condition for a work methodology constraint may be applicable.

**5.6 Consultation & Publicity**

It is likely that many Major Activities, particularly those with durations of 11 days or more, will require comprehensive publicity and consultation.

The timescales involved in Major works should allow much of this to take place during the PAA stage. A provisional condition will be attached to the PAA and on submission of the Permit application, the Promoter will provide evidence that this has taken, or is taking, place and this will be reflected in a Permit Condition for a consultation and publicity attached to that Permit.

Where non-major activities have the potential to be especially disruptive to local residents, businesses or road users, the Permit Authority may expect the Promoter to provide advanced notice to nearby households or businesses or to provide advance signs for traffic. A Permit Condition for a consultation and publicity constraint should be used to reference these agreements and requirements.

**5.7 Environmental Conditions**

Where the disturbance from noisy work is likely to be substantial, the Permit Authority should take into account local factors, such as businesses, schools, hospitals etc., when agreeing what hours an Activity may take place. In these situations the type of works taking place at any point during the Activity may need to be limited to certain times, for instance ensuring the noisy element of an Activity only takes place during part of the day.

In such cases, a Permit Condition for an environmental constraint should be used to limit the environmental impact. The Promoter may be required to contact the authority's Environmental Health Officers to agree the proposals, and a Permit Condition will be attached as described in the previous section.

**5.8 Conditions for Exceptional Circumstances**

There may be circumstances where the Permit Authority requires a specific condition to be added to a Permit that is not defined with the Statutory Guidance for Permit Conditions.

In such circumstances, which by their nature will be exceptional, the Permit Authority will follow the Statutory Guidance for Permit Conditions for the application of this condition.

**5.9 Permit Conditions attached to Highway Works**

Conditions may be imposed on all Permits, regardless of Promoter.

Permit Scheme Regulation 10(3) allows the Permit Authority to attach a condition to a Permit in respect of works to be carried out by or on behalf of a highway authority, requiring the Highway Authority to consult with any person who has apparatus likely to be affected by the Permit works. This condition will normally be applied to Permits for Highway Authority works.

In these instances, the Permit Authority will require the Highway Authority and its contractor to take all reasonably practicable steps to comply with any requirement made by that person which is reasonably necessary for the protection of the apparatus or for securing access to it.

#### **5.10 Conditions Placed on Immediate Activities**

Immediate Activities are by definition emergency or urgent and therefore may commence without a Permit being in place.

Permit Scheme Regulation 13 provides for the Permit scheme to impose conditions on an Activity that is not the subject of a Permit, effectively the period of time between an Immediate Activity starting on site and the issuing of the Permit.

An application for Immediate Activities must be given within two hours of the Activity starting or in the case of the Activity-taking place out of normal working hours, within two hours of the commencement of the next working day.

At any stage of an Immediate Activity, where the Promoter requires the use of temporary traffic signals or to shut a street that is designated within the authority's ASD as one where "early notification of Immediate Activities is required". The Promoter should contact the Permit Authority prior to implementing these traffic management provisions using the contact details in authority's ASD.

Section 12.8 provides further detail on emergency traffic management measures.

It is accepted that for Immediate Activities, very little may be known about the location of the Activity prior to attendance on site. The Promoter should make every effort to supply additional conditions if required, based on the information provided from site.

The Permit Authority may impose conditions on Immediate Activities where it feels necessary to do so. The imposition of such conditions will be reasonable, and based on the Permit Authority's knowledge of a particular location or area and the implications such an Activity might have on the network or for safety. If the Permit Authority intends to impose conditions at the time of the Permit application, it will grant the Permit as applied for and then issue a Permit variation containing the conditions. A Permit variation will also be issued if conditions need to be imposed after the Permit is granted.

Prior to the issuing of a Permit for Immediate works, the Promoter must work within the terms and conditions supplied in its original application. Also those conditions in the Statutory Guidance for Permit Scheme Conditions that apply to all Permits and are not required to be included in the application.

Where other approvals might be required (for instance bus stop suspensions, TTROs etc.) then these should be submitted as soon as reasonably possible. This will ensure that the Permit Authority is fully aware of potential problems at that location, and is able to give advice and assistance quickly and effectively and to ensure that the Promoter acts responsibly and is not undertaking an Activity without the required approvals and a Permit Condition may be required retrospectively to reference these approvals.

## 6 Issuing a Permit and other Responses

### 6.1 Permit Responses

In accordance with Permit Scheme Regulation 16, the Permit Authority will respond to all Permit applications within the timescale set out in table 1 below. A response corresponds to an EToN notification of Grant Permit or Refuse Permit or Permit Modification Request, or any other required future EToN notification.

The Permit Authority will act reasonably in reaching decisions with respect to applications for a Permit. In particular, they will consider whether issuing the Permit will accord with their statutory duties to co-ordinate and to manage the network and the objectives of the Permit scheme.

Application and Response Times (in Working Days)							
				Response times for The Permit Authority			
Activity Type	Minimum application periods ahead of proposed start date		Minimum period before Permit expires for application for variation (including extension)	For, issuing a Permit or giving a PMR or refusing a Permit		To Modify Permit Application (with no change to original start and finish dates)	To respond to applications for Permit Variations
	Application for Provisional Advance Authorisation	Application for Permit		Application for Provisional Advance Authorisation	Application for Permit		
Major	3 months	10 days	2 days or 20% of the original duration whichever is the longest	1 month	5 days	2 days or any remaining original application response period, whichever is the longest	2 days
Standard	n/a	10 days		n/a	5 days		
Minor	n/a	3 days		n/a	2 days		
Immediate	n/a	2 hours after		n/a	2 days		

Table 1: Application and Response Times

#### 6.1.1 Issuing a Permit

If the Permit Authority is content that all the information contained in the application meets an acceptable standard of detail to enable it to consider fully the impact of the Activity and the suitability of the timing and methodology and any conditions attached to the application, it will issue a Permit by way of a Grant Permit EToN notification.

Each Permit issued will be given a unique reference number. The Technical Specification for EToN contains the details of the numbering system.

### **6.1.2 Amending a Permit Application**

If it is necessary to seek further clarification of the information contained in the application then the Permit Authority will endeavour to resolve this within the mandatory response times so that the estimated start date and duration of the original application remains.

The Permit Authority should submit a Permit Modification Request EToN notification to allow the Promoter the opportunity to make amendments to their application and resubmit this within the required timeframe.

As long as the timeframes are met, the original start and end dates of the first application can be kept and no early start agreements are required.

If the Modification Application is not subsequently submitted within the required timeframes then in accordance with Permit Scheme Regulation 16(3) the Permit Authority will consider the application refused.

The EToN technical specification sets out the requirements and timelines in more detail.

### **6.1.3 Refusing a Permit**

A Permit Authority cannot refuse a Permit for legitimate activities. However if the application does not contain the required information to the satisfaction of the Permit Authority then the Permit Authority will refuse the Permit by way of a Refuse Permit EToN notification.

A Refused Permit must clearly detail the reasons for refusal so that the Promoter is able to amend their subsequent application.

Grounds for refusal of a scheme compliant Permit application will always relate to the Permit Authority's responsibility to discharge its Network Management Duty. This list below provides examples of such grounds but is not considered to be exhaustive and the Permit Authority may refuse a Permit application on other grounds.

- Conflicting activities/events
- Environmental considerations
- Conflict with other Statute
- Accuracy of/Conflicting/missing information
- TTRO/PTS approvals
- Works Methodology
- Timing
- Location
- Duration
- Section 58/58A restrictions
- Traffic Management
- Road Occupation dimensions
- Traffic Space dimensions
- Consultation and publicity
- Missing Conditions
- Public transport disruption

Where an application has been refused and the Promoter is able to submit a suitably amended application that requires an 'early start' (see also Section 4.4.7) to maintain the original requested time slot, the Permit Authority will endeavour to agree the same start date. However, this is at the discretion of the Permit Authority being confident in the amended application and that there is no subsequent conflict with another Activity.

Where other activities are scheduled to take place in the same street, or other streets affected by the proposed Activity at the same time, the Permit Authority may refuse a Permit for the period requested but propose to grant it for different times. The refusal should clearly state a suitable timeframe, or invite the Promoter to contact the Permit Authority to discuss acceptable options before applying for a new Permit.

#### **6.1.4 Deemed Permits**

When the Permit Authority fails to respond within the required timescales, or where for technical reasons the response does not reach the Promoter within the required timescales, that Permit is considered to be deemed to be granted.

In these situations, the Promoter is at liberty to continue to undertake their Activity in line with their original Permit application. However, the Activity should not take place in a manner different to that intended by the original application and indicated by the Permit content and proposed conditions.

When it becomes apparent to the Permit Authority that a Permit has deemed, then it is good practice for the Permit Authority to consider the Permit as it stands and contact the relevant Promoter only if it becomes clear that the Activity should not proceed as detailed. This might be where a conflict between activities is likely, or where the Activity is likely to cause considerable disruption that could be mitigated through discussion and changes.

In these cases, following the discussions between the Permit Authority and Promoter a variation will be issued see Section 7.2.

#### **6.2 Right of Appeal**

The Promoter has a right of appeal, detailed in Chapter 11, if it is unable to reach agreement with the Permit Authority over the terms it requested or the conditions attached. In the case of Immediate activities it may be that work has to stop until the issues are resolved.

## 7 Variations to Permits

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Changing circumstances, for either a Promoter or an Authority, may require Permits and/or the conditions attached to them to be varied. This might be because of a changing situation on site, or unexpected events affecting the network requiring a reconsideration of the way the Activity is being carried out.

Permit Scheme Regulation 15 provides for the Permit scheme to allow Permit variations. Variations to a Permit must be made before the Permit expires or passes its end date. The method and content of applying for a Variation notification are detailed in the ETON technical specification.

As set out in Section 4.3, a PAA cannot be varied. In circumstances where the details of a PAA have changed but a full Permit has not yet been issued, the Promoter should inform the Permit Authority of the proposed changes and the Permit Authority will indicate whether a new PAA is required or a Permit Application containing the new information should be made.

### 7.1 Variations initiated by the Promoter

#### 7.1.1 *Necessary Variations*

From time to time, an Promoter will need to apply for a justifiable variation to a Permit and/or its conditions. Some situations where a variation may be needed are:

- Because the proposal in the original application was inaccurate or unrealistic
- Because the location or the method of working has changed in some way
- Where the Promoter requires an extension to the agreed duration

The Permit Authority recognises that it should not prevent necessary Activity, so the variation is likely to be granted, although the Permit Authority may require the conditions attached to the original Permit to be varied or new conditions added if the changes to the Permit warrant it.

#### 7.1.2 *Applying for a Variation*

The Promoter should make a request to vary the Permit as soon as it becomes clear that the Activity might require a change or may overrun so that the Permit Authority can investigate the request to satisfy itself that the proposed variation is appropriate and reasonable.

Permit scheme regulation 15 (2) provides that the scheme shall specify the manner and time of applying for a Permit variation; the DfT Statutory Guidance requires that the following standards be used:

- Where the existing Permit has more than 20% of its duration or more than two days to run, whichever is the longer, the Promoter should apply for a variation electronically. This is to ensure that the variation is captured within the Permit Authority mandatory response time
- In any other case the Promoter should first telephone the Permit Authority to ascertain whether the Permit Authority is prepared to grant the variation. If the Permit Authority agrees then the variation should be applied for electronically.

It should be noted that a Permit cannot be varied after it has expired (passed the Permit end date). In these cases, a new Permit must be applied for. The Promoter may be working illegally during this period.

Promoters should provide full details of the amendments required to a Permit in the Permit variation application to enable the Permit Authority to fully consider the implications of the changes.



If the Permit Authority is content that all the information contained in the application meets an acceptable standard of detail to enable it to consider fully the impact of the Activity and the suitability of the timing and methodology and any conditions attached to the application, it will issue a Permit by way of a Grant Permit EToN response. A standard Permit variation charge will apply.

The Permit Authority will respond to the request within two days of receipt (as shown in Table 1, Section 6.1).

If electronic systems fail then the application should be sent by another way such as email (Section 4.8).

### **7.1.3 Extensions**

In certain situations, a Promoter may not be able to complete the works within the original Permit duration and an extension to the Permit may be required.

The Permit Authority is under no obligation to allow an Activity to run beyond its Permitted period. An Activity that continues past its end date without a valid Permit in place may constitute a criminal offence.

Where the Permit Authority considers the proposed extension to be reasonable and the Activity does not conflict with other planned activities then the Permit Authority will not unreasonably withhold the extension.

There may be occasions where the Permit Authority does not consider the proposed extension to be reasonable. For instance, this might be due to poor works management by the Promoter or an issue on site that the Permit Authority considers should have been dealt with more expediently. In these cases, the Permit Authority will grant a variation to the Permit so that the Promoter is not operating without a valid Permit in place but will not extend the S74 Reasonable Period. The Permit Authority will use its powers under Section 74 of NRSWA to charge the Promoter for an overrun of the original 'Reasonable Period'.

Although in many cases, the Permit Authority will grant the Permit extension to minimise the disruption of a return visit, it may be necessary for the Promoter to vacate the street to allow another Activity to take place or to open up space for traffic. In these situations, the Promoter must submit a new application to complete the Activity on another date.

### **7.1.4 Illegitimate Phasing of Activities**

Where the Permit Authority can establish to its reasonable satisfaction that a subsequent Permit application has been made at any given location as a result of:

- The closure of works following a refusal by the Permit Authority to grant an extension to the duration of a previous Permit, or
- The premature closure of the works by the Promoter, before all those works specified in the works description given by the Promoter are completed, to avoid an overrun under Section 74 occurring.

The Permit Authority may grant a subsequent Permit with start and finish dates to allow the initial Activity to be completed. The duration for this subsequent Permit will reflect the illegitimate phasing of activities for these works and overrun charges will be applied in accordance with the current Section 74 regulations.

### **7.1.5 Multiple Excavations**

Immediate activities may require the Promoter to make several registerable openings in a street, for instance to locate a fault or a leak. As such, the Promoter must submit the first Permit application detailing the location of the initial excavation within two hours of starting work.

The Promoter should telephone the Permit Authority within two hours and give the location for further excavations on the same street within 50 metres of this initial excavation. No Permit variation will be required and therefore no charge will be applied.

Where the additional excavations are more than 50 metres from the first, a Permit variation application will be required. A standard Permit variation charge will apply. The Permit Authority may opt to waive this charge if it feels the Activity and notifications are being well managed.

Further excavations will be dealt with in the same way as these two examples, in 50 metre bands.

It should be noted that all excavations should be accurately recorded upon registration of the works.

If additional excavations are carried out in different streets (different USRN), or at a location that is substantially separate from the previous excavations then a separate Permit application should be applied for.

If the Promoter has made all reasonable efforts to contact the Permit Authority by telephone and cannot, they should record that and send the message electronically.

### **7.1.6 Fees for Promoter Initiated Variations**

Applications for Permit variations initiated by the Promoter may be charged a fee. This is subject to the exemptions detailed in Chapter 8.

Where a variation to extend a Permit takes that Permit into a higher works category, the Promoter will be required to pay the difference between the Permit fees for the two categories as well as the Permit variation fees.

## **7.2 Variations Initiated by the Permit Authority**

### **7.2.1 Necessary Variations**

Once a Permit is issued, the Promoter should have reasonable confidence that the road space will be available to them. Nevertheless, there may be circumstances beyond the Permit Authority's control that necessitate a change in either the Permit or its conditions.

Such changes should happen, only when the new circumstances could not have been reasonably predicted and where the impact is significant. For example, extra traffic is being diverted onto the road for which the Permit has been issued due to another road being closed by floods, burst mains or a dangerous building, etc. If the consequent disruption cannot be mitigated in a better way it may be necessary to vary aspects of the Permit such as the time or manner of working.

The Permit Authority should contact the Promoter as soon as it becomes aware of a potential problem to discuss the best way to deal with the situation. However it is vital that both parties work together to ensure the circumstances on the ground can be properly coordinated and managed, while ensuring the Promoter can best manage their changing situation to minimise further inconvenience and disruption and expedite the works swiftly.

If changes to the Activity are required, the Permit Authority will issue an Authority Imposed Variation ETON notification to annotate the required changes.

If the Permit variation requires the Promoter to suspend their operation or leave site. This should be agreed first between the Permit Authority and Promoter.

The Permit Authority recognises that requesting a variation to a Permit may cause substantial disruption to the Promoter. However where agreement cannot be reached, the Permit Authority will issue an Authority Imposed Variation EToN notification to direct the changes it feels necessary to best manage the Activity on the ground. The Promoter must comply or reinstate and leave site. The Promoter may then invoke the dispute resolution procedure set out in Chapter 11.

### **7.2.2 *Fee for Authority Initiated Variations***

No fee is payable for Permit variations initiated by the Permit Authority, unless at the same time, the Promoter seeks variations, which are not the result of the circumstances, causing the Permit Authority action. In such a case, a variation fee would be payable, subject to the exemptions detailed in Chapter 8. The Permit Authority should act reasonably in this matter.

### **7.3 *Suspension, Postponement or Cancellation of a Permit***

There is no mechanism in the Permit Scheme Regulations to formally suspend or postpone a Permit, only for varying or revoking it them.

If the Permit Authority has to suspend or postpone an Activity that it has already issued a Permit for but which it intends should happen at a later date, it should use the Permit variation provisions as described above to enforce the change of dates. No fee will be charged for such authority-initiated variations.

#### **7.3.1 *Suspension or Revoking a Permit***

Permit Scheme Regulation 10(4) allows a Permit Authority to revoke a Permit where it considers that an Promoter is failing to comply with the terms of that Permit and its conditions.

The Permit Authority will inform the Promoter immediately if it becomes necessary to do so and allow a reasonable timeframe for the Promoter to either suspend its activities pending an agreement to continue working or to make the site safe and leave site. Where necessary the Permit Authority may use its provisions under Permit Scheme Regulation 18 to clear the street or take any other action necessary.

The Permit Authority should consider whether other sanctions are more suitable or necessary, in addition to the revoking of a Permit (see Chapter 10).

Where a new Permit or Permit variation is required to resume an Activity, a fee will be payable in line with the Permit charges, unless the Permit Authority has to revoke a Permit through no fault of the Promoter in which case there will be no charge for a replacement application (see Section 8.3).

#### **7.3.2 *Cancelling a Permit***

If a Promoter wishes to cancel a Permit or withdraw a Permit application for which they have no further use, they should submit a cancellation notice for that Permit, as detailed in the EToN technical specification. The cancellation notice should be submitted within 2 working days beginning with the date on which the Permit start date ceases to have effect.

In addition to submitting a cancellation notice on Strategically Significant Streets the Promoter should inform the Permit Authority on the day before the due Permit start date by telephone so that the Permit Authority can put in place any mitigating action it feels necessary. There is no fee for cancelling a Permit although the charge for issuing the Permit originally will remain payable.

Any Activity that takes place after a Permit is cancelled may constitute a criminal offence.

A Permit that is 'in progress', or one for Immediate activities, should not be cancelled unless that works status has been submitted in error. The EToN technical specification details how these situations should be dealt with.

**7.4 EToN Failures**

Where there is an EToN system failure by either the Promoter or the Permit Authority, an alternative strategy should be implemented (see Section 4.8).

## 8 Permit Charges

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### 8.1 *Introduction*

Under Permit Scheme Regulation 30 the Permit scheme is able to charge Statutory Undertakers a fee in the following circumstances

- The application of a provisional advance authorisation
- The issue of a Permit
- The variation of a Permit or the conditions of a Permit
- The difference between fees for an Activity when it moves from one works category to another

### 8.2 *Fee Levels*

The Permit Authority will set its fee levels in accordance with the DfT Statutory Guidance for Permits (October 2015), and in accordance with the maximum fee levels specified in Permit Scheme Regulation 30.

Fees for the Permit Authority are on their web site.

Income from the scheme will only be used to meet the allowable costs of running the scheme.

### 8.3 *Waiving Permit Fees*

Permit Scheme Regulation 30 also provides a mechanism for discounting or waiving the normal Permit fee. Under the Permit scheme, a Promoter will not be charged a fee:

- If the Promoter is a Highway Authority or is carrying out Works for Road Purposes (works on behalf of a highway authority)
- If a Permit is deemed to be granted because the Permit Authority had failed to respond to an application in the time required
- If a Permit variation is initiated by the Permit Authority
- Where the Permit Authority has to revoke a Permit through no fault of the Promoter the Permit fee will be refunded to the Promoter
- For the maintenance of fire hydrants carried out by the fire service or a contractor designated by the fire service to carry out this work on their behalf
- Where the works are Diversionary Works as a result of a Major Highway or Bridge works, initiated by the Highway Authority, as described in Section 86 of NRSWA
- Any other circumstances as detailed within Permit Scheme Regulations

In addition, where the Permit Authority considers it merited, it may waive an individual charge.

### 8.4 *Reduced Permit Fees*

A minimum discount of 30% will be applied in the following situations:

#### 8.4.1 *Collaborative Works*

Permit Scheme Regulation 31(4) provides for a Permit fee discount where Promoters are collaborating, either in timing or in extent of the programmed Activity, to reduce the impact of their works. This includes where Statutory Undertakers are collaborating with Highway Authority works.

The Permit Authority should be satisfied that all activities are designed and are being undertaken in a manner that minimises the impact of the works. All Promoters must apply for a Permit and these must be cross-referenced to one another so that the Permit Authority is able to identify the scope of the collaborative working. The applications must be made within three days of one another.

#### **8.4.2 *Multiple Applications for Single Activity***

The Statutory Guidance for Permits requires the Permit Authority to apply a discount where an Promoter submits multiple Permit applications where an Activity is part of a project that involves working on more than one adjacent street. For example if repairs on a pipe go round a corner from one street into another. It is not intended to cover whole area wide projects in a single Permit.

#### **8.4.3 *Working only outside Traffic Sensitive Times***

A discount will be applied where an Promoter is able to undertake their works wholly outside of traffic-sensitive times.

In general, this is only applicable on works that are less than one-day duration since these can fall between or after peak periods. However, this discount should also be applied to works where carriageway impact is minimised for peak or traffic-sensitive periods, for instance opening up the carriageway by using plating, or a change of traffic management/control etc. when operatives are not working on site.

Suitable Permit conditions would need to be attached (Chapter 5), and it would be necessary to gather evidence from site (for instance photos or inspection records) to show that this condition was being maintained for the duration of the Activity or as agreed. Suitable evidence provided by the Promoter or contractor should be acceptable as long as it meets the requirements of the Permit Authority to ascertain compliance.

#### **8.4.4 *Other Situations***

The Permit Authority may waive an individual charge or offer a discount where it considers such action is merited.

#### **8.5 *Additional Charges***

Where a variation to extend a Permit takes that Permit into a higher works category, the Promoter will be required to pay the difference between the Permit fees for the two categories as well as the Permit variation fees.

#### **8.6 *Fee Review***

The Permit Authority will review its level of fees in line with the current regulations and statutory guidance to ensure that the overall fee income does not exceed the allowable costs. The outcome of the fee reviews will be published and open to public scrutiny.

If a sustained surplus or deficit occurs over a number of years the fee levels will be adjusted accordingly.

## 9 Charging for Overrunning Activities

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The Permit Authority will operate an overrun-charging scheme under Section 74 of NRSWA, alongside this Permit scheme.

The scheme will apply as set out in the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) regulations and any future amendments as detailed in regulations or the relevant code of practice.

Permit Scheme Regulation 37(4) modifies Section 74 of NRSWA to allow the duration of the Activity to be set or modified through the Permit application and variation process.

Where the Permit Authority has reason to believe that overrun charges are being avoided through the misuse of Permit phases, it will treat a subsequent Permit application as an illegitimate use of phases (see Section 7.1.4).

Activities carried out by, or on behalf of, a Highway Authority are not subject to Section 74 overrun charges. However, under the Permit scheme Promoters of such activities will be required to follow the same procedures as Promoters who are Undertakers. The Permit Authority will inspect such activities in the same way as an Undertaker's Activity and will carry out any evaluations, *in accordance with the Permit Scheme Regulations*, equally to all Promoters.

## 10 Permit Offences and Sanctions

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### 10.1 Permit Offences

The Permit Scheme Regulations create two offences for Statutory Undertakers:

- Carrying out activities on the street without a Permit, or in the case of Immediate works not applying for a Permit within two hours of the works starting
- Carrying out activities on the street or highway in a way that contravenes the conditions attached to a Permit, or the conditions that are applied to an Immediate Activity before a Permit is issued for those activities.

Permit offences do not apply to Highway Authority activities; however, the Permit Authority will monitor these activities in the same way it does Statutory Undertakers to ensure a consistent approach (see Chapter 13).

Immediate Activities may start without a Permit in place; however, the Promoter must apply for a Permit within two hours of starting work or by 10:00 the following working day where the Activity begins outside of normal working hours. The Promoter can then continue working within the terms of any conditions that apply to its application, for example regarding working hours.

The Permit Authority will issue a Permit within two days of the Permit application. Once issued, the Promoter is bound by the terms of the Permit and the attached conditions. This supersedes the terms in the application and any previous conditions set by the authority.

### 10.2 Working without a Permit

Permit Scheme Regulation 19 creates the criminal offence for an Undertaker or someone acting on its behalf to undertake works without a valid Permit.

A Permit will cover a specified Activity at a specified location at specified times as described by the Permit start and end dates. These are referred to in the scheme as the Permit terms and any Activity that contravenes them is an offence. All elements of the Activity must be completed within the start and end date of the Permit – this includes not only the opening of the street, but all the ancillary work as well, such as stockpiling materials, setting up and disbanding traffic management and clearing the site.

To avoid committing an offence some situations that should be considered by the Promoter

- A new Permit must be raised once a Permit expires, it cannot be varied..
- A Promoter may be committing an offence if it starts, or continues to work after cancelling a Permit.
- Immediate activities may start without a Permit in place however; the Promoter must apply for a Permit within two hours of starting work or by 10:00 the following working day where the Activity begins outside of normal working hours (Section 3.3.4).
- Where there is a dispute over the terms of a Permit then the dispute procedure described in Chapter 11 should be used. In these cases the Permit Authority may not issue a Permit until the dispute is resolved or, in some cases, it might issue a Permit with its own conditions attached. This is also covered in Chapter 6.



- Where a Permit Authority fails to respond to an application within the prescribed timescale, a Permit is deemed to be issued in the terms of the application. There is no requirement for the Promoter to cancel the application and resubmit (see Section 6.1.4).

### **10.3 Breaching the Conditions of a Permit**

Permit Scheme Regulation 20 creates the criminal offence for an Undertaker or someone acting on its behalf to undertake works in breach of a condition.

The Permit register will record any conditions included in a Permit . If a Permit is varied, a new Permit will be issued and any new conditions will be included and recorded. The Permit Authority and Promoter will endeavour to ensure that conditions are precise so that that both can easily check performance on site against the approved conditions.

The conditions in the Statutory Guidance for Permit Conditions that apply to all Permits, or Permits for certain types of Activity in all cases, will apply to Immediate Activities for the period before a Permit is issued (see Section 5.10).

### **10.4 Sanctions**

Where possible the Permit Authority will seek to resolve problems informally to achieve compliance with the Permit scheme. Where this fails, or where an Promoter persistently offends, or the Permit Authority considers that an informal resolution is not appropriate, then the Permit Authority has three sanctions it may use:

- Issue a notice to take remedial action
- Issue a Fixed Penalty Notices
- Prosecution

#### **10.4.1 Remedial Action**

Permit Scheme Regulation 18 allows the Permit Authority to issue a notice requiring remedial action within a timeframe where a Promoter is working without a Permit or in breach of a Permit Condition.

The remedial action may include removing the Activity, remedying the breach of condition or discontinuing the obstruction.

The steps the Permit Authority requires the Promoter to take, and the timeframe set out in the notice, will be reasonable for the circumstances.

Where a Promoter does not take the remedial action within the timeframe, the Permit Authority will take such steps, as it considers appropriate to achieve the outcome in the notice, and may recover any costs from the Undertaker.

#### **10.4.2 Fixed Penalty Notice**

Permit Scheme Regulations 21 to 28 (and Schedules 1 and 2) authorise the Permit Authority to issue Fixed Penalty Notices (FPNs) in respect of criminal offences. Fixed Penalty Notices offer the offender an opportunity to discharge liability for an offence by paying a penalty amount.

The Permit Authority will follow the FPN procedure set out in the Statutory Guidance for Highway Authority Permit Schemes (October 2015) and the Permit Scheme Regulations , and any subsequent amendments.

Prosecution through the magistrates' court remains an option for the Permit Authority.

**10.4.3 Prosecution**

The authority may prosecute the offence through the courts following the usual processes. Normally this option will be invoked where an Undertaker is persistently offending on an issue that the Permit Authority considers serious.

Decisions on the prosecution of alleged offences are for the Permit Authority. Prosecution should not necessarily be the preferred option - the process can be time consuming and even FPNs do not offer an immediate solution.

## 11 Dispute Procedures

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The Permit Authority and Promoters should use their best endeavours to resolve disputes without having to refer them to a formal appeals procedure. However, it is recognised that occasionally this may not be possible.

If agreement cannot be reached locally on any matter arising under this Permit scheme, a discussion should take place-involving managers from both parties not directly involved in the promotion or control of the Activity. If this fails to provide a solution acceptable to either party, then the matter will be dealt with as per Chapter 13 of the NRSWA Co-ordination of Works Code of Practice.

## 12 Related Matters

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### 12.1 Temporary Traffic Restriction Orders

Provisions governing temporary road closures and traffic restrictions for works or other activities in the street are found in Sections 14 to 16 of the *Road Traffic Regulation Act 1984*, as amended by the *Road Traffic (Temporary Restrictions) Act 1991*, and regulations made under the 1984 Act and subsequent amendments. Details of LCC's process are available on their web site.

#### 12.1.1 Charges

Section 76 of NRSWA allows traffic authorities to recover the costs of issuing temporary notices or making TTROs. Upon receipt of an application for a TTRO, the Permit Authority can provide utilities with the estimated cost. These costs are not part of the Permit scheme. Invoices will be itemised, for example:

- Cost of the order
- Advertising in local papers
- Administration fees

There may also be charges made for erecting and maintaining the on-site notices that are required.

### 12.2 Working Near Rail Tracks

Particular attention should be given to the possible effects of activities taking place at or near level crossings. Promoters planning works in such locations must refer to the NRSWA *Code of Practice for the Co-ordination of Works* or as subsequently amended, which sets out Network Rail's requirements.

### 12.3 Vehicle Parking at Street and Road Works

The following advice relating to vehicle parking at Activity sites is operational and should not be considered safety advice. For safety advice the Code of Practice on Safety at Street Works and Road Works should always be consulted.

#### 12.3.1 Vehicle within Activity Site

A works vehicle may be parked in an Activity site provided it is necessary for the carrying out of that Activity. The *Code of Practice on Safety at Street Works and Road Work* provides basic site layouts. A vehicle entirely within the coned-off area of the site may require a larger coned-off area than would otherwise be the case.

#### 12.3.2 Vehicle outside Activity Site

A vehicle may be parked outside an Activity site provided the parking rules that apply to any other vehicle in that street are obeyed. Outside of the Activity site, the vehicle has no special status and no exemption from parking enforcement.

#### 12.3.3 Implications

When assessing the impact of activities the parking of any vehicles associated with the Activity should be taken into account. This is a particular problem for activities which, but for the presence of a works vehicle, would take place entirely within the footway.

If a vehicle is parked adjacent to the Activity, in a place that vehicles could not normally use, then it must be part of the Activity site. It must be signed and guarded appropriately. The Activity is then not wholly confined to the footway but encroaches onto the carriageway. Applications for Permits should reflect this.

#### **12.3.4 Parking Restrictions**

The Traffic Regulation Order imposing parking restrictions on a particular street should already contain an exemption allowing for activities to take place in a parking bay. Promoters should check whether any further dispensation is required well before the works are due to start.

Promoters should be aware of other timescales the traffic authority may need to process such approvals, and they should build this into their application lead-in period. In addition, there may be other costs outside the scope of the Permit scheme.

#### **12.4 Storage of Materials**

Promoters and the Permit Authority should take care to place materials so that they do not cause an obstruction to road users. Where the storage of excavated material causes problems such as congestion then a Permit Condition may be applied to ensure the removal of the materials. Avoiding obstruction to road users is especially important if materials are stored away from the Activity site but still within the highway boundaries. Such storage must have consent from the Highway Authority under Section 171 of the Highways Act 1980.

#### **12.5 Apparatus Belonging to Others**

There may be other apparatus where activities are planned and under NRSWA Section 69, those carrying out activities must ensure that the owners of that apparatus are able to monitor the Activity and that requirements to take reasonable steps to protect the apparatus are followed. Failure to do so is a criminal offence.

#### **12.6 Maintenance of Undertaker's Apparatus**

Undertakers have a duty under NRSWA Section 81 to maintain apparatus in the street to the reasonable satisfaction of the street authority, having regard for the safety and convenience of traffic, the structure of the street, and, integrity of apparatus in it. Bridge, sewer and transport authorities also have an interest, as far as any land, structure or apparatus they own is concerned.

Most Undertakers have statutory obligations to maintain their networks - quite apart from which, they should maintain systems in efficient working order to properly discharge their safety and service obligations to their customers.

Thus, authorities and Undertakers have a shared interest in the proper maintenance of apparatus in the street.

As with reinstatements, it is important that the street authority reports any apparatus in an unsatisfactory condition quickly and accurately and includes the level of severity of the problem. The owner should respond and carry out any necessary remedial works within the reasonable timescales agreed with the street authority.

The Permit Authority will operate Section 81 as described in the NRSWA Co-ordination of Works Code of Practice and the EToN technical specification, as well as any guidance issued by HAUC, and it is expected that Undertakers carry out their obligations in this regard.

#### **12.7 Diversion Routes**

Any diversion of vehicles, pedestrians or cyclists that is required must be agreed with the Permit Authority in advance of the Activity taking place. Additional consultation may be required with interested stakeholders, and the route must be agreed to be suitable for the purpose.

The Permit Authority may require a traffic management drawing and a signing schedule as part of the illustration of the Activity to show the proposed route(s) and signs.

The illustration or the agreements made must be referenced in the Permit application by attaching a relevant comment to the Permit.

When a diversion is in use, it is expected that the Activity promoter or their contractors will check the diversion route signage on at least a daily basis to ensure that the signs are visible and in the correct positions. This applies to all kinds of diversion; vehicular, cycle, pedestrian etc.

When a diversion route is not required, for instance when a road is opened out to traffic for a period of time, then the sign faces should all be covered or removed so they do not cause confusion or further disruption to the travelling public. Once the diversion is no longer required then the signage should be removed immediately.

Should an Activity requiring a diversion overrun then the signage must remain in place and be maintained as long as the diversion is required.

## **12.8 Emergency Traffic Management**

Immediate activities can cause significant disruption on any street due to the unknown nature of the cause.

Prompt notification and clear understanding of these kinds of situation enable the Permit Authority to implement contingency plans to initiate additional traffic management arrangements (such as adjustments to traffic signals etc.) and to make information available to the travelling public as quickly as possible to mitigate the impact of that Activity.

### **12.8.1 Streets Subject to Immediate Notification**

Some streets or parts of a street are particularly vulnerable to traffic disruption. For these locations, the Permit Authority may wish to have the earliest possible information about an Immediate Activity to enable it to initiate traffic management arrangements and provide information to the public that will mitigate the impact of the Activity.

Typically, these will be key routes, pinch points or busy pedestrian areas and the Promoter undertaking Immediate Activities should contact the Highway Authority prior to carrying out the Activity on that street.

Such street sections will be defined in the Authority's ASD as those where "early notification of Immediate activities is required" and the situations when this is necessary and the manner of contacting the Permit Authority will be clearly defined in the NSG.

The Promoter or contractor should adhere to any directions or recommendations that are made by the Authority in these cases so that the surrounding network impact may be managed by the authority.

### **12.8.2 Severe Traffic Control**

By their nature, Immediate Activities might require the use of traffic control at very short notice to manage a situation that might cause danger to the general public or the site.

Since it is unlikely that there has been substantial pre-planning of these activities, where the Promoter requires the use of temporary traffic signals or finding it necessary to close a road at any point during the life of an Immediate Activity, the Permit Authority should be contacted prior to implementing these traffic management provisions.

It is recognised that in certain circumstances it may be necessary to implement such traffic control measures first, to minimise risk to the public. However, it is important to ensure that the discussion with the Permit Authority takes place as a priority in these situations and should not be left for a period of time.

### **12.9 Specialist Materials**

In some locations, the Permit Authority may require a first time permanent reinstatement using specialist materials. Such areas will typically be high amenity areas that are important locally for tourism or where there is high footfall or regular events, where the Authority feels that a suitable first time permanent reinstatement is required to ensure the aesthetic impact is not reduced.

The Permit Authority within its ASD will specify these areas of high amenity or high duty surfaces.

Examples of specialist materials might be York Stone, resin paving systems or as determined by the Authority.

Where the Activity is planned, then the Promoter should ensure that the appropriate materials and operatives are required to be available before the Activity can commence.

In the case of Immediate Activities, or planned activities where the sourcing of specialist material cannot meet the required timescales, then the Permit Authority may agree to an interim reinstatement in order to make the site safe as quickly as possible. This will enable better planning of a high quality permanent reinstatement, rather than undertaking a poor permanent reinstatement on the first pass.

### **12.10 Temporary Traffic Signals**

Any use of temporary traffic signals requires agreement from the Permit Authority. The EToN technical specification provides a transaction for the Promoter to submit an application for temporary traffic signals that is linked to a particular PAA, Permit or application.

Typically an application for temporary signals will include information such as:

- Traffic management drawing showing site layout
- Signal operating pattern, for example during the working day, 24hr operation, overnight, off-peak etc.
- Signal configuration, for example stop/go, two-way, two-way with junction, multi-way etc.
- Detail on timings of signals and phasing, particularly for the use of multi-way signals or where timings on two-way signals alters during the day to take into account and help control tidal flow of traffic etc.
- Whether the signals should be manually operated at any time to help ease traffic flows and minimise delays.

The authority will consider the application in the context of the proposed Activity and if the Promoter has provided all the required information relating to the operation of the temporary signals to the satisfaction of the Permit Authority, it will be approved.

If the application is not approved then the Permit Authority will provide the reasons for non-approval as part of the response. This application response will be separate to the response to the linked Permit application or PAA.

An application may be re-submitted multiple times until it is approved by the Permit Authority.

Promoters must attach a relevant Permit Condition to a Permit application for any Activity that requires the use of temporary traffic signals, whether or not at the point of issue an application for temporary signals has been submitted. If works are present on site without such approval, the Promoter may be committing an offence.

Promoters should note that approval of temporary signals may require a longer time period than the notice period of a Minor, or Standard, or Major follow-up Permit application and so should be mindful of this when submitting the Permit applications and allow extra time on the notice period.

The Permit Authority will meet, where practicable, certain timeframes for approving different temporary signal configurations, although it should be noted that certain agreements will necessitate a longer period to assess and discuss with stakeholders.

For Immediate Activities the traffic signal application must be submitted with the Immediate Permit application where it is anticipated that temporary traffic signals are to be used. Where the Activity is taking place in a Strategically Significant Street the Promoter should contact the Permit Authority by telephone immediately to inform them.

Where during the course of any Activity it is considered necessary by the Promoter to change the method of traffic management to using temporary traffic signals, the Promoter must contact the Permit Authority immediately (and in any case before the signals are put in place) to discuss this change of traffic control.

Traffic Signal applications should be made through EToN. By agreement, the Permit Authority may accept applications outside of the EToN process e.g. one off Promoters.

## **12.11 Environmental Issues**

Any site should be maintained in a suitable manner, particularly when left unattended. This includes ensuring materials, spoil and equipment is stored in a tidy manner and in a way that ensures they cannot be tampered with and do not spill out of the works areas.

Promoters are strongly advised to liaise with the authority's arboriculture consultants and other environmental officials along with any necessary borough or district council officers when drawing up their proposals. This should ensure that wherever possible, and at reasonable cost, any environmental requirements can be met.

The Permit Authority will often be best placed to advise on these matters on receipt of Permits but the onus lies on the Promoter to do so wherever possible before the Activity is planned to commence.

A Promoter considering burying plant and apparatus that is currently above ground should contact any other utility with similar apparatus to see whether it wishes to share the underground facility.

There may be occasions where additional care should be taken in regards to maintaining the site in a clean and tidy manner throughout the duration the Activity. This might include swift removal of any spillage of materials onto the public highway or waste from a site.

In such circumstances, a relevant Permit Condition requiring the removal from site of surplus material, whatever the source, may be imposed.



## 13 Monitoring the Permit Scheme

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As required by Permit Scheme Regulations and the DfT Statutory Guidance for Highway Authority Permit Schemes (2015), the Permit Authority will carry out an evaluation of the Permit scheme to demonstrate whether it is achieving the objectives of the scheme.

The Permit Authority, with Key Performance Indicators, will measure the delivery of parity and performance. These will be a mix of those in the DfT Statutory Guidance for Permit Schemes and others. All Highway Authority and Statutory Undertaker activities will be included to show operational parity.

## 14 Conflict with other Legislation and Legal Liability

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The Permit Authority will work with Promoters to promote safe working practices and all parties should act reasonably and responsibly. Each situation will be considered on its merits.

The Permit Authority will try to ensure that any conditions applied to a Permit do not conflict with the Promoter's obligations under separate legislation. The Permit Authority's intention is that an Promoter should not be put in a position where they cannot escape being in breach of either Permit Conditions or other relevant legislation.

The Promoter should bring such concerns, conflicts or potential conflicts to the attention of the Permit Authority as soon as is practicable. The Permit Authority will be responsible for resolving the issue with the other body or bodies concerned, e.g. Environmental Health officials, and amending the Permit Conditions accordingly. If they are not satisfied the Promoter may invoke the dispute resolution procedure.

The applicant will be liable for all actions, costs, claims, demands, charges and expense arising out of any Activity covered by the Permit scheme, including those that may arise out of, or be incidental to, the execution of the works.

Part 8 of the Permit Scheme Regulations provides for the disapplication and modification of certain sections of NRSWA, in relation to the scope of the Permit Scheme, namely:

- Sections of NRSWA disapplied – s53, s54, s55, s56, s57, s66
- Sections of NRSWA modified – s58, s73A, s74, s88, s89, s93, s105, Schedule 3A NRSWA
- Regulations modified – The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.

## 15 Transition from NRSWA to the Permit Scheme

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The consultation prior to LCC making an order to run a Permit scheme will provide early indication to all concerned of an impending changeover. The changeover date will be in the Order authorising the scheme and must be a minimum of four weeks after the order is made. LCC will ensure that discussion takes place with all Promoters during the transition period to ensure that issues are picked up early and problems dealt with quickly.

### 15.1 Transition Rules

The basic rules of transition will apply on all roads where the Permit scheme operates.

(a) The Permit regime will apply to all activities where the administrative processes, such as application for a Permit or Provisional Advance Authorisation, start after the commencement date.

(b) Activities which are planned to start on site more than one month after the changeover date (for standard, minor and immediate activities) or three months (for major activities) shall operate under the Permit scheme. This means that even if the relevant section 54, section 55 or section 57 NRSWA notice has been sent before the changeover, the Promoter will have to apply for a Permit.

(c) Any other activities, which started under the notices regime, will continue under that regime until completion.

Given the advanced notice of the changeover there should be few activities where these rules will create difficulties. Activities co-ordinated in the run-up to the imposition of a restriction might be such a situation. In those few cases, discussions should take place between the authority and the Promoters concerned to work out a practical way of dealing with the activities.

## Appendix

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### APPENDIX A – Glossary of Terms

Term	Definition
Activity	Covers both utilities' street works and highway authorities' own works. See Promoter.
Additional street data ("ASD")	Additional Street Data ("ASD") refers to other information about streets held on the NSG concessionaire's website alongside the NSG.
Apparatus	As defined in Section 105 (1) of NRSWA "apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus".
Appeal	Where there is an unresolved disagreement between the Promoter and the Permit Authority about a Permit Authority's decision or actions the Promoter may appeal as per Chapter 13 of the NRSWA Co-ordination of Works Code of Practice.
Bank Holiday	As defined in Section 98 (3) of NRSWA
Bar hole	A bar hole is used to detect and monitor gas leaks as described in the NRSWA Co-ordination of Works Code of Practice.
Bridge	As it defined in Section 88(1)(a) of NRSWA,
Carriageway	As defined in Section 329 of HA 1980
Council	As defined in Section 329 of HA 1980
Day	In the context of the duration of activities, a day refers to a working day, unless explicitly stated otherwise.
DfT	Department for Transport.
Disability	As defined in Section 105(5) of NRSWA, and Section 28 of the Chronically Sick and Disabled Persons Act 1970
Emergency works	As defined in Section 52 of NRSWA
EToN	Electronic Transfer of Notifications, the system defined in the Technical Specification for EToN for passing notices, Permit applications, Permits and other information between Promoters and the Permit Authority.
Excavation	"Breaking up" (as defined above).
Fixed Penalty Notice	As defined in section 39(1)(b) of part 3 of the Traffic Management Act 2004
Footway	As defined in Section 329 of the HA 1980
Frontagers	A person or body occupying premises abutting the street.
HA 1980	The Highways Act 1980.
Highway	As defined in Section 328 of the HA 1980
Highway Authority	As defined in sections 1 and 329 of the HA 1980.
Highway works	"works for road purposes" or "Major highway works".
Immediate activities	immediate activities are either emergency works as defined in Section 52 of NRSWA or urgent works as defined in the Statutory Guidance for Highway Authority Permit Schemes
In	As defined in Section 105(1) of NRSWA
KPI (Key Performance Indicator)	A performance indicators used to show parity as defined in Permit Scheme Regulation 40.

Term	Definition
Land	As defined in Section 329 of HA 1980
Local authority	As defined in Section 270(1) of the Local Government Act
Local street gazetteer	A subset of the NSG containing details of all streets in a Local Highway Authority area
Maintenance	As defined in Section 329 of HA 1980,
Major activities	As defined in the Statutory Guidance for Highway Authority Permit Schemes
Major highway works	As defined in Section 86(3) of NRSWA
Minor activities	As defined in the Statutory Guidance for Highway Authority Permit Schemes
National Grid Reference	Location reference using nationally defined eastings and northings. The format in which it is presented must in all cases match that required by the Technical Specification for EToN.
National Street Gazetteer (NSG)	A database defined as "an index of streets and their geographical locations created and maintained by the local highway authorities" based on the BS7666 standard.
Network management duty	As stated in Part 2 of TMA.
NRSWA	New Roads and Street Works Act 1991.
NSG Concessionaire	The body appointed to manage the NSG on behalf of the local highway authorities.
Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any "breaking up" of the street.
Order	Unless otherwise specific, "order" means "a document signed by a person authorised by the Permit Authority to give effect to, vary or revoke a Permit scheme";
Permit	The approval of a Permit Authority for an Promoter to carry out Activity in the highway subject to conditions.
Permit application	The application that is made by a Promoter to the authority to carry out an Activity in the highway.
Permit Authority	The relevant local highway authority, which has prepared a Permit scheme under Section 33(1) or (2) of the Traffic Management Act 2004.
Permit Scheme Regulations	Means the Traffic Management Permit Scheme (England) Regulations 2007, Statutory Instrument 2007 No. 3372 made on 28 November 2007 and the Traffic Management Permit Scheme (England) (Amendment) Regulations, Statutory Instrument 2015 No. 958 made on 26th March 2015.
Prescribed	As defined in Section 104 of NRSWA
Promoter	A person or organisation responsible for commissioning Activities in the streets covered by the Permit scheme. In the Permit scheme Promoters will be either Statutory Undertakers or the highway or traffic authority.
Protected street	are defined in NRSWA s61 (1)
Provisional Advance Authorisation (PAA)	The early approval of activities in the highway, equivalent to the advance notice given under s 54 of NRSWA.
Reasonable Period	As defined in Section 74(2) of NRSWA,
Registerable activities	Registerable activities correspond to what are "specified works" in the Traffic Management Permit Schemes (England)

Term	Definition
	Regulations 2007.
Reinstatement	As defined in Section 105(1) of NRSWA, "reinstatement includes making good".
Relevant authority	As defined in Section 49(6) of NRSWA,
Remedial work	Remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and the associated regulations.
Road "Highway	".
Sewer authority	As defined in Section 89(1)(b) of NRSWA,
Special Engineering Difficulties (SED)	As defined in Section 63 of NRSWA
Standard activities	As defined in the Statutory Guidance for Highway Authority Permit Schemes
Strategically Significant Streets (SSS)	As defined in the Statutory Guidance for Highway Authority Permit Schemes
Statutory Guidance for Permit Conditions	Means the Statutory Guidance for Highway Authority Permit Schemes – "Permit Scheme Conditions", the most recent publication, issued by the Secretary of State pursuant to Section 33(5)(b) of the Traffic Management Act 2004.
Statutory Guidance for Permits	Means the Statutory Guidance for Permits", most recent publication.
Street	As defined in Section 48(1) of NRSWA
Street authority	As defined in Section 49(1) of NRSWA,
Street works	As defined in Section 48(3) of NRSWA,
Street works licence	As defined in Section 50(1) of NRSWA,
Temporary Traffic Regulation Order	This means an Order made under Section 1, 6, 9 or 14 of the Road Traffic Regulation Act 1984.
Terms, Permit terms	The works promoter specified Activity at the specified location at specified times executed in a specified way etc. as defined in a granted, deemed or varied Permit.
TMA	The Traffic Management Act 2004.
Traffic	As defined in Section 105(1) of NRSWA, "traffic includes pedestrians and animals".
Traffic authority	As defined in Section 121A of the Road Traffic Regulation Act 1984:
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works".
Traffic flow	The number of vehicles using the particular street at specified times of the day and year, measured in accordance with DfT guidelines.
Traffic Management	Traffic management is dictated by road space/occupation. Permit Scheme Regulations define: "traffic management arrangements" as including signs, signals, road markings, barriers and other measures which are intended to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians).
Traffic-sensitive street	As defined in Section 64 of NRSWA

Term	Definition
Traffic-sensitive Time	In relation to a traffic-sensitive street, means: the times or dates specified in the case of a limited designation; and any time in any other case.
Tramway	As defined in Section 105(1) of NRSWA
Trunk road	As defined in Section 329 of the HA 1980,
Undertaker	As defined in Section 48(4) of NRSWA,
Unique street reference number (USRN)	As defined in the British Standard BS7666.
Urgent activities	As defined in the Statutory Guidance for Highway Authority Permit Schemes
Working day	As defined in Section 98(2) of NRSWA,
Works	Street works or works for road purposes.
Works for road purpose	As defined in Section 86(2) of NRSWA,

THE COMMON SEAL of THE LEICESTERSHIRE COUNTY COUNCIL was hereunto affixed in the presence of

Authorised Signatory



34239 (a)

