



Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters HAUC(England) Edition

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FOREWORD

The **New Roads and Street Works Act 1991 (NRSWA)**, supported by relevant Regulations and Codes of Practice, provides a legislative framework for street works by undertakers (including utility companies) and works for road purposes – to the extent that these must be co-ordinated by street authorities.

The aim is to balance the statutory rights of highway authorities and undertakers to carry out works with the right of road users to expect the minimum disruption from works.

This Guidance Note;

- Reflects various changes made to the provisions of NRSWA under the **Traffic Management Act 2004 (TMA)** and subsequent legislation to enable the administration and management of all on street activities by means of permit schemes. The most recent changes in relation to permit schemes tighten the framework within which roads and streets are excavated, giving street authorities more power to co-ordinate, control and direct works effectively with the aim of minimising disruption.
- Gives practical guidance to both undertakers' and authorities responsibilities with regard to street or highway works.
- Was prepared by a HAUC England Working Group, comprising representatives of the Department for Transport, the Utility Industries and Highway Authorities and was subject to extensive consultation with all practitioners.

To assist with the change to Street Manager this Guidance Note has been issued by the Joint Chairs of HAUC England for the use of and on behalf of the Street and Road Works Community, prior to it being approved and endorsed by the Secretary of State for Transport, and becoming a Statutory Guidance document.

During this transition from Guidance Note to Statutory Guidance practitioners should be mindful that the document makes reference to Code when at the moment the document is of Guidance Note status. However, it does set out the expectations of HAUC England and the Department for Transport for the operation of permit schemes for the efficient co-ordination of street and road works.

This 5th edition has been issued by the Joint Chairs of HAUC England for use in England *only* (*Street works are a devolved matter in Scotland and Wales*). It supercedes the 4th edition published in October 2012 with effect from 1 September 2020.

Peter Loft and David Latham
Joint Chairs HAUC - England

CHAPTER 1 - Introduction

1.1 Introduction

The efficient co-ordination of street and road works is one of the most important aspects of street works legislation, and this Code is a practical document that provides guidance around both legislative requirements and associated good practice to help achieve this.

Throughout this Code, except where it is important to specifically use the legally correct name, standardisation of “authority” and “promoter” has been used as follows:

The term “**authority**” means the same and has been used in place of;

- Highway Authority
- Street Authority
- Transport Authority
- Permit Authority
- Noticing Authority
- Bridge Authority
- Strategic Highway Company

The term “**promoter**” means the same and has been used in place of;

- Statutory Undertaker
- Utility
- Authority carrying out works
- Other organisations such as London Underground

These terms are also covered in the Glossary in Appendix A.

1.2 Legislative Framework

The **New Roads and Street Works Act 1991 (NRSWA)** sets out the objectives of the co-ordination function:

- to ensure safety;
- to minimise inconvenience to people using a street, including a specific reference to people with a disability; and
- to protect the structure of the street and the apparatus in it.

This Code is intended to help authorities carry out the above duties by virtue of section 59 of NRSWA, and promoters to fulfil their responsibilities to co-operate in this process, under section 60 of NRSWA.

Everyone working in the street should take account of the needs of all road users, including those with disabilities – whether they are pedestrians, equestrians, cyclists or drivers – at all stages in the planning and execution of works in the street. This has implications for the timing, method and scheduling of works.

Inevitably, works in the street will interfere with road users and nearby residential and business premises to some extent. However, the aim should be to avoid disruption where possible including:

- serious traffic disruption;
- works on recently resurfaced or reconstructed streets; and
- planned works within a short time of earlier works.

The legislative and regulatory provisions explained in this Code may be best viewed as three pillars of co-ordination:

- **The Administration System.** This covers both the legislative requirement to serve notifications and apply for permits, as well as the electronic system that is used to do this. Together they provide essential information to aid the co-ordination process.
- **Streets subject to special controls.** Designation procedures allow for attention to be focussed on particularly sensitive streets such as traffic-sensitive streets.
- **The Co-ordination Tools.** The legislation provides tools to help the co-ordination process, including powers to restrict further works following substantial street or road works, as well as the ability under permits to manage works.

Authorities and promoters must understand and follow three key principles:

- the need to balance the potentially conflicting interests of road users, residents, businesses and customers;
- the importance of co-operation and regular communication between authorities and promoters; and
- an acknowledgement that works programmes and practices may have to be adjusted to meet the statutory objectives of the co-ordination provisions.

This guidance builds upon previous Codes of Practice that had, at their core, a series of notice transactions by which works were communicated and managed between authorities and promoters. Since April 2020, all authorities in England have been required to implement permit schemes and these are now the means by which all street and road works are planned, co-ordinated and administered.

Permit schemes provide a way to manage activities in the street. They were introduced by Part 3 of the **Traffic Management Act 2004 (TMA)** to improve authorities' abilities to minimise disruption from street and road works.

Network impacts are best minimised, the travelling public better informed and disruption kept to the minimum when promoters and authorities work together to achieve their common objective of planning and implementing work effectively. Permit schemes provide a powerful tool to help achieve this common objective

and help deliver the authority's network management duty whilst facilitating access to assets for promoters.

This guidance explains how these principles can be made to work in practice. Significant elements are:

- that most permit lead in periods specified in the legislation and regulations are **minimum** periods. Longer periods should be given, and permit information should be updated, wherever possible;
- the central role played by local liaison meetings between authorities, promoters and other interested parties; and
- the importance of the designation of streets subject to special controls. Authorities should only use designation to cases where it is strictly necessary. Promoters must respect the objectives of designation when planning and carrying out works.

This Code applies to prospectively¹ maintainable streets as well as publically maintainable streets.

The provisions of this note and its accompanying legislation cannot be achieved without the commitment of all concerned. Everyone should ensure that the information given is up-to-date, timely and correct, including a nationally consistent street gazetteer (NSG), Additional Street Data (ASD), and that all permits are administered in accordance with the Electronic System.

1.3 Other statutory obligations

Both authorities and promoters operate under other statutes which impose additional obligations that impact on those under NRSWA – for authorities to act reasonably and co-ordinate all works, and for promoters to co-operate.

Besides those duties under section 59 of NRSWA, a local traffic authority has an obligation to fulfil the **Network Management Duty** (NMD), under Part 2 of the TMA; to do all that is reasonably practicable to manage its road network effectively with a view to keeping traffic moving. Authorities need to have regard for the *Network Management Duty Guidance*².

However, these authority's duties must be balanced against the statutory obligations of the promoter.

As well as the powers contained in NRSWA and the **Traffic Management Act 2004** (TMA), the authority has further powers through other legislation such as the

¹ NRSWA 1991, section 87 *Prospectively maintainable highways*

² *The Traffic Management (Guidance on Intervention Criteria) (England) Order 2007* SI 2007 No. 39 ISBN 978-0-11-075792-6

Highways Act 1980 and the Road Traffic Regulation Act 1984. It may also have powers granted by Local Acts, particularly in London.

This Code should be read in conjunction with separate guidance for Street Manager for a full understanding of the administration of street and road works.

The NRSWA, the TMA and other relevant regulations must be read and applied in conjunction with this Code, as should the other Codes of Practice published under the NRSWA: *the Network Management Duty Guidance* and the *Guidance on Intervention Criteria*, published under the TMA.

CHAPTER 2 – Co-ordination & Collaboration

2.1 Introduction

This Chapter sets out the key principles of effective coordination, collaboration, and works processes to be followed.

There are some key factors that form these work processes. These include:

- The need for the authority to have accurate and timely information.
- Details of how works will be undertaken such that the authority can understand the impact.
- The authority to consider if any changes are required to the works to help minimise disruption.
- All parties must co-operate with the authority to minimise disruption, and
- All parties should consider opportunities for collaboration.

2.2 Information

Successful co-ordination requires accurate and timely information, along with effective dialogue between authorities and promoters. The authority cannot fulfil its duty, under section 59 of NRSWA, to co-ordinate activities affecting the street without adequate advance notice of proposed works.

The key principles of effective co-ordination are:

- sharing of information and consultation between interested parties at the earliest opportunity;
- regular input and attendance of relevant people (those empowered to take decisions) at co-ordination meetings;
- promoters and authorities sharing business development plans, and replacement programmes for apparatus and highway assets with the co-ordinating authority;
- communication of decisions at the earliest opportunity so that promoters' plans can be adapted, if necessary; and
- cross-boundary co-ordination between neighbouring authorities, promoters, and other interested parties, especially for all planned works and planned maintenance on strategic routes.

There are various mechanisms available to authorities and promoters for gathering and sharing information. The basic principle is: the greater the disruption, the sooner the engagement with the authority and relevant stakeholders.

2.2.1 FORWARD PLANNING INFORMATION

Forward planning information is a means of sharing information about future

work intentions at the earliest opportunity, promoting early engagement with the authority and other promoters, helping to identify opportunities for joint working and wider co-ordination of activities including resurfacing and reconstruction.

Promoters are strongly encouraged to provide forward planning information about road or street works. This may include but not be limited to, those works in their annual operating programme, or three or five-year rolling programmes such as mains replacement programmes or the reconstruction of main roads, which will be planned several years ahead. Forward planning information should also include works identified through asset condition surveys.

Forward planning information can be provided at any time before an application for a Provisional Advance Authorisation, Permit Application or Notice, but is encouraged to be submitted at the earliest opportunity to support coordination. It is much easier to adjust medium and long-term programmes to coordinate with the plans of others if forward visibility is given well enough in advance, than it is for short term programmes where contractual commitments may have been made.

Submission of Forward Plans should be via the prescribed electronic street works system.

It is essential that information on large-scale or potentially very disruptive works is included in the street works register at the earliest opportunity. This will enable work promoters to:

- take part in early co-ordination;
- consider collaboration;
- highlight other activities which need to be coordinated with these works.

The entry should give as much detail as possible including the street involved, the nature of the activity and proposed dates – these may just be a calendar year.

Promoters are also strongly encouraged to review their Forward Plans at least quarterly to ensure the information held within the street works register is still current and update these plans accordingly.

2.2.2 MEETINGS

In some cases, the authority and promoters will be able to co-ordinate effectively on a one-to-one basis. For the most part, regular meetings of dedicated groups will be needed and the regional **Highway Authorities and Utilities Committees (HAUCs)** and local co-ordination meetings provide the means to do this.

These meetings should be organised and chaired by the relevant authority.

Suggested topics for discussion at these meeting may include the following subject areas:

- All planned works and proposed traffic management (including the effect of any diversion routes);
- Specific details of high impact works;
- Planned road closures for the next quarter and rolling year ahead, to allow all street and road works to be accommodated within the closure as far as possible;
- Any other events which may impact on the highway;
- Local policies and strategies affecting street works;
- The potential for reducing disruption from works through collaborative working;
- Proposed designations of streets subject to special controls and other constraints;
- Performance reviews.

2.2.3 NATIONAL & REGIONAL HAUC MEETINGS

National and Regional **H**ighway **A**uthorities and **U**tilities **C**ommittees (HAUCs) hold regular meetings. Principal issues discussed at these meetings will be national policy implications and providing policy guidance on a local basis. They will also facilitate local mediation procedures.

2.2.4 LIAISON WITH OTHER BODIES

Authorities must liaise with adjacent authorities if works are likely to affect traffic flows across boundaries and/or trunk roads. They should also provide information to other bodies likely to have an interest such as but not limited to:

- the police, fire, ambulance and other emergency services;
- public transport operators;
- any other appropriate bodies, e.g. organisations representing people with disabilities, pedestrians, motorists, equestrians and cyclists; and
- the appropriate planning and environmental health officers.

2.2.5 PERMITS & NOTICES

NRSWA places significant obligations on both promoters and authorities to register works although the requirement to give certain notices applies only to promoters.

Promoters should recognise that statutory notice periods are the minimum, and whenever possible, longer lead in periods should be given (this benefits both the authority and the promoter).

2.3 Analysis and Assessment Considerations

When assessing proposed works, authorities must consider all aspects of the proposed works and other influences that may affect traffic, which commonly include:

- the road network capacity;
- the scope for collaborative working opportunities;
- the optimum timing of works from all aspects;
- the effect on all traffic; in particular the need for temporary traffic restrictions or prohibitions;
- the impact to vulnerable highway users;
- the working arrangements i.e. TM, innovative technology and construction methodologies;
- the effect of licences for the occupation of the highway, any known events and other licences or consents issued in respect of affected streets;
- developments for which there is a resulting impact on the highway; and
- Seasonality and local considerations

When assessing all of the influencing factors, the authority must consider whether any changes are required to the work proposals to minimise disruption on the network and before it agrees to the works.

It is important that dialogue continues between authorities and the promoters throughout the life cycle of the works.

2.3.1 COMMUNICATION

Whilst all works are required to be published on public facing websites, when considering the impact of the works during the assessment process, authorities should consider the need for additional communications methods advising those most affected of particularly impactful works. An effective communication plan can assist road users greatly in making informed journey choices and help key affected stakeholders understand the work that has gone into these projects to mitigate their impact.

Suggested communications strategies may involve any of the following:

- Press statements
- Radio advertising
- Use of variable message signs
- Advance signing on site
- Communications briefing notes to key stakeholders
- Letter drops to frontagers
- Publication via webpage
- Social media feeds

It would be the responsibility of the authority to decide when additional and proportionate communications are required and the most appropriate method of notification.

2.4 Co-operation

The primary aim of section 59 is for the authority to co-ordinate works in the street with the active co-operation of all parties concerned.

Promoters proposing works in the street have a statutory duty to co-operate with the authority under section 60 of NRSWA. Failure to comply with section 60 may constitute a criminal offence.

An authority should discuss any difficulties that the proposed works cause with the promoter and agree an acceptable way forward. However, safety concerns, urgency or lack of co-operation, may make it necessary for the authority to use its powers under NRSWA & TMA.

2.5 Collaborative working

Collaborative working is something that all promoters, whether authority or utility company, should consider during the planning process. Collaborative works can only take place where parties can identify the opportunities to do so, the early sharing of information regarding proposed works is a key enabler to creating these opportunities. The principles of collaboration can be applied to all types of planned works and to achieve maximum benefit should not be limited to major works.

Collaboration helps minimise impact on users of the highway through reduced disruption and occupation of the highway and can bring the following benefits;

- Reduce the environmental impact of street works:
 - Less material to landfill
 - Reduced pollution/vehicle emissions from reduced disruption
 - Reduce repeated reinstatement of same surfaces, reducing the use of non-renewable resources
- Reduce direct costs to the customer, the promoter and the authority.
- Reduce indirect costs, such as costs of delays, access to parking and businesses.
- Create better journeys and more reliable public transport.
- Fewer individual street works activities means improved safety for public and workforce.
- Overall efficiencies gained for UK plc.
- Improved public perception from visible collaboration efforts.
- The industry acts as socially responsible organisations.
- Fewer individual excavations can result in lower impact on the integrity of the highway asset.
- Lane Rental schemes may incentivise collaboration with discounts on Lane Rental charges.

Collaboration has traditionally been limited to the most significant schemes and

concerns about overall responsibilities for sites and transparency of costs have created a situation where the barriers to collaboration have been difficult to overcome for promoters. All promoters are encouraged to develop policies that enable collaboration where possible, with the aim of delivering the above benefits.

2.5.1 COLLABORATIVE OPPORTUNITIES

Within existing highway:

1. **Special Engineering Difficulty (SED)** - There is an opportunity for promoters to work together on other network activities when bridge works etc. are planned. This needs to be agreed with owners of structures in advance.
2. **Trench sharing** - this form of collaboration is the most widely recognised, although opportunities to trench share may be limited. Main considerations for trench sharing are responsibility for backfill and reinstatement. Are operatives skilled to backfill and reinstate around all the types of equipment that has been laid? Which promoter will be responsible for the reinstatement guarantee?
3. **Internal (within an organisation)** - An organisation may be able to utilise an opportunity to undertake a single set of works encompassing multiple jobs from different work streams. The promotor must be aware of the notification implications in relation to the different work types.
4. **Traffic Management sharing**- There are several ways in which promoters may work together to minimise the actual or perceived incidence and duration of temporary traffic control used on the highway.
 - **Road closure**- e.g. where one promotor has a road closure in place to facilitate works, and other promoters undertake other works in the street concurrently. The objective is to do as much work as possible during the closure to avoid any further disruption and maximise safety.
 - **Traffic signals**- e.g. where more than one promotor can work at the same location within the same temporary traffic signals, although not necessarily the same excavation. The objective is to minimise the incidence of traffic control deployed on the highway and minimise the duration of highway occupancy.
 - **Extended sites (road occupancy)**-two or more promoters who need to work in close proximity may be able to work during the same period if the signing and guarding or TM arrangements can be extended to safely accommodate the concurrent works. The objective is to minimise the incidence of traffic control deployed on the highway and minimise the duration of highway occupancy.
 - **Consecutive works**- two or more promoters who need to work in close proximity but cannot do so concurrently, may be able to work consecutively with one promoters work immediately following the works of another. The objective is to minimise the incidence of traffic control deployed on the highway, although the overall

duration of the disruption may not be reduced. This option may be preferable to promoters setting up multiple sites, days or weeks apart, particularly in terms of public perception of the disruption caused by repeated street and road works.

5. Routine asset inspections - when a routine asset inspection would result in the need to use traffic control to access chambers, promoters may seek opportunities to inspect assets during other promoter works when traffic management will be deployed on the highway. Road closures provide good opportunities.

2.5.2 IDENTIFYING THE OPPORTUNITY FOR COLLABORATION

Providing early planning information is a means by which information about proposed works can be shared at the earliest opportunity, this may be via the co-ordination process or via submission of forward Planning Information. The earlier information is shared about works the higher the likelihood that collaboration will be achieved.

Promoters may be able to directly identify opportunities for collaboration using the prescribed electronic system and highlight to an authority that they intend to undertake collaborative works. If an authority believes that permits submitted suggest a clash of works, it is strongly recommended that rather than refusing the later permit application, they first ask whether the parties plan to, or are able to, work in collaboration.

It must be recognised that while collaboration can bring benefits it will not always be possible to achieve, and parties should not be treated unfavourably in instances where collaboration has been considered but the parties have not been able to agree how it can be achieved.

2.5.3 CONSIDERATIONS FOR COLLABORATING PROMOTERS

Collaborative works onsite will require all involved promoters to fulfil certain legal requirements on site safety, notification requirements and reinstatement. It is imperative that the responsibilities of each party are agreed in advance of execution of works and understood by the operatives involved.

- Ongoing site liabilities - all operatives should work to the correct standards on safety and quality during the works. Promoters should clearly agree who is responsible for overall management of the site and particularly signing, lighting and guarding and traffic management for the duration of the works. This will normally be the primary promoter.
- Noticing/permits/lane rental - each party will be required to submit relevant notifications but these will differ depending on whether you are the primary or secondary promoter. Permits should refer to the collaboration and primary promoter in order to claim applicable discounts.
- Reinstatement and Inspection units - collaborative works may involve trench sharing or one promoter taking responsibility for the final reinstatement of a site. Only the promoter undertaking the full reinstatement is required to

record the relevant inspection units.

2.5.4 TRAFFIC MANAGEMENT AND SHARING OF COSTS

Where traffic management costs or other costs are shared, all promoters involved will need to agree how this will be achieved. It is recommended that a framework agreement is captured covering these items. Transparency of shared costs is particularly important in instances where these are passed on to utility customers, as these must be reasonable and stand up to scrutiny.

A suggested proforma for basic agreements is included in **Appendix E**.

2.5.5 REINSTATEMENT

Promoters will need to be clear about responsibilities for backfill and reinstatement. Where there are arrangements for trench sharing or final surface reinstatement taking in multiple promoters it is strongly recommended that an agreement is documented by the collaborating promoters.

A suggested proforma for basic agreements is included in **Appendix E**.

2.5.6 SYSTEMS

Current street works systems do not provide a mechanism for undertakers to directly contact each other regarding collaboration. So, by necessity, discussions and agreements may be made via phone calls and e-mails outside of the street works systems.

It is recommended that all promoters are clear on their individual responsibilities to record relevant information on the street works register.

2.5.7 SPECIAL CONSIDERATIONS FOR AUTHORITIES

Durations

A major objective of collaboration is to reduce the disruption caused by repeated street works at the same location. Where in isolation each promoters works would take a given number of days it should not be assumed that concurrent works by multiple promoters will take the maximum of the proposed durations of promoter works. The requirements for successful collaboration include additional responsibilities and communication that is not fully within the control of each promoter. Therefore, it would be reasonable to allow additional time for achieving these measures and authorities should avoid challenging durations on collaborative works where it can be seen that a net benefit in reduced occupancy will be achieved.

Illustration:

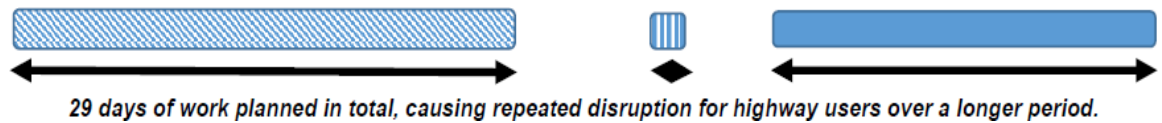
The following example shows a collaboration where Promoter 1 completes the final reinstatement of the surfaces on behalf of all promoters.

Without Collaboration:

Promoter 1 – planned duration 15 days

Promoter 2 – planned duration 13 days

Promoter 3 – planned duration 1 day



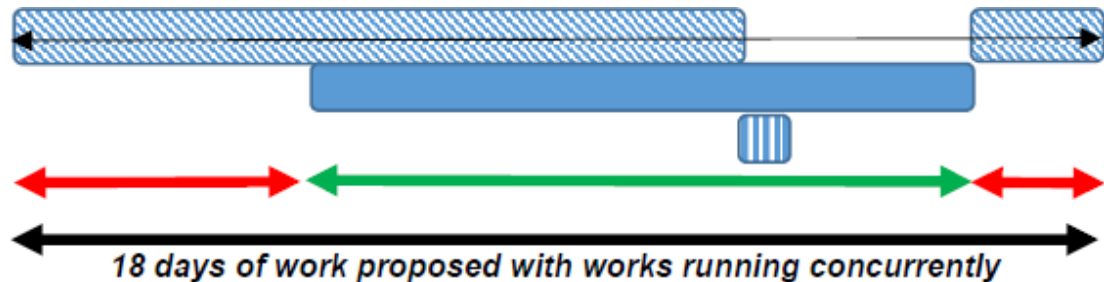
With Collaboration:

Collaboration between 3 promoters with promoter 1 as the primary promoter, taking responsibility for the final reinstatement of the site.

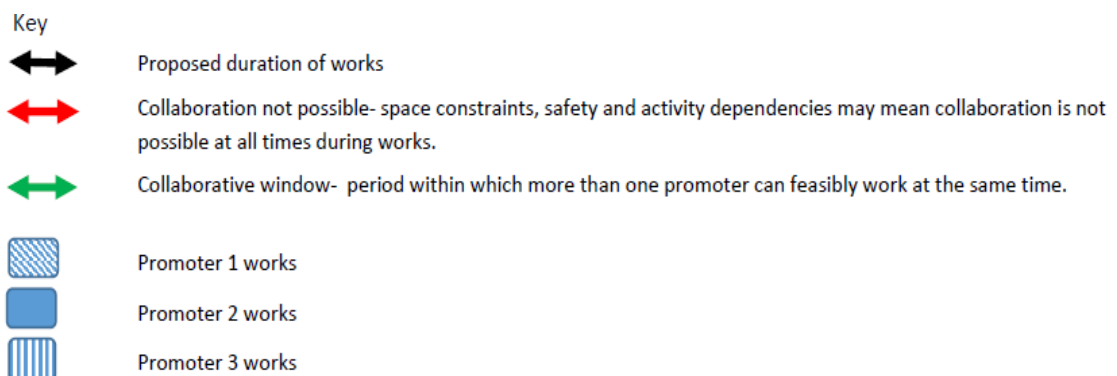
Promoter 1 – duration now proposed at 18 days from excavation to reinstatement. Unable to complete reinstatement until other Promoters have completed work.

Promoter 2 – duration now proposed at 11 days (as reduced excavation and reinstatement required).

Promoter 3 – duration 1 day at any time within the collaborative window.



Collaborative scenario is 3 days longer than the longest duration initially proposed by any of the promoters, but the overall duration results in 11 days less disruption for highway users.



Reinstatement following substantial works

When multiple promoters will undertake work in close proximity without trench share, multiple areas of reinstatement may result. In these instances, the authority is encouraged to consider whether it would offer to restore the permanent reinstatement of the highway with an appropriate cost contribution from the promoter(s) involved. However, the grant of a permit to work cannot be conditional on acceptance of such an offer from the authority.

CHAPTER 3 - The Street Gazetteer and Additional Street Data

3.1 Introduction

This chapter provides information about the **NSG** – **National Street Gazetteer** - which holds detailed information about all the streets in England and Wales and other **Additional Street Data (ASD)**.

3.2 The Local & National Street Gazetteers

Every local highway authority produces a **Local Street Gazetteer (LSG)** which must include all streets within their area.

Each of these LSGs shall contain the information required by the NSG Concessionaire which is defined in the latest versions of the Data Entry Conventions for Streets and transferred in accordance with the **Data Transfer Format (DTF)** specification. To ensure the LSGs remain current the specification should be reviewed regularly.

Highways England produce the **Trunk Road Street Gazetteer (TRSG)**, which contains details of the motorway and trunk road network maintained by Highways England.

These gazetteers then combine to form the National Street Gazetteer.

3.3 Additional Street Data (ASD)

ASD can be recorded against any Street.

There are many different types of ASD which can be recorded, including maintenance responsibility and subsequent interested organisations, construction information, special designations and height, width and weight restrictions: the data requirements of each different type of ASD shall be defined by the NSG Concessionaire, within the **Data Transfer Format (DTF)** specification.

All authorities are urged to make full use of the facility to record all additional information pertinent to any street.

The NSG Concessionaire and/or the Department for Transport may expand the scope of ASD as required.

- *The coordination process will be greatly enhanced by ensuring all ASD is current and recorded on all appropriate streets.*

3.3.1 Special Designations

The purpose of a Special Designation is to identify any special attributes relating to the Street.

Conditional Designations should be recorded against any street where they exist in the real world.

- *All special designations should be reviewed on a regular basis to ensure that any amendments are available to all users. (At least every 3 years)*
- *All special designations must be recorded in a nationally consistent format as defined by the NSG Concessionaire in the Data Entry Conventions for Streets*
- *The list of designations will be reviewed on an annual basis in collaboration with representative groups*

The current list of special designations includes:-

Table 3.3.1: Special Designations (this table is copied from the NSG Dataset specification)		
Special Designation	Description	Example
1 - Protected Street	Statutory designation to restrict the placement of apparatus in Street. This Record must contain a start date for the designation. Section 61, NRSWA – defines as formally designated Protected Street.	See Chapter 5 of this Code for examples and more information.
2 - Traffic Sensitive	Statutory designation that allows highly trafficked Highways to be identified. Once a designation is made it applies to all works taking place in the Street during the specified dates and/or times. Section 64, NRSWA and section 5.4.2 of the CoP (Co-ordination of Streetworks (Works for Road Purposes and Related Matters)) set out the criteria for creating these designations.	See Chapter 5 of this Code for examples and more information.
3 - Special Engineering Difficulty (SED)	Statutory designation that requires the Works Promoter to provide additional advance information to the owner of the affected asset prior to works. Usually this is in the form of a Section and Plan but may be more detailed if the asset owner requests it. Schedule 4, Section 63, NRSWA sets out the process for SEDs.	See Chapter 5 of this Code for examples and more information.
Proposed Special Engineering Difficulty	Conditional designation and is used to identify new assets or old assets that have been identified as at risk. A typical use is to identify the location of a designation during any consultation period.	<ul style="list-style-type: none"> • Bridges • Retaining walls • Cuttings and embankments • Isolated structures • Subways and tunnels at shallow depth • Tramway tracks in the street • Culverts • Undertaker's apparatus

Level Crossing Safety Zone	<p>Conditional designation which is created by a Transport Authority.</p> <p>It identifies an area around a level crossing where, if occupied to carry out works, there is a risk of traffic obstructing the crossing.</p> <p>The Works Promoter of any works must consult the SWA_ORG_REF_CONSULTANT identified in the Record.</p>	<ul style="list-style-type: none"> • Level Crossing
Environmentally Sensitive Areas	<p>Conditional designation that identifies information about the local environment. This includes environmentally sensitive areas, such as sites of specific scientific interest and ancient monuments, or specially cultivated areas containing shrubs, plants or bulbs shall be reinstated using the same or similar species. Known location of Invasive Plant Species.</p> <p>It is advisable to consult the SWA_ORG_REF_CONSULTANT prior to works commencing.</p> <p>Where this is mandatory this should be made clear in the text.</p>	<ul style="list-style-type: none"> • SSSI • Specially Cultivated Area • Ancient Monument • AONB • Invasive Plant Species • SNCI (Sites of Nature Conservation Interest) • Listed Buildings / Statues • Contaminated Land • Tree Preservation Orders
Structures (not designated Special Engineering Difficulty - SED)	<p>Conditional designation used by asset owners to identify the existence of a structure that has not been designated as an SED.</p> <p>In cases where this identifies a Bridge, Works Promoters should regard it as a reminder that under Section 88, NRSWA they must consult the Bridge Authority prior to serving Notices.</p>	<ul style="list-style-type: none"> • Bridges • Statues • Retaining walls • Cuttings and embankments • Isolated structures • Subways and tunnels at shallow depth • Tramway tracks in the street • Culverts • Undertaker's apparatus
Pipelines and specialist Cables	<p>Conditional designation that is created by the Local Highway Authority and maintained on the behalf of the private sector oil or gas pipeline owner. The SWA_ORG_CONSULT is the owner of the pipeline. Consultation is recommended.</p>	<ul style="list-style-type: none"> • High Pressure Gas Pipeline • Oil Pipe • Oil Filled Cable • District Heating
Priority lanes	<p>Conditional designation that allows the Local Highway Authority to identify the location of bus and cycle lanes in the Street.</p>	<ul style="list-style-type: none"> • Bus Lane • Cycle Lane • Taxi Lane
Lane Rental	<p>Statutory designation that identifies streets included in a lane rental scheme.</p> <p>This Record must be included when the scheme commences or when a street is later designated as Lane Rental within an existing scheme.</p>	<ul style="list-style-type: none"> • Formally designated as subject to a Lane Rental scheme.
Streets subject to early notification of immediate activities	<p>Conditional designation that enables Street Authorities to designate Streets that are particularly vulnerable to traffic disruption. Thus, this requires Work Promoters to provide early warning of activities by telephoning the Street Authority immediately after the activity has commenced.</p>	<ul style="list-style-type: none"> • Markets • Critical junctions, roundabouts and bridges • Filter lanes • Premises, for example, Prison, Hospital, Ambulance, Fire and Police stations
Special Events	<p>Conditional designation that provides early awareness of Special Events to Work Promoters to enable them to consider any actions that they may</p>	<ul style="list-style-type: none"> • Carnival • Street Market

Special Events Cont'd	<p>need to take to avoid any works taking place on the Street during the time(s) of the Special Event.</p> <p>This designation must be used if special events either occupy a work space or create traffic conditions which require an absence of works on defined Streets during the period of impact of the event.</p>	<ul style="list-style-type: none"> • Remembrance Parade • Street fairs and parades • Tour de France • Sporting events • Street events • Play streets • Annual Events • Christmas Restrictions
Parking Bays and Restrictions	<p>Conditional designation that provides details of Streets with parking meters, residents parking and parking restrictions such as yellow lines, red routes, and other permanent parking restrictions.</p> <p>If works are planned on Streets subject to parking bays or restrictions, there can be a requirement to suspend or alter restrictions for the period of the works.</p>	<ul style="list-style-type: none"> • Resident Parking • Metered Parking • Red Route
Pedestrian Crossings, Traffic Signals and Traffic Sensors	<p>Conditional designation that captures Streets that have signal controlled pedestrian crossings and permanent traffic signals or any traffic sensors in the Highway.</p> <p>If works are to be carried out on or near to a pedestrian crossing or traffic signals, this code gives Works Promoters notification of such features so that they can provide temporary vehicle and pedestrian traffic control measures.</p> <p>Advice regarding precautions to avoid damage should be sought from the relevant Highway Authority before work commences.</p> <p>Note: In London TfL will normally be responsible for these.</p>	<ul style="list-style-type: none"> • Pedestrian crossings • Traffic signals • Traffic sensors • School crossing patrol
Speed Limits	<p>Conditional designation that provides information about the maximum speed limit applicable to the Street. High-speed routes require special health and safety measures when works are undertaken on the Highway.</p> <p>High-speed routes are defined as 40mph and over.</p>	<ul style="list-style-type: none"> • Blank
Transport Authority Critical Apparatus	<p>Conditional designation that provides details of Transport Authority apparatus critical to operations of the Transport Authority which if damaged or if interrupted could disrupt or temporarily stop services.</p> <p>The designation can also alert Works Promoters to apparatus that may possibly cause a significant special engineering difficulty when works are undertaken on the Highway.</p>	<ul style="list-style-type: none"> • HV cables to a rail network • Power cables to rail network • TfL critical apparatus
Strategic Route	<p>Conditional designation that is used to identify Strategic Routes, such as the Primary Route Network.</p> <p>Strategic Routes are identified, using criteria set out by the DfT in England and the Welsh Assembly Government in Wales; such routes are aligned to regional and national transport policies and strategies.</p> <p>This designation is used to alert Works Promoters to critical and strategic routes where traffic disruption should be kept to a minimum or, where appropriate, alternative routes need to be investigated with the Local Highways Authority.</p>	<ul style="list-style-type: none"> • Local Highway Authority Primary Route Network • TfL Strategic Route Network • Highways England Strategic Route Network • SWTRA Strategic Route Network • NMWTRA Strategic Route Network • Region/area combined transport authority

Street Lighting	<p>Conditional designation that helps Works Promoters to carry out works in the evenings and overnight by providing relevant information about Street lighting.</p> <p>It is particularly useful for part overnight lighting where a Local Highway Authority has a policy of turning lights off during specific hours.</p> <p>If works are going to be carried out at night and lighting will possibly be a problem, this code gives Works Promoters notification so that appropriate additional lighting equipment may be used.</p>	<ul style="list-style-type: none"> • Part overnight street lighting • Dimming street lighting
Drainage and Flood Risk	<p>Conditional designation that provides details of areas that are susceptible to drainage and flood risk should be recorded here.</p> <p>This code provides Works Promoters with a warning that planned works may be affected.</p> <p>It can also include likely effects on the road during adverse weather and use of sustainable drainage methods.</p>	<ul style="list-style-type: none"> • Permeable surface • Flood risk area • Sustainable drainage systems • Poor drainage area • Flood risk at high tide
Unusual Traffic Layout	<p>Conditional designation that provides details of where the layout of existing traffic signs, road markings, studs or verge markers is not in accordance with the Traffic Signs Manual, Chapter 5: Road Markings and the Traffic Signs Regulations & General Directions regulations.</p> <p>This designation allows the Traffic Authority to notify the Undertaker that prior to the commencement of works, it must be agreed, that the layout of all traffic signs, road markings, studs or verge markers must be reinstated following the works.</p>	<ul style="list-style-type: none"> • Unusual centre road markings • non-standard road signs • Tidal lanes operating at different times of the day, for example, A38 Aston Expressway
Local Considerations	<p>Conditional designation that should be used to inform the Works Promoter of any special schemes (large construction projects) or special requirements that may impact on works.</p>	<ul style="list-style-type: none"> • School crossing area • Local residential home for the elderly • Noise levels • Length of vehicle restrictions • Large construction projects, for example, town centre re-development
Winter Maintenance Routes	<p>Conditional designation that helps determine the relative importance a route is given by a Local Highway Authority.</p>	<ul style="list-style-type: none"> • Principal winter gritting route • Secondary winter gritting route
HGV Approved Routes	<p>Conditional designation that allows promoters to consider the impact on HGVs of restricted traffic flow or alerts the Works Promoter that wide vehicles are commonplace.</p>	<ul style="list-style-type: none"> • Abnormal load route
Emergency Service Routes	<p>Conditional designation that alerts the Works Promoter if there is a need to keep the emergency services informed of proposed works and progress.</p>	<ul style="list-style-type: none"> •

3.4 Maintaining and updating the LSG and ASD

3.4.1 MANDATORY INFORMATION REQUIRED

The LSG and ASD must contain the following up to date information for every street:

- a) the street authority responsible for maintaining the street;
- b) the maintainability of the street, whether the street is publicly maintainable, prospectively publicly maintainable, or neither;
- c) the street reinstatement category

The following up to date information must also be provided where it applies to a street (or any part of a street):

- d) all Traffic Sensitive designations
- e) all formally Protected Street designations
- f) all Special Engineering Difficulty designations
- g) all Lane Rental scheme designations
- h) if the street forms part of a strategic route
- i) all **Public Rights of Way**(PRoW) rights that currently exist
- j) any organisation that has expressed an interest in the street

3.4.2 RESPONSIBILITY FOR MAINTAINING AND UPDATING

It is the authority's responsibility to create and maintain street gazetteer data and ASD together for all streets within its geographical area, whether or not it is the street authority for any particular street.

Where regional or national highway authorities exist, they may create and submit their own ASD to the NSG Concessionaire, referenced to the local highway authorities' gazetteers. Examples of organisations that fall into this category are:

- Highways England
- Transport for London
- Welsh Government

Any other organisation with an asset or interest in the Street may submit records to the NSG Concessionaire where they are the definitive source of a type of data or where they have an interest in activities happening in the street. An example of such an organisation is Network Rail. Alternatively, this may also be entered into the ASD maintained by the authority. This is particularly appropriate to neighbouring authorities in the exercise of their network management duties.

- *Other organisations can request a designation to be added for their assets by contacting the relevant authority*

3.4.3 FORMAT OF DATA

This common geographical dataset should be vector-based, nationally consistent, maintained, and seamless with changes published on a regular update cycle. It should include:

- vector objects (polygons, lines and points) representing real-world geographical features and boundaries, each with well-defined lifecycles and royalty-free unique identifiers suitable for referencing
- road centreline geometry objects, each with royalty-free unique identifiers, which reference the road surface and form a complete and fully consistent topological network.

Authorities should synchronise their holdings of the common digital map data so that they all contain the same version at any given point in time.

Table 3.4.3: The minimum specification of the common map base	
Scale	Urban areas: 1:1250 Rural areas: 1:2500 Remote areas: 1:10000
Accuracy	Urban areas: $\pm 1.0\text{m}$ Rural areas: $\pm 2.0\text{m}$ Remote areas: $\pm 4.0\text{m}$
Coverage	National and seamless, exhausting space over all land areas.
Geometry types	Point, line and polygon.
Classification	Objects classified by physical form.
Update cycle	8 weeks max.

All streets in Local Street Gazetteers should reference the road centreline geometries in the common map base (using royalty-free unique identifiers), which should in turn reference polygons representing the road surface.

Such a structure promotes consistency and maximises the possibility for interoperability between applications, both in the highways arena and in a wider context.

In essence, authorities should provide the USRN definitions and attribution as defined in BS7666: 2006 Part 1, while the geometries should be recorded by referencing the road centreline objects in the digital map base. This will promote reuse and consistency between datasets. All data should follow the principles of the Digital National Framework (www.dnf.org).

3.4.4 PROCEDURE FOR UPDATING

All LSG's and the TRSG must be submitted to the NSG Concessionaire at least every month. They are validated to a nationally consistent standard and combined to create the NSG. The NSG Concessionaire publishes the NSG dataset including

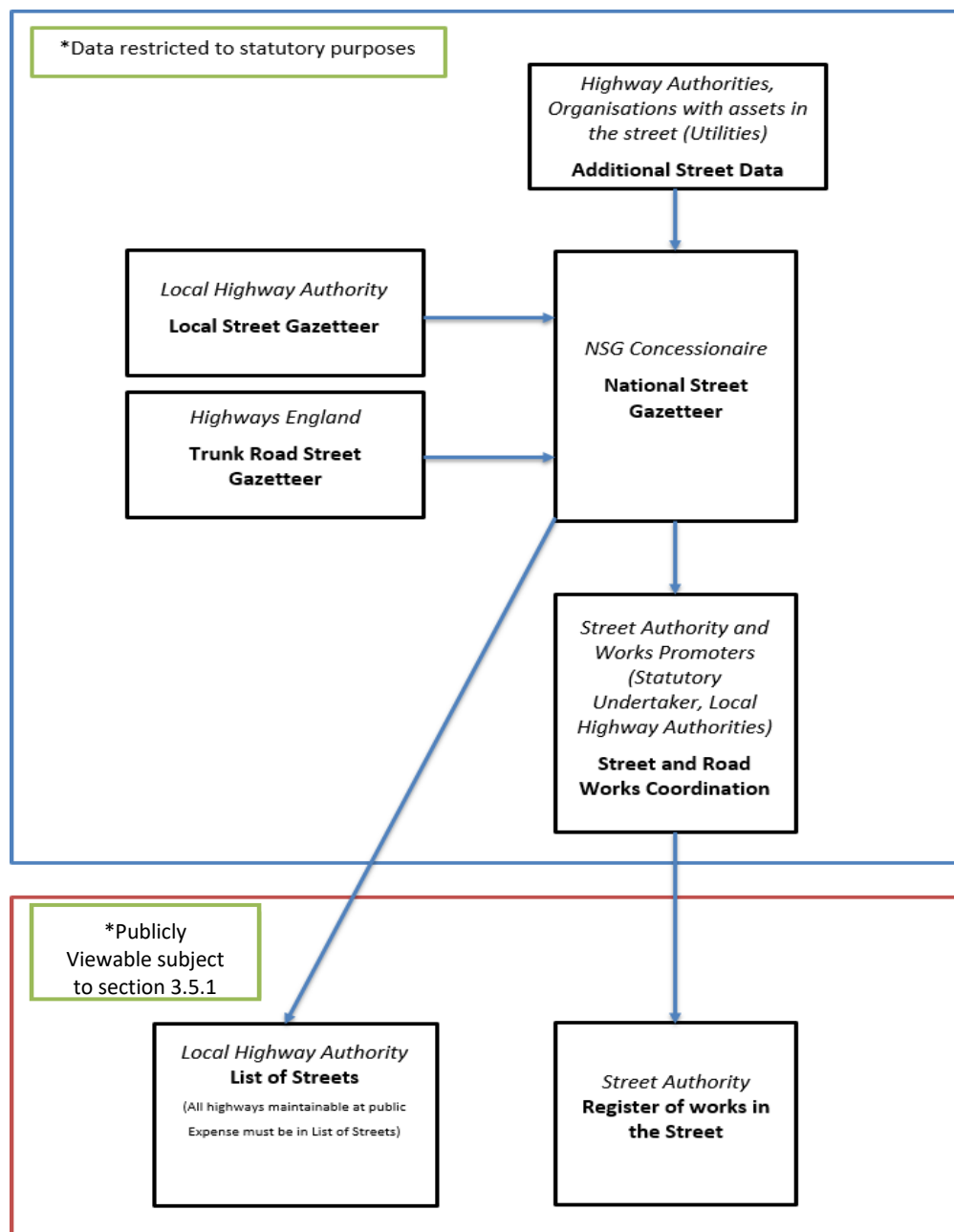
the ASD and TRSG on at least a monthly basis. Frequency of updates and publication may be subject to change following review by the NSG concessionaire and DfT.

All Highway authorities and statutory undertakers can obtain the street data and ASD data from the NSG Concessionaire's website;

<https://services.geoplace.co.uk/>.

- *It is essential that all users work from the same data. Once the NSG has been published all authorities, promoters, and other interested and approved parties must use the most current data.*

Once published the NSG dataset should be used to underpin all statutory duties on the Local Highway, Street or Permit Authority as identified in the following process diagram.



Legal Documents	Purpose
List of Streets	To provide the public with information on streets that are maintainable at Public Expense
National Street Gazetteer	To hold all streets and relevant details about that street to be used in the facilitation and coordination of street works
Register of works in the Street	To identify current works happening in the street

CHAPTER 4 - Register of works in a street

4.1 Introduction

Under Section 53 of **New Roads and Street Works Act 1991 (NRSWA)** and associated regulations (The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007) or section 37.11 of The **Traffic Management Act 2004 (TMA)** and associated regulations (The Traffic Management Permit Scheme (England) Regulations 2007 plus amendments) each street or permit authority is required to maintain a register for every street for which they are responsible. The register should contain information about street works and other prescribed types of works. See 4.3 Form of Registers.

For maintainable highways, the street authority is the highway authority.

For streets that are not maintainable highways the street authority is the street manager, as defined in NRSWA Section 49. However, the regulations still require the authority to maintain a register of such streets if

- a) the street is prospectively maintainable, or
- b) the authority is aware of the street.

The regulations do not require the authority to coordinate works on these streets and any approvals to work on them need to be sought from the street manager.

For areas operating a permit scheme, the Permit Regulations create an additional obligation on the permit authority to create a register of permits.

4.2 Local and Central Registers

A local register is a register that is maintained by a single authority for its own geographic area. It will include information on all streets other than those that are the responsibility of another authority.

A central register is a register covering two or more authority areas that is maintained by one single authority, the 'register authority'. A central register could, for example, include all authorities in a metropolitan area.

4.3 Form of Registers

The register shall be kept on an electronic system. Street Manager is the Register. The regulations require that all registers are based on **Geographic Information System (GIS)**.

4.4 Content of Registers

As per NRSWA and the Regulations outlined below, the register must record:

NRSWA section reference	Registers, Notices, Designations & Directions Regulations reference	What must be recorded – Fields to be Completed in Noticing areas	Permit Regulations reference	What must be recorded – Fields to be Completed in Permitting areas
50(1)	4(5)	Particulars of street works licences, including details of conditions and changes of ownership	33(4)(f)	Same as noticing areas
53	4(5)	Details of every street: <ul style="list-style-type: none"> • for which the local highway authority is the street authority • which is a prospectively maintainable highway • of which the local highway authority is aware, which is a highway, but for which it is not the street authority • or part of a street, which is or is proposed for designation as: a) a protected street; b) a street with special engineering difficulties, or, c) a traffic-sensitive street and proposed designations 	33(2)	Same as noticing areas
53	4(5)	The road category of each street	33(2)(b)	And such other information in relation to the street as the Permit Authority considers appropriate
53	4(5)	Description, timing and location of both street authority works for road purposes and any such works that are proposed. Notices Regulation 4(5) shows whether this is the responsibility of the Highway Authority or Street Authority		N/a - replaced by permits
53	4(5)	Details of road closures and diversions, where an order under section 14 of the Road Traffic Regulation Act 1984 is required		No direct reference
54, 55, 57	4(4)	Notifications served on the highway authority relating to street works in any street which is a maintainable highway Notifications served on street managers relating to street works in	33(3)(a-l)	<ul style="list-style-type: none"> • Every provisional advance authorisation and application for a provisional advance

		any street which is not a maintainable highway		<p>authorisation</p> <ul style="list-style-type: none"> • Every permit and every application for a permit • Every permit variation and every application for a permit variation • Every variation and revocation of permit conditions • Every refusal to grant a permit, a variation of a permit or a provisional advance authorisation • Every permit, permit variation, provisional advance authorisation or variation to permit conditions deemed granted • Every permit revocation
56, 56A	4(4)	Particulars of all directions given		N/a – replaced by permit conditions and variations
58, 58 A	4(4)	<p>Particulars of all notifications, consents and directions published or given by a street authority</p> <p>Particulars of all notifications served by an undertaker</p>	33(4)(a)	Same as noticing areas
61	4(5)	Particulars of all consents, along with any conditions	33(2)(b)	And such other information in relation to the street as the Permit Authority considers appropriate
62	4(5)	Details of all directions	33(2)(b)	And such other information in relation to the street as the Permit Authority considers appropriate
66	4(4)	Particulars of all notifications served by a street authority		N/a – replaced by permits

70(3) & 70(4A)	4(4)	Information as to completion of reinstatements	33(4)(g)	Same as noticing areas
72(3)	4(4)	Particulars of all notifications given by a street authority		No direct reference
74, 74A	4(4)	Particulars of all notifications given	33(4)(b)	Same as noticing areas
80(2)	4(5)	Particulars of apparatus notified to the street authority	33(4)(h)	Same as noticing areas
85(2)	4(5)	Every notification of works	33(4)(i)	Same as noticing areas
Schedule 3A 2(1)(d)	4(4)	Particulars of all notifications made by an undertaker	33(4)(c)	Every notification and direction given
Schedule 4	4(4)	Description and location of street works for which plans and sections have been submitted Particulars of all notifications given by any relevant authority	33(4)(d-e)	Same as noticing areas

4.5 Access to Registered Information

4.5.1 ACCESS TO REGISTERS

Everyone has a right to inspect the register, free of charge, at all reasonable times. “All reasonable times” may be taken to mean normal office hours (08:00 to 16:30, Monday to Friday except Bank Holidays). There are exceptions for restricted information as detailed in 3.5.2. Authorities are strongly recommended to publish the register on their public website with a street name search and retrieve function, noting the exceptions in 3.5.2.

Public access to websites should be read-only to prevent unauthorised amendment to records.

4.5.2 RESTRICTED AND CONFIDENTIAL INFORMATION

Restricted Information

Restricted information is anything certified by the Government as a matter of national security, or, information, which could jeopardise the promoters’ commercial interests. The promoter should indicate restricted information on the notice or permit application.

The case for restriction needs to be considered on a notification by notification basis, rather than a works-by-works basis.

The right of access to restricted information is limited to:

- a) Persons authorised to execute any type of works in the street or
- b) Persons "otherwise appearing to the authority to have a sufficient interest".

Any person wishing to see restricted information must satisfy the authority, as a minimum, that their interest is greater than the general interest of the ordinary member of the public.

Restricted information must not be shown on authorities' websites.

Confidential Information

Confidential information includes any personal data such as names, telephone numbers and email addresses of individuals within organisations. Unless promoters provide explicit consent to share this information authorities must make sure that such information is not published or passed on to members of the public. Promoters should be mindful that the content of the works description and works location will always be made public and so confidential information must not be included in these system fields.

4.5.3 RETENTION OF INFORMATION

Information provided by means of any notification under NRSWA or the TMA should be retained on the register for at least seven years. Information about other works should be retained on the register for at least six years after completion. The period is *at least* six years as personal injury claims can be brought well beyond this period.

Authorities will need to decide how to keep the information on the register. Because of the size of the database the authority may decide to archive information, or a subset of the information on the register, for a longer period or even indefinitely.

All organisations will need to obtain their own legal advice and guidance on how to meet retention requirements.

CHAPTER 5 - Streets subject to special controls

5.1 Introduction

There is a need to ensure that we strive for simplicity in managing street works but balance this with the importance of minimising delay and inconvenience to road users, protecting the integrity of the street and any apparatus in it. To achieve this NRSWA provides for three categories of streets to be subject to special controls:

Category	Legislation
Protected streets	NRSWA section 61
Streets with special engineering difficulty	NRSWA Section 63
Traffic-sensitive streets	NRSWA Section 64

Criteria for designation of streets in these categories and the procedures for making and withdrawing designations are covered in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951.

This chapter describes the various designation categories and main criteria, the process for making designations and the processes for reviewing, challenging and withdrawing designations prescribed by these Regulations.

5.2 Protected Streets

5.2.1 BACKGROUND

By virtue of section 61 of NRSWA, all “special roads”, as defined in the Highways Act 1980 (i.e. motorways), are protected streets. In addition, an authority may designate other protected streets that meet criteria specified in Regulation 14³.

Once a street has been designation as protected, the activities of both promoters and authorities will be severely restricted. Therefore, in practice the use of this designation is only likely to be applicable to certain major trunk roads, major bypasses and major ring roads.

5.2.2 DESIGNATION

Streets may only be designated as protected where a traffic sensitive

³ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended)

designation alone would not prevent significant traffic disruption during works, and where all of the following apply:

1. The street serves, or will serve, a specific strategic traffic⁴ need, and
2. Has high and constant traffic flow, and
3. There is a reasonable alternative route in which statutory undertakers can place the equipment, which would otherwise lawfully have been placed in the protected street. This includes services to existing or proposed properties in the street, or trunk supply routes passing through the street.

5.2.3 EXISTING STREETS

Given the possible financial and operational implications for both authorities and promoters, designation should be contemplated only when essential.

The decision should be taken only after consultation and after other means of reducing delay and inconvenience have been explored.

The authority shall justify the need and:

- (a) Consider the needs of utilities to supply and maintain services to frontagers and to use such streets for existing trunk supplies.
- (b) Reimburse reasonable expenses incurred by the statutory undertaker for removal or alteration of apparatus in the street is required (subject to appropriate allowances for betterment, deferment of renewal and value of recovered apparatus). The cost-sharing arrangements for diversionary works do not apply.

5.2.4 NEW STREETS

Where construction of a street is planned and it is being considered for designation, the authority shall consult all appropriate undertakers and others, such as transport, bridge and sewer authorities, as well as adjacent landowners and frontagers, who may have an interest. It is recommended that where requested and reasonably practicable, the authority make provision for necessary areas or strips for carrying services alongside carriageways, and for duct or service crossings.

5.2.5 THE IMPLICATIONS OF DESIGNATION

Once a street is designated as protected, undertakers lose their statutory powers to place apparatus in the street without the written consent of the authority.

An undertaker may repair and replace existing apparatus within a protected street without requiring consent from the authority; noticing and permitting requirement still apply.

However, NRSWA s61(4) states that where the apparatus is to be placed crossing the protected street and not running along it, the authority shall not withhold their consent unless there are special reasons for doing so. For example, if the new service could be provided by a reasonable alternative

⁴ See Appendix A: Glossary for definition of “traffic”.

route.

If permission is granted with conditions attached, the authority may contribute to the undertaker's expenses in complying with those conditions.

As good practice, where a promoter proposes work in verges and central reservations, which will not impinge on the carriageway, this should not be unreasonably refused. Authority activities such as road maintenance or repairs will, in general, be carried out only at night, weekends, or other times when the impact on traffic is less.

Any dispute arising out of the giving of this consent or any conditions attached may be settled by formal arbitration, see Chapter 13.4 of this Code.

5.3 Streets with Special Engineering Difficulties (SED)

5.3.1 BACKGROUND

Under section 63 of NRSWA, the term '**Special Engineering Difficulties (SED)**' relates to streets or parts of streets associated with structures, or streets of extraordinary construction, where works must be carefully planned and executed to avoid damage to, or failure of, the street itself or the associated structure, with attendant danger to people or property.

Under Schedule 4 of NRSWA, plans and sections of proposed street works must be approved by each authority with an interest in the structure concerned, i.e. the street authority, and/or the sewer, transport or bridge authority.

Criteria that may lead to an SED designation are set out in Regulation 15⁵.

5.3.2 SCOPE OF DESIGNATIONS

The designation of streets with SED should be used only where strictly necessary, bearing in mind the safeguards already provided elsewhere in NRSWA, for example sections 69 (for other apparatus in the street), 88 and 89 (for bridges and sewers), and 93 (level crossings and tramways). This is in the interests of all concerned - the authority, the promoter and where appropriate, the owner of the structure.

Circumstances where designation may be appropriate include:

Bridges

The street may be designated if the bridge authority is concerned about the impact of street works on the strength, stability or waterproofing of the bridge, or access for maintenance or any other purpose. In general, the designation would relate to the whole of the bridge structure, but it will only be necessary to designate the area adjacent to the bridge and not the whole length of the street.

⁵ The Street Works (*Registers, Notices, Directions and Designations*) (England) Regulations 2007, UKSI 2007 No.1951 (as amended).

Retaining walls

Retaining walls may be designated where they give support to the highway and bridge abutments, and where the foundations are sufficiently shallow for excavation to affect the integrity of the structure. Where foundations are piled, designation is likely to be necessary only if excavation could alter the degree of support given to the piles by the soil.

In many cases, it will be necessary to designate only the adjacent area and not the whole width of the street. A distinction should be made between areas appropriate for excavations no deeper than 1.2 metres, and areas where further restrictions are needed if an excavation is deeper.

Cuttings and embankments

Areas adjacent to cuttings and embankments should be designated if excavation could lead to slides or slips of the soil or could affect special construction features such as earth reinforcement systems or lightweight fills. The whole width of street, or specific areas like those for retaining walls, may be designated.

Isolated structures

Examples of isolated structures include high-mast lighting columns and large sign gantry supports. Where excavation could affect stability, areas immediately around the supports should be designated, again distinguishing between excavations up to 1.2 metres deep and those that are deeper.

Subways and tunnels at shallow depth

Areas immediately above subways and tunnels and adjacent areas may be designated.

Tramway tracks in the street

Areas occupied by the tracks and immediately adjacent areas may be designated. Additional protection to the appropriate authority is also given in section 93 of NRSWA. See also Chapter 12.3 of this Code.

Culverts

The area of the street immediately above a culvert may be designated where the structural integrity of the pipe or channel could be adversely affected by works. Therefore, a reinforced concrete pipe or box culvert would not justify designation, but a masonry or steel culvert could be considered if the depth of cover is shallow.

Undertaker's apparatus

Designation may be required only in exceptional circumstances, such as electricity pylons adjacent to the carriageway, or the presence of critical operational apparatus, for example, communications or signalling cables for transport operators like Network Rail or London Underground. In most cases, the safety and security of apparatus is adequately covered by sections 69 or 89 of NRSWA.

Pipelines

Some types of government and private sector oil or gas pipelines, district heating and similar structures which traverse the street, may justify designation.

Engineering problems

Streets may be designated if they pose extraordinary engineering problems in the event of excavation - for example, a road, which might have been constructed using a continuously reinforced concrete slab or geo-textiles and is founded on very poor soil, such as a peat bog.

5.3.3 DESIGNATION ON REQUEST

An authority may be asked to designate a street as having special engineering difficulties by:

- A transport authority, on the grounds of the proximity of the street to one of its structures
- An undertaker having apparatus in the street.

The authority shall consider any request carefully and make a response within 1 month. It may then make the designation, with or without modifications, or decide not to do so.

The authority should demonstrate that they have carefully considered the arguments for and against the proposed designation and should act reasonably in coming to its decision.

It is strongly recommended that the entire process is completed within a period of three months.

If the authority declines the requested designation, the transport authority or undertaker may appeal to the Secretary of State.

5.3.4 PRACTICAL CONSIDERATIONS

Designations should not be made as a matter of policy wherever there is a bridge or structure that is likely to be affected by street works. Each case should be considered on its own merits.

5.3.5 CELLARS

It is not practical for the authority to identify all cellars under footways and carriageways, and to decide whether they justify an SED designation.

Owners of cellars must notify the authority under section 180 of the Highways Act 1980, if they wish to carry out works. The authority will in turn notify interested undertakers before work begins.

Authorities and promoters wishing to carry out work in areas where they know, or might reasonably be expected to know, of the existence of cellars should notify the cellar owners or frontages when they intend to carry out:

- excavations close to cellars, or

- extensive excavations which may impinge upon cellars.

5.3.6 POLICY GUIDANCE

The authority is responsible for designating sections of streets with SED, maintaining a list of such designations, and creating the appropriate ASD record - subject of course to the provisos in section 3.4 of this Code.

However, it is important that:

- the owner of the structure informs the authority of its existence so that it can be considered for designation
- the key relationship to ensure that adequate precautions are taken, is that between a promoter proposing street works and the owner of the structure.

For this mechanism to work effectively, it is essential that:

- The street authority, promoters, bridge authorities and other owners of relevant structures consult and co-operate on the designation, and withdrawal of designation, of sections of streets with SED
- On receipt of formal notices covering sections of street with SED, the authority ensures that the necessary actions are in hand
- Arrangements for handling immediate works on sections of streets with SED are agreed between promoters and the owners of structures
- There are early discussions between promoters and the owners of the structures concerned in the cases of planned major works and provision of new supplies.

5.4 Traffic Sensitive Streets

5.4.1 BACKGROUND

Under section 64 of NRSWA an authority may designate certain streets (or parts of streets) as "traffic-sensitive" if they meet the criteria set out below, or by written agreement with the majority of undertakers known to have apparatus in the street concerned.

This designation highlights that works in these situations are likely to be particularly disruptive to other road users, but it does not necessarily prevent occupation during traffic-sensitive times. Even if a street meets one of the criteria, it does not mean that a designation has to be made.

The authority should provide sufficient detail to make it clear as to the exact location and times that the designation for traffic sensitivity is to apply.

Authorities and promoters should avoid working in the carriageway of traffic-sensitive streets at sensitive times where there is a feasible alternative.

5.4.2 THE CRITERIA FOR DESIGNATION

To encourage works outside the traffic sensitive period, Authorities should only make the designation during the periods when it is strictly necessary.

Designations should be reflective of the various network management needs and be reviewed periodically.

Regulation 16⁶ sets out the criteria that may lead to a traffic sensitive designation.

One or more of the following criteria should apply before an authority may designate a street as traffic-sensitive:

- (a) The street is one on which, at any time, the authority estimates traffic flow to be greater than 500 vehicles per hour, per lane of carriageway, excluding bus or cycle lanes.
- (b) The street is a single carriageway two-way road, the carriageway of which, is less than 6.5 metres wide, having a total traffic flow in both directions of not less than 600 vehicles per hour.
- (c) The street falls within a congestion charges area.
- (d) Traffic flow contains more than 25% heavy commercial vehicles.
- (e) The street carries more than eight buses an hour.
- (f) The street is designated for pre-salting, by the authority as part of its programme of winter maintenance.
- (g) The street is within 100 metres of a critical signalised junction, gyratory or roundabout system.
- (h) The street, or that part of a street that, has a pedestrian flow rate in both directions at any time, of at least 1,300 persons per hour, per metre width of footway.
- (i) The street is on a tourist route or within an area where international, national, or significant major local events take place.

- *In cases where inclusion on the winter maintenance pre-salting regime is the only criteria for traffic sensitive designation, it is strongly recommended that the designated traffic sensitive period reflects the specific need, e.g. the traffic sensitive designation may be seasonal or exist only during daily periods when gritting is likely to be carried out.*

5.4.3 PROCEDURES FOR MAKING DESIGNATIONS

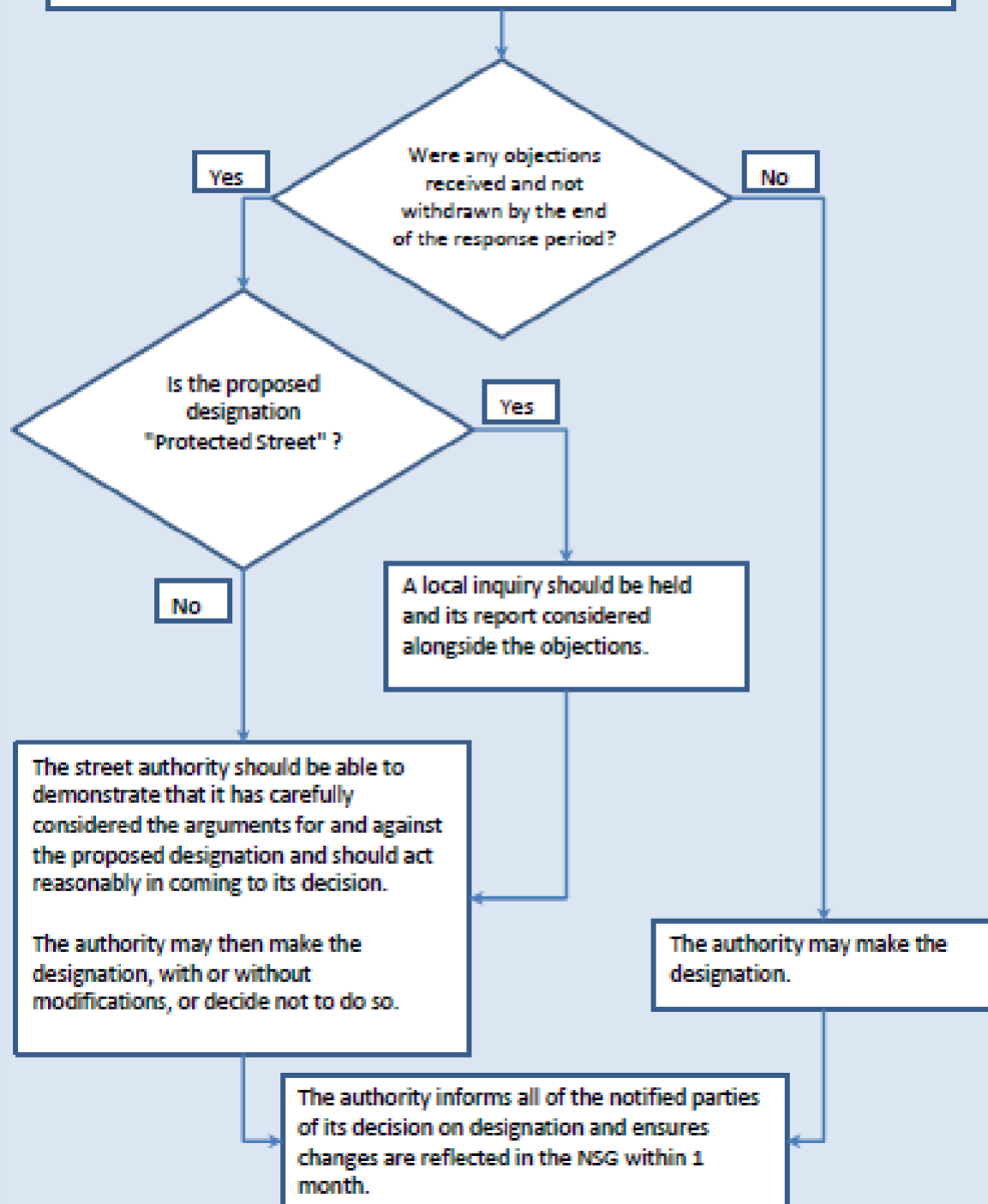
The procedures for making designations are contained in the schedule to the Regulations⁶ and summarised on the diagram on the following page and described thereafter.

⁶ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended).

Procedure For Making Designations

Authority gives notice to all relevant parties* of the proposed designation which shall include

- the specific period of no less than one month in which an objection may be made.
- for a Traffic Sensitive designation, the specific criteria which have been met
- for Protected Streets the authority shall also publish a notice on a website used by the authority for the purpose of providing information to the public



* see list in chapter 5.5 of this code

Before making any designation, the authority shall give a notice which:

- specifies a period, of not less than one month, when objections may be made; and
- for designations of streets as traffic-sensitive, identifies the specific criteria that are met.

To:

- every promoter known to the authority to be working in its area, and every promoter that has given the authority notice of its intention to start working in its area
- every other authority for the street to which the proposed designation relates
- Transport for London, where the street is in Greater London
- the chief officer of police, chief executive of fire and rescue authority, the chief executive of the National Health Service ambulance trust
- Passenger Transport Executives and other transport authorities, such as light rail operators
- any person who has submitted a written request to be given notice of a proposed designation. This may include other relevant authorities e.g. Highways England, Network Rail and any other relevant transport authority
- for the designation of streets as protected, the occupiers of properties fronting the street concerned.

The above list is not definitive and there may be other bodies that could be consulted before making a designation, for instance neighbouring authorities, local groups and regional HAUC forums.

The means by which this notice is served are not prescribed; good practice would be to send the relevant notifications to a specific contact of the promoter, nominated for that purpose.

For protected streets, authorities are required to publish a notice of their intention to make the designation on any website maintained by the authority for the purpose of providing information to the public, and as best practice may also wish to publish other proposed designations in the same way.

If the authority does not receive any objections within the specified period, or if all objections have been withdrawn, the authority may make the designation.

If there are outstanding objections at the end of the consultation period, the authority shall give careful consideration to these.

Additionally, in the case of a proposed designation of a street as protected, a local inquiry must be held and its report considered alongside the objections.

The authority may then make the designation, with or without modifications, or decide not to do so.

The authority should demonstrate that it has carefully considered the arguments for and against the proposed designation and should act reasonably in coming to its decision.

It is strongly recommended that the entire process is completed within a period of three months.

When a designation is made, the authority shall ensure that the appropriate changes are reflected in the NSG as soon as practicable and in any event within one month.

5.5 Review Procedure

This section contains information on the periodic review of designations along with procedures for withdrawing and challenging existing designations. The procedures for withdrawing designations are contained in Regulation 16 (4)⁸.

5.5.1 PERIODIC REVIEW OF DESIGNATIONS

There will be occasions where criteria originally used in making a designation are no longer met and it is therefore recommended that the authority reviews its designations periodically. In particular, criteria affecting traffic sensitivity could change significantly in relatively short periods and it is recommended that protected street and traffic sensitive designations are reviewed at least every three years.

Authorities and owners of structures should re-examine SED designations periodically and withdraw any that are unnecessary in the light of other safeguards in NRSWA or other legislation. Good practice would be to review every time the authority is made aware of a substantial change in relation to the existing designation and, in any case every three years.

5.5.2 CHALLENGING A DESIGNATION

Any person included in the consultation process in section 5.5, or any other person the authority considers having sufficient interest, may make representations to the authority requesting the withdrawal of a designation.

The authority should be able to demonstrate that it has carefully considered the arguments for and against the proposed withdrawal of designation with appropriate evidence and shall act reasonably in coming to its decision. It is strongly recommended that the process is concluded with a period of three months.

⁸ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951

5.5.2 WITHDRAWAL OF A DESIGNATION

An authority can withdraw a designation at any time, subject to the following provisions for SED designation:

- (a) If the original designation was made at the request of a transport authority or undertaker, no withdrawal shall take place without prior consultation with them.
- (b) If the original designation was made following a direction by the Secretary of State, no withdrawal shall take place without their consent.

Where a designation is withdrawn, the relevant authority shall:

- ensure that the relevant changes are reflected in the NSG as soon as reasonably practicable, or in any case within one month
- publish notice of the withdrawal on any website maintained by the authority for the purpose of providing information to the public.

CHAPTER 6 - Restrictions

6.1 Introduction

This chapter will cover the reasons, criteria, process and the extent of the powers to help ensure that all applicable restrictions are legally compliant, easily identifiable and any potential conflicts are avoided.

The purpose of a restriction is to protect the highway asset following substantial works.

It is important to bear in mind the fundamental requirements under section 59⁷ and section 60⁸ for all parties, when working in the highway:

S59 – *A street authority shall use their best endeavours to co-ordinate the execution of works of all kinds (including works for road purposes) in the streets for which they are responsible.*

S60 – *An undertaker shall as regards the execution of street works use his best endeavours to co-operate with the street authority and with other undertakers.*

Under s58 and s58A of NRSWA, street authorities have the power to impose a restriction on further works on a street. These powers are defined in primary legislation.

Restriction Category	Section of NRSWA
Restriction on works following substantial road works	Section 58 ⁹
Restriction on works following substantial street works	Section 58A ¹⁰

It is important to understand the provisions as detailed in secondary legislation. For Restrictions the relevant Regulations are;

- The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended)
- The Street Works (Permits)(England) Regulations 2015, UKSI 2015 No. 958 (as amended)

⁷ Section 59 NRSWA 1991 *General duty of street authority to co-ordinate works.*

⁸ Section 60 NRSWA 1991 *General duty of undertakers to co-operate.*

⁹ Section 58 NRSWA 1991 amended by Section 51 TMA *Restriction on works following substantial road works*

¹⁰ Section 58A NRSWA 1991 inserted by Section 52 & Schedule 4 TMA *Restriction on works following substantial street works*

Where significant works are planned, either to improve the fabric of the street or to install utility apparatus, part of the co-ordination process should be to consider the impact of the works and whether a restriction on future works would be appropriate.

Restrictions apply only to the section of the street where these substantial road or street works have been carried out; the location of the restricted area needs to be clearly specified.

6.2 Substantial works – definitions

6.2.1 SUBSTANTIAL ROAD WORKS

This restriction is for use following substantial works by an authority.

It is important to be clear as to where and when the powers under section 58 can be used.

The regulations¹¹ state:

For the purposes of section 58(1) substantial road works means works for road purposes which comprise a reconstruction, widening, alteration in the level, resurfacing or specialist non-skid surface dressing of the part of the highway concerned and which if carried out –

- (a) *in a footpath, footway, bridleway or cycle track –*
 - (i) *extend for more than 30 metres of continuous length; and*
 - (ii) *in the case of a footpath or cycle track, result in the width available for pedestrians or cyclists, as the case may be, being reduced by more than two-thirds; or*
- (b) *in the carriageway –*
 - (i) *extend for more than 30 metres of continuous length; and*
 - (ii) *result in the use by vehicles of the carriageway being prohibited or the width of carriageway available for vehicular traffic being reduced by more than one-third.*

➤ please note *both* criteria in (i) and (ii) **must** be met whilst the road works are in progress

Terms used in the above are defined in regulation¹², but included here for ease

¹¹ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) Regulation 11(1).

¹² The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951

of reference:

“cycle track” has the same meaning as on section 329(1) of the Highways Act 1980¹³;

“reconstruction” means the removal of some or all of the various layers that make up a road pavement and their replacement;

“resurfacing” means the removal of the running surface of a carriageway and its replacement to restore surface integrity and skid resistance.

The use of a s58 restriction must fully satisfy the requirements listed in regulation, and where a restriction is to be used in order to assist and meet s59 an authority should evidence the qualifying criteria in order to prevent unnecessary challenge.

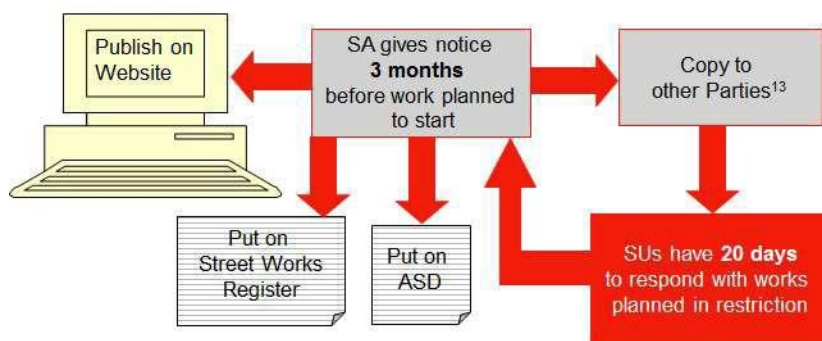
6.2.2 SUBSTANTIAL STREET WORKS

This restriction is for use by an authority following substantial works by a statutory undertaker.

It is important to be clear as to where and when the powers under s58A can be used. The regulations¹⁴ state that *“substantial street works means major works”*. The definition of major works can be found in regulations¹⁵ and in 7.4.1 of this Code.

6.3 Creating a restriction

Where substantial road or street works that meet the qualifying criteria, are proposed and a restriction is assessed as appropriate, the correct process must be followed.



(as amended) Regulation 11(10).

¹³ (a) 1980 c.66; section 329(1) was amended by section 1(1) of the Cycle Tracks Act 1984 (c.38) and by the Road Traffic (Consequential Provisions) Act 1988 (c.54), section 4 and Schedule 3, paragraph 21(2).

¹⁴ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) Regulation 12(1).

¹⁵ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) Regulation 3 Interpretation.

6.3.1 PROCESS

1. All promoters to submit future work programmes to allow early discussion around substantial works.
2. The authority shall use their best endeavours to discuss any potential restrictions at the relevant coordination meeting, to fulfil duties under section 59¹⁶.
3. The authority shall¹⁷ publicise proposed section 58/58A works restriction notices on the authority web-site.
4. The authority shall¹⁸ notify all interested parties¹⁹ of the proposed section 58/58A works restriction giving a minimum three months' notice²⁰ for section 58 and a minimum 20 working days for section 58A of the intended commencement date.
 - However, it is strongly recommended that for **all** restrictions a **minimum of three months'** notice is given to ensure co-ordination and collaboration opportunities are fully explored before the restriction comes into force.
5. On receipt of the notice referred to in point 4, if a promoter identifies their own future works, then these need to be notified to the authority within 20 days to ensure both sets of works are completed in an appropriate timeframe avoiding unnecessary disruption; ideally the promoter works should be completed before the relevant authority works.
6. It is appropriate for a Noticing Authority to use section 56 to give direction on timing for works and for a Permit Authority to use the permit process for work notified under point 5, to ensure co-ordination.
7. It is a requirement that the authority shall²¹ issue section 58/58A Proposed Works notices via the current notification system, ensuring that the street restriction data is entered correctly within that system.
8. As soon as reasonably practicable (and in any case within 1 month) following completion of the works the authority should also issue a section 58 / 58A Restriction In Force notice via the current notification system, confirming the date restriction began. This is a statutory notice under s58A.

¹⁶ Section 59 NRSWA "A street authority shall use their best endeavours to coordinate the execution of works of all kinds (including works for road purposes) in the streets for which they are responsible"

¹⁷ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) Regulation 11(3).

¹⁸ Section 58(2) NRSWA 1991 (as amended by section 51 TMA 2004).

¹⁹ Section 58 (3) NRSWA 1991 (as amended by section 51 TMA 2004) and 58A (2)(4) (inserted by Schedule 3A of TMA).

²⁰ For s58 see The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) Regulation 11(4); for s58A see Regulation 12(2) of SI No.1951.

²¹ Section 58 (2) & (3) NRSWA 1991 (as amended by section 51 TMA 2004) and Schedule 3A Section 58A(2) NRSWA 1991 and UKSI 2007. No. 1951 Regulation 12(5) and Regulation 5.

9. If the proposed works are no longer required, the authority should send a cancellation notice to all the previously notified interested parties.

TIMELINE OVERVIEW	Month 1	Month 2	Month 3	Month 4	Month 5
SA serves S58 Proposed Restriction Notification					
SU response period (20d)					
SA works take place					
SA serves Restriction in Force					
Customer Connection Embargo (20d)					
Restriction in Force (6m - 5y)					

- It is vital that all works are flagged as the timing of the restriction can be adjusted to accommodate all works
- Failure to give 3 months advance notice as prescribed will lead to the section 58 / 58A restriction having no statutory backing and the potential for conflict caused by works being promoted after the resurfacing / reconstruction has taken place.
- If the road works have not started within 6 months of the proposed start date the notice ceases to be valid; hence it is vitally important that the correct notification process is followed to ensure a fully legal and compliant restriction comes into force.

6.3.2 REVOCATION OF A RESTRICTION

A restriction may be revoked at any time. This should be done by updating the authority's website and issuing a notice via the current notification system to all the prescribed parties¹³.

The Additional Street Data for the relevant USRN must be corrected if the restriction has been included.

There are no powers to vary a restriction under section 58A.

6.3.3 WORKS PROMOTERS

The following steps regarding restrictions are advocated for promoters:

1. Identify through available processes including Forward Planning Information via the current notification system or Co-ordination meetings all future works (planned) that are known to the works promoter.
2. Ensure that systems are configured to draw attention to any restrictions that may be proposed or in force when proposing works.
3. If a restriction is found which applies to proposed works, then contact the authority immediately to obtain consent if the works must proceed

6.4 Duration of Restrictions

6.4.1 DURATION OF RESTRICTIONS

Durations of restrictions depend upon the type of works carried out and the impact they have on the highway user, residents and local community. The restrictions are prescribed in regulations²².

Table 6.1 Maximum durations of restrictions ²²		
Works type	Category of carriageway in street	
	Traffic-sensitive or reinstatement category 0, 1 or 2	Reinstatement category 3 or 4
1: Reconstruction (Defined in 6.2.1)	3 years	3 years
2: Resurfacing (Defined in 6.2.1)	2 years	2 years
3. Other substantial road or street works (Defined in 6.2.1 & 6.2.2)	1 year	6 months
4. Combination of 1 or 2 plus 3	Higher of figures	Higher of figures
5. Customer connections	20 days	

6.5 Works during a restriction

Works may be carried out during a restriction if the works either fall within the categories of exempt works or have the consent of the authority.

Where works are to take place in a part of the street not subject to a restriction, consent or agreement is not required and the promoter should notice or permit as per the normal process; however it is advised that the promoter includes information to confirm they are working in a non-restricted area. This will help to ensure that the notice or permit is processed without delay. Likewise, authorities are advised to ensure that the extent of the restriction is clearly identifiable in the restriction notification.

6.5.1 EXEMPT WORKS AND REDUCED RESTRICTIONS

Planned street works and works for road purposes may be carried out following substantial road or street works either:

- (a) After any relevant statutory section 58 / 58A restriction period has ended; or
- (b) Within the section 58 / 58A restriction period, where allowed under

²² The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) Regulation 11(2)

legislation.

Works which are exempt or subject to reduced restrictions are specified in regulations²³ (unless indicated otherwise):

- Emergency works²⁴
- Urgent works²⁵
- Street works that do not involve breaking up or excavating in the highway
- A new service or supply to a customer (see 6.5.2);
Street works under regulation 16(3)(b) of the Gas Safety (Installation and Use) Regulations 1998²⁶ (primary meters)
- Street works to comply with either an improvement notice or prohibition notice issued by the Health and Safety Executive under sections 21 or 22 of the Health and Safety at Work etc Act 1974;
- Street works carried out to comply with a programme approved under regulation 13A of the Pipelines Safety Regulations 1996²⁷ that could not have been identified before the restriction began.

For any planned works subject to the above exemptions, promoters (Undertakers) will need to be prepared to discuss their proposed works and the reason for the exemption in advance of submitting a notice or permit. Providing justification of a request for early entry into a restricted street will result in consent from a Noticing Authority.

Permit Authorities should act reasonably and ensure that any decisions take into account the specific circumstances of the works, as well as whether refusal of early entry will have further (e.g. safety, reliability or delays to projects covering multiple streets). The key test is whether the promoter could reasonably have foreseen the eventuality during the notice period and/or could reasonably be required to postpone the work until the end of the restriction.

- The regulations²⁸ state specifically in regard to the exemptions above; “*any question as to whether the withholding of consent by a street authority is unreasonable shall be settled by arbitration*”.

6.5.2 CUSTOMER CONNECTIONS

If an undertaker receives a request for a new customer connection after

²³ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) *Regulation 11(7) & (8)*.

²⁴ Section 58 (5) NRSWA 1991; Section 52 NRSWA 1991 *Emergency works*.

²⁵ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) *Regulation 3 Interpretation*.

²⁶ SI 1998/2451

²⁷ SI 1996/825 as amended by SI 2003/2563

²⁸ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) *Regulation 11(9)*.

the period for response to a section 58 or section 58A notice of restriction, and it is not possible to carry out the necessary works before the restriction comes into force – then a delay on carrying out those works will apply for 20 working days (date restriction begins plus 19 days²⁹) immediately following the completion of the substantial street or road works, as indicated in Table 6.1.

The guidance in 6.5.1 covering early access should be followed.

6.5.3 OTHER WORKS DURING A RESTRICTION

If the proposed works do not fall within one of the exempt categories, then the works may be carried out, but **only with the authority's consent**.

There is no official format to obtain an application for consent. This Code recommends the following for obtaining consent:

- Initial contact via a telephone call from the promoter to the authority to discuss works and possibility of consent.
- Where consent is given the authority may provide an agreement reference number.
- In some cases, an authority may require a written request as a follow up.

Key points to note are;

- The promoter cannot start work without receiving the consent of the authority.
- The consent of the authority should not be unreasonably withheld.
- If the authority refuses consent, they should provide written justification. If the promoter considers this unreasonable, the matter may be settled by arbitration.

6.6 Policy guidance

The appropriate use of restrictions will not only protect streets where notice is served but should also encourage authorities and promoters to plan and amend their programmes in a way which minimises inconvenience for the public.

Where an authority intends to protect a newly constructed or significantly improved road, it may consider designating the street as “protected”; this process is covered in Chapter 5.

A restriction under section 58 or section 58A cannot be made, if substantial

²⁹ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007, UKSI 2007 No.1951 (as amended) Regulation 11(8)(b)(ii)

works have started without a valid notice under section 58 or section 58A having been given, as detailed in 6.3.

Even if a valid notice is given under s58, the restriction will be invalid if the substantial road works have not started within six months of the proposed start date.

Where promoters plan to work in a street that appears to have had recent substantial road works (see 6.2.1) but have not received the correct notifications (proposal of a restriction and restriction in force) or the ASD entry does not include a restriction, then the authority should be contacted to confirm the restriction status of the street.

If having received a notice or permit application from a promoter, the authority realises that there is a valid restriction in place then they should advise the promoter of this fact as soon as possible.

It must be noted that there is ***no legislation in force to support*** any requirement for half-width, full-width, first time permanent or “extended footprint” (e.g. a larger patch) reinstatement to be carried out by the promoter and this **cannot** be a condition of consent.

- Where a promoter needs to carry out planned works in a restricted street, discussions and negotiations between the authority and promoter should be held separately for any potential and appropriate mitigation measures that may be mutually agreed outside of legislative requirements.

In the interests of ensuring best use of public money, where there are exceptional and justified circumstances, and the authority engages with the relevant promoters there may be opportunity to allow a reduced notice period under s58 – as long as there is a minimum period of three months from the serving of the notice to the start of the restriction period **and** there is an opportunity for promoters to carry out necessary works.

There are no Fixed Penalty Offences associated with restrictions.

6.7 Dispute resolution

Disagreement between the promoter and the authority should be resolved by means of the dispute resolution procedures set out in Chapter 13 in the first instance or by arbitration (as per regulations) when this is appropriate.

All parties should familiarise themselves with the relevant legislative framework that covers restrictions in their entirety as well as the guidance in this Code and should act reasonably with regard to their duties under section 58 / 58A.

CHAPTER 7 - Works Classification

7.1 Introduction

This chapter explains the circumstances when a permit or notice is required, and the correct category of works to use. It also provides further guidance on immediate activities as well as bar holes and street lighting.

In order to provide clarity, the terms 'registerable' or 'notifiable' works in relation to whether a permit or notice is required have been substituted for 'works requiring a permit or notice'.

7.2 Legislative Background

7.2.1 WHO CAN WORK IN THE STREET

Organisations get their powers to work in the public highway from different enabling legislation. The main categories defined in the New Roads & Street Works Act 1991 are:

- **Statutory Undertaker**, as defined in section 48(4), with the statutory right enabled in primary legislation such as the Electricity Act, the Water Act, the Gas Act or the Communications Act;
- **Street Works Licensee**, as defined in section 48(4) and enabled through section 50;
- **Street Authority**, as defined in section 49(1). This includes Highway Authority for a maintainable highway or a Street Manager of a non- maintainable or private street, as well as Highways England and organisations such as Transport for London;
- **Other Authority**, as defined in section 88 (**Sewer**), section 89 (**Bridge**) and section 91 (**Transport**) such as Network Rail;
- **Highways Act enabled**, such as developers working under section 38 or section 278 of the Highways Act 1980.

Statutory Undertakers, Street Authorities and Other Authorities (Sewer, Bridge or Transport) all must follow the requirements of permits/notices for applicable works.

Further guidance for Section 50 Licensees or Highways Act (38 or 278) enabled works is out of scope for this Code.

7.2.2 STATUTORY UNDERTAKER

It is important to understand that the qualifying criteria for deciding if a permit or notice is needed for a Statutory Undertaker starts with the NRSWA definition of street works in section 48(3) & (3A);

48 Streets, street works and undertakers.

(3) In this Part “street works” means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence—

(a) placing apparatus, or

(b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it,

or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).

(3A) For the purposes of subsection (3), the works that are street works by virtue of being works required for or incidental to street works of any particular kind include—

(a) reinstatement of the street, and

(b) where an undertaker has failed to comply with his duties under this Part with respect to reinstatement of the street, any remedial works.

7.2.3 HIGHWAY AUTHORITY

For a Highway Authority, including a “strategic highway company³⁰”, the underpinning criteria for “Works for Road Purposes” can be found in NRSWA section 86(2), and for “Major Highway Works” in NRSWA section 86(3). This also applies to Network Rail when undertaking relevant activities;

86 Highway authorities, highways and related matters. 1980 c66.

(2) In this Part “works for road purposes” means works of any of the following descriptions executed in relation to a highway –

(a) works for the maintenance of the highway,

(b) any works under powers conferred by Part V of the Highways Act 1980 (Improvement³¹),

(c) the erection, maintenance, alteration or removal of traffic signs on or near the highway, or

³⁰ Amendment to NRSWA s86(1) by Infrastructure Act 2015 Schedule 1 para. 121.

³¹ Highways Act 1980, Part V Improvement of Highways section 62 *General Power of Improvement*

(d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaption of a footway for use as a crossing for vehicles, or works of any corresponding description executed in relation to a street which is not a highway.

(3) In this Part “major highway works” means works of any of the following descriptions executed by the highway authority in relation to a highway which consists of or includes a carriageway –

- (a) reconstruction or widening of the highway*
- (b) works carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts),*
- (c) substantial alteration of the level of the highway,*
- (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway,*
- (e) the construction or removal of a road hump within the meaning of section 90F of the Highways Act 1980,*
- (f) works carried out in exercise of the powers conferred by section 184 of the Highways Act 1980 (vehicle crossings over footways and verges),*
- (g) provision of a cattle-grid in the highway or works ancillary thereto, or*
- (h) tunnelling or boring under the highway.*

In order to aid understanding of what constitutes ‘Works for Road Purposes’ please see the full text of Section 62 of the Highways Act 1980 below, which is referred to in NRSWA section 86 (2)(b) above;

Highways Act 1980 – section 62

(3) Notwithstanding subsection (2) above, but without prejudice to any enactment not contained in this Part of this Act, work of any of the following descriptions shall be carried out only under the powers specifically conferred by the following provisions of this Part of this Act, and not under this section—

- (a) the division of carriageways, provision of roundabouts and variation of the relative widths of carriageways and footways;*
- (b) the construction of cycle tracks;*
- (c) the provision of subways, refuges, pillars, walls, barriers, rails, fences or posts for the use or protection of persons using a highway;*
- (d) the construction and reconstruction of bridges and alteration of level of highways;*
- (e) the planting of trees, shrubs and other vegetation and laying out of grass verges;*
- (f) the provision, maintenance, alteration, improvement or other dealing with cattle-grids, by-passes, gates and other works for use in connection with cattle-grids;*

(ff)³² the construction, maintenance and removal of road humps;

(fg)³³ the construction and removal of such traffic calming works as may be specially authorised by the Secretary of State under section 90G below or prescribed by regulations made by him under section 90H below;

(g) the execution of works for the purpose of draining a highway or of otherwise preventing surface water from flowing on to it;

(h) the provision of barriers or other works for the purpose of affording to a highway protection against hazards of nature.

7.2.4 WORKS FOR ROAD PURPOSES – CARRIED OUT BY STATUTORY UNDERTAKERS

Street lighting connections carried out by an Electricity Distribution Network Operator (DNO) **on behalf of** an authority will fall into the definition of “works for road purposes” in 7.2.4 and not “street works” in 7.2.3. This follows a High Court ruling in 2003³⁴ that sets out the principle that these are not street works, and cannot be treated as such where the Highway Authority and the Lighting Authority are the same organisation. Instead, they should be treated as if the authority is the promoter, even if the DNO does this in practice. This may include work to disconnect and reconnect supplies to lit street furniture following road traffic accidents or improvement works where the authority is promoting or funding the work.

This principle also will be relevant to installation of infrastructure for Electric Vehicle (EV) charging points and associated enabling electricity network infrastructure where the work is being promoted **on behalf of** the authority.

Loss of supplies to Street Lights should be treated as ‘Street Works’ where the DNO is required to undertake works on their network to restore the supply. These works fall under the definition of urgent works in 7.4.5.

Any works involved in the installation of infrastructure for EV charging points, not being promoted or paid for by the authority, should be treated as ‘Street Works’ and will fall into the correct works definitions set out in this chapter.

³² Highways Act 1980 section 62(3)(ff) inserted by Transport Act 1981.

³³ Highways Act 1980 section 62(3)(fg) inserted by Traffic Calming Act 1992.

³⁴ P.N.Daly & United Utilities Electricity plc V Wigan Metropolitan Borough Council.

7.3 Works Requiring a Permit or Notice

As well as different parts of legislation giving the power to different types of organisation to work in the street, there are also different descriptions in legislation regarding the activities that would require a permit or notice. Only works that are covered by these definitions are relevant to this Code or Practice.

7.3.1 WORKS THAT MUST BE DONE UNDER A PERMIT OR NOTICE

Once satisfied that the criteria in 7.2 has been met, and following checks to ensure the works are to be done in a “street³⁵”, only then can the list below be consulted to confirm whether the works must be carried out under a permit/notice. Works requiring a permit or notice for all promoters, and for which a permit fee can but need not be required, are any works that:

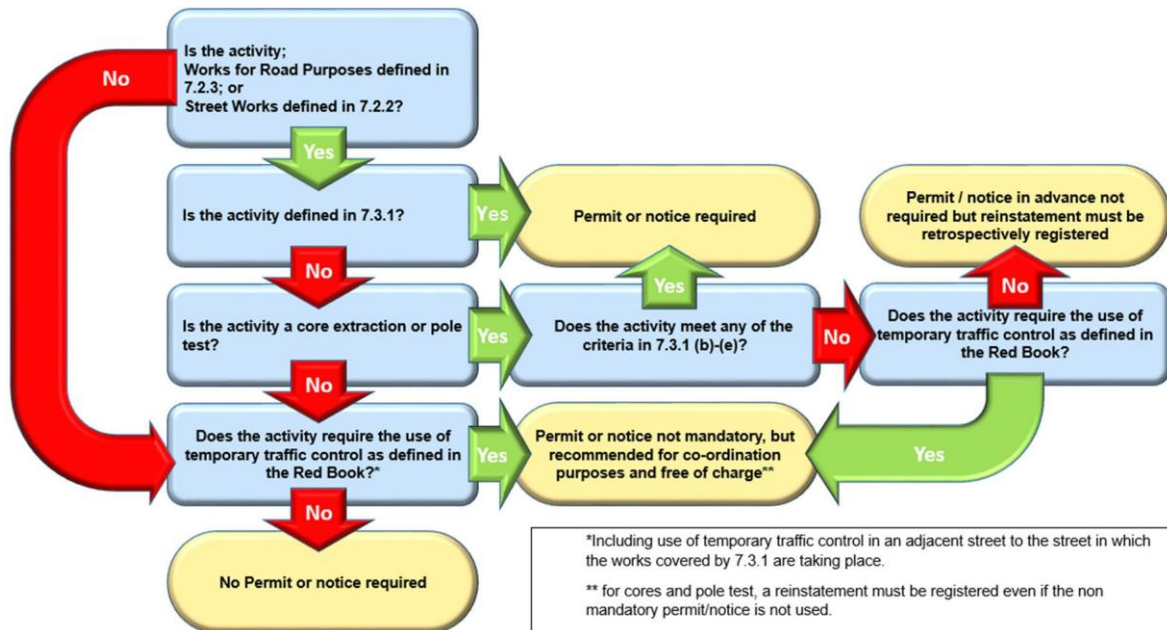
- a) Involve the breaking up or resurfacing any street, (see below for pole testing and coring involving excavation);
 - b) Involve opening the carriageway or cycleway of traffic-sensitive streets at traffic-sensitive times;
 - c) Reduce the lanes available on a carriageway of three or more lanes;
 - d) Require a temporary traffic regulation order or notice, or the suspension of pedestrian facilities; and
 - e) Require a reduction in the width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time.
- The basis for this list is NRSWA section 48(3) for statutory undertaker’s works, and in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations³⁶ *regulation 4.(5) item 5 in the table*. These are also referred to as ‘specified works³⁷’ in permit regulations.
- Please see also the DfT Statutory Guidance for Permit Schemes, Annex D regarding this list for permits.
- Under the Road Traffic Regulation Act and The Safety at Street Works (A Code of Practice), permission for the placing of portable traffic signals on the public highway is required in advance for planned activity, and within 2 (working) hours for immediate activities.
- It is the Road Traffic Regulation Act that provides the route for permission and therefore should be used to manage unauthorised use on the public highway.

³⁵ New Roads & Street Works Act 1991 Section 48(1).

³⁶ Statutory Instrument 2007 No 3372, as amended by Statutory Instrument 2015 No 958.

³⁷ The Traffic Management Permit Scheme (England) Regulations 2007 (and as amended by 2015 SI 958) Part 3 Permit Scheme Content; Regulation 6 *Specified Works*.

Fig. 7.1 – Do I need a permit/notice?



7.3.2 WORKS WHERE IT IS RECOMMENDED TO BE DONE UNDER A PERMIT OR NOTICE

The activities below relate to those works by all promoters for which notification to the authority is strongly recommended to assist in the co- ordination of highway management by the collection of accurate data, thereby supporting the Network Management Duty of the authority. Given that these are recommended permits/notices **they are not subject to a permit fee** and are described as follows:

- Use of temporary traffic control in an adjacent street to the street in which the works covered by 7.3.1 are taking place;
- Traffic census surveys – because disclosure prior to a census can encourage a change in normal traffic flows;
- Pole testing involving excavation – does not require a notice or permit in advance, unless one or more of rules 7.3.1(b) – (e) apply;
- Core holes – not exceeding 150 mm in diameter do not require a notice of permit in advance, unless one or more of rules 7.3.1(b) – (e) apply;
- Road markings – that are not part of a larger set of works and do not reduce the width of the carriageway, as they do not involve breaking up of the highway;
- Other activities occupying the highway that involve active traffic management.

7.3.3 BAR HOLES

Bar holes can be used to detect and monitor leakage from utility assets. Those which require no further street works (e.g. such as a reported gas leak with no gas detected) should be registered (i.e. a reinstatement registration notice) within ten days of the final checks being completed. For registration purposes, the cumulative number of bar holes count as a single excavation and reinstatement.

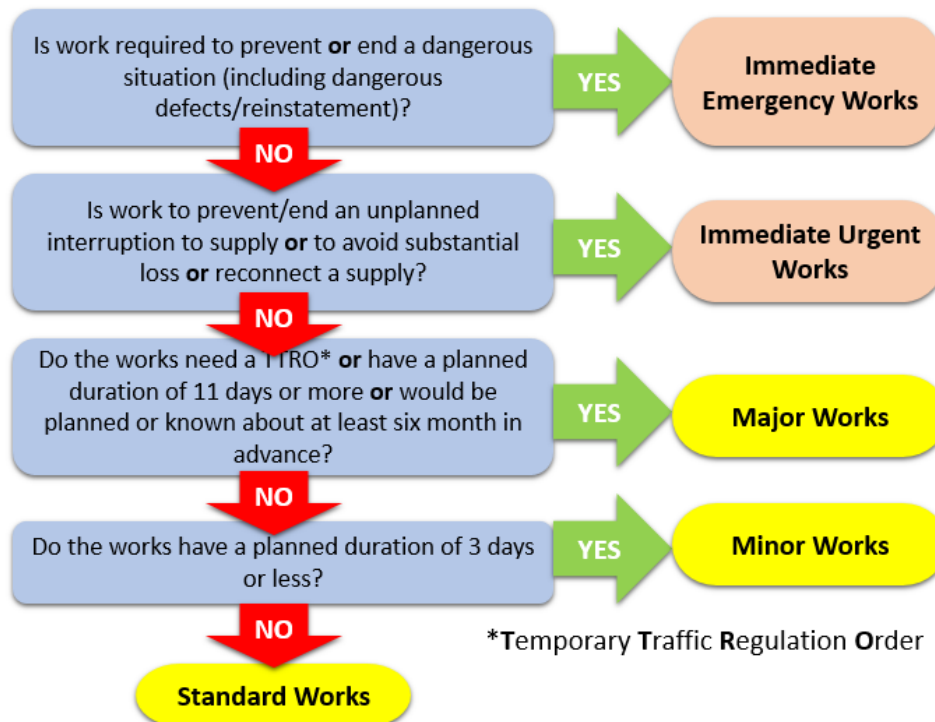
An immediate (e.g. emergency) notice or permit must be sent within two hours of the start of any other street works (i.e. excavation or activities defined in 7.2.1) associated with the bar holes. For registration purposes, these bar holes will not count as further excavations and reinstatements. All bar holes must be reinstated and registered when works on site are complete.

7.4 Categorisation of Works

Works are categorised by duration, except for immediate works, which are not time specific. The works categories are defined in legislation, with Emergency Works defined in NRSWA Section 52 and all other categories in *The Street Works (Registers, Notices, Directions and Designations) Regulations 2007 SI 1951 regulation (3) Interpretation*, are the same for both permits and notices.

The works description, along with the duration of works, within the permit or notice should provide adequate information to demonstrate that the correct category of works has been used.

Fig 7.2 What type of permit/notice do I need



7.3.4 MAJOR WORKS

Major works are:

- works which are planned or known about at least six months in advance of the date proposed for the works; or
- works which require a temporary traffic regulation order³⁸ (but not a temporary traffic notice); or
- works which have a planned duration of 11 or more working days,

Works which fall into the definition of Immediate Works cannot be categorised as Major Works, regardless of duration. However, where there are infrastructure build projects where the general area is known about in line with the Major Works timescales but a specific work in a street is not able to be planned in detail until less than the timescales (i.e. plans to work in City X in 3 years' time, but clarity on Street Y comes 1 month before works are needed) then in line with HAUC Guidance³⁹ these should fall in the works category appropriate to the duration, unless there is a requirement for a temporary traffic regulation order.

7.3.5 STANDARD WORKS

Standard Works are those activities, other than Immediate, Minor or Major activities, which have a planned duration of between 4 and 10 working days inclusive.

7.3.6 MINOR WORKS

³⁸ The Road Traffic Regulation Act 1984 section 14 (temporary prohibition or restriction on roads).

³⁹ HAUC (UK) Advice Note: Broadband Infrastructure Installation.

Minor Works are those activities, other than Immediate, Standard or Major activities, where the planned duration is 3 working days or less.

7.3.7 EMERGENCY - IMMEDIATE WORKS

Emergency works are specifically defined by NRSWA section 52 *Emergency works* as:

52.-(1) In this Part “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

(2) Where works comprise items some of which fall within the preceding definition, the expression “emergency works” shall be taken to include such of the items as do not fall within that definition as cannot reasonably be severed from those that do.

In simple terms, Emergency Works are for those scenarios where immediate action is needed to prevent danger to people or property. This assessment of danger is made by those responsible for the works.

7.3.8 URGENT - IMMEDIATE WORKS

Urgent works are defined in Regulations⁴⁰:

“urgent works”

(a) means street works, other than 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 undertaker;

(ii) to avoid substantial loss to the undertaker in relation to an existing service; or

(iii) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and

(b) includes works which cannot reasonably be severed from such works.

In simple terms, Urgent Works are for those scenarios where immediate action is needed to prevent a loss or restore any supply or service provided by them. It

⁴⁰ The Street Works (Registers, Notices, Directions and Designations) Regulations 2007 SI 1951 regulation (3) Interpretation.

is not unreasonable to include leaks from pipes or other apparatus in this category. This assessment is made by those responsible for the works.

7.3.9 REMEDIAL WORKS

Remedial works to rectify a non-compliant reinstatement should be classified dependent on the rules above and an appropriate permit/notice served. Where an Immediate (Emergency or Urgent) permit/notice is selected, based on the criteria above, the works description should provide enough information to justify this works category.

CHAPTER 8 - Permit & Notice Principles

8.1 Introduction

This chapter describes the principles behind applying for permits and notices as well as the various notifications that are required to enable works to be properly managed under NRSWA and TMA legislation. Chapter 7 of this Code explains which works require a permit or a notice and should be referred to as the requirements apply to all works regardless of the promoter.

The term “notification” includes permit applications, notices, notifications, registrations of reinstatement, directions, responses, and cancellations and are covered in this Chapter.

The purpose of the range of notifications via the electronic system is to:

- Enable works to be legally carried out on the public highway
- Enable the authority to fulfill their Network Management Duty by co-ordinating works
- Enable the requirement for keeping an accurate Register
- Enables emergency notices, which can prompt the emergency procedures of other organisations
- Trigger the inspection regime
- Form the basis of records for reinstatement guarantee purposes
- Record who has worked at a particular location
- Facilitates charging regimes; and
- Provides information to inform the public of disruption.

8.2 Common Rules

The following common rules apply where notifications are given in using the prescribed electronic system, using the format of that system, and in compliance with the requirements set out in Regulations⁴¹. These apply to all works that require a permit or a notice. For circumstances where a ‘paper’ form can be used see 8.4.

General Points

- Ensure compliance with GDPR when including information on notifications.

⁴¹ The Street Works (Registers, Notices, Directions & Designations) Regulations 2007 SI 1951 (as amended) regulation 4 Street works registers (5) Table item 5 and The Traffic Management Permit Scheme Regulations 2007 (as amended by 2015 SI 958) SI 3372 Regulation 6(2) Specified Works.

- A separate permit or notice is required for each street covering an USRN; larger projects covered multiple streets should be cross- referenced and where permits or notices are created for information only activities, it is advised that these rules are applicable to support the aims of co-ordination and co-operation.
- The Additional Street Data (ASD) associated with the National Street Gazetteer (NSG) may indicate an interested party that will require a copy of the permit or notice. This requirement must⁴² be complied with.
- Each permit application or notice will relate to a single 'phase' of works. Works can have more than one phase that will each require an individual permit or notice. Examples of phases of work include initial installation or repair of apparatus, works to make interim reinstatement permanent, works to make interim road markings permanent on an otherwise permanent reinstatement and remedial works.

Timing

- The term 'month' is calculated as 28 calendar days.
- The term 'date' means the calendar date on which a work starts or ends. The correct date (00:00 to 23:59) should be used for start and end dates of works.
- The term 'day' means a working day as defined in NRSWA **s98**⁴³(2) and should be used to calculate notification periods, categorisation of works , and charges under NRSWA section 74⁴⁴.
- The minimum notice period includes the day on which the notification is given but does not include the proposed start date.⁴⁵
- Response periods do not include the day on which the notification is given, and should be with the recipient before 16:30 on the last date the response is due. See table in 8.3
- Immediate works must have a permit application or a section 55/57 notice sent to the authority within two working hours of works starting on site.
- Actual Start and Works Stop notifications must include both the date and time at which the on-site status change took effect (see Chapter 10 for guidance).
- The working day 08:00 to 16:30 is used to calculate notice periods. Any notification received after 16:30 on a working day is considered to have been given on the next working day, with the exception of Actual Start and Works Stop where 18:30 is the last time of receipt on a working day (see Chapter

⁴² For Notices see 2007 SI 1951 Regulation 7; for Permits see 2007 SI 3372 (as amended) Regulation 9 & NRSWA Part III.

⁴³ NRSWA **s98** Reckoning of periods.

⁴⁴ NRSWA **s74** Charge for occupation of the highway where works unreasonably prolonged.

⁴⁵ NRSWA **s98(1)** and The Street Works (Registers, Notices, Directions & Designations) Regulations 2007 SI 1951 regulation **8(1)** Advance notice of works and **9(1)** & (2) Notice of starting date of works.

10 for details).

- The time of 16:30 is only significant with regard to calculating notice periods and does not mark the “end” of the day for any other purpose.

8.3 Notification types

Legislation prescribes a number of different notification types, which support the end to end process of carrying out work on the public highway. The relevant Regulations are referenced here, but it is important to look at these in the wider legislative context. This is due to the complex nature of legislation particularly where there are subsequent or multiple amendments, across different pieces of primary or secondary legislation or through Statutory Guidance.

Here is an overview of the key notifications;

Works Status & <i>Minimum Notice Period</i>	TMA Permit Notification Type & <i>Regulation</i> ⁴⁶ reference	NRSWA Notice Notification Type & <i>Regulation</i> ⁴⁷ reference
Forward Planning Information - <i>>3 Months in advance</i>	Forward Planning Information Notice	
Major Works – 3 <i>Months in advance</i>	Provisional Advance Authorisation (PAA) <i>Reg</i> ⁴⁶ 2 & 11	Section 54(1) Advance Notice of Major Works (s54) <i>Reg</i> ⁴⁷ 3 & 8
Major Works – 10 Days in <i>advance (following from 3 Months)</i>	Permit Application (PA) <i>Reg</i> ⁴⁶ 2 & 9	Section 55(1) Notice of Starting Date <i>Reg</i> ⁴⁷ 3 & 9
Standard Works – 10 <i>Days in advance</i>	Permit Application (PA) <i>Reg</i> ⁴⁶ 2 & 9	Section 55(1) Notice of Starting Date <i>Reg</i> ⁴⁷ 3 & 9
Minor Works – 3 Days in <i>advance</i>	Permit Application (PA) <i>Reg</i> ⁴⁶ 2 & 9	Section 55(1) Notice of Starting Date <i>Reg</i> ⁴⁷ 3 & 9
Immediate Urgent – <i>within 2 Hours of works having begun</i>	Permit Application (PA) <i>Reg</i> ⁴⁶ 2 & 9	Section 55(1) Notice of Starting Date <i>Reg</i> ⁴⁷ 3, 6(2) & 9(2)
Immediate Emergency (s52) - <i>within 2 Hours of works having begun</i>	Permit Application (PA) <i>Reg</i> ⁴⁶ 2 & 9	Section 57 & Section 55(1) Notice of Starting Date <i>Reg</i> ⁴⁷ 3, 6(2) & 9(2)

⁴⁶ The Traffic Management Permit Scheme Regulations 2007 SI 3372 (as amended).

⁴⁷ The Street Works (Registers, Notices, Directions & Designations) Regulations 2007 SI 1951 (as amended).

Actual Start of Works – <i>within 2 hours of works having begun (See Chapter 10)</i>	Section 74(5C) <i>Regulation</i> ⁴⁸ 6(1)(2)	
Works Closed - <i>within 2 hours of works having completed (See Chapter 10)</i>	Section 74(5C) <i>Regulation</i> ⁴⁸ 6(3)(4)	
Revised Duration of Works – <i>whilst works in progress</i>	Review, variation and revocations of permits <i>Reg</i> ⁴⁶ 15	Section 74 <i>Regulation</i> ⁴⁸ 11
Variation to permit – <i>in advance or whilst works in progress</i>	Review, variation and revocations of permits <i>Reg</i> ⁴⁶ 15	
Registration of Reinstatement – <i>within 10 days of completion of reinstatement</i>	Section 70(3) <i>Regulation</i> ⁴⁷ 17 & 18	

8.4 Process in the Event of System Unavailability

In the event of the prescribed electronic system being unavailable for use, alternative communication methods must be used in order to ensure statutory notifications, and their timescales are met. All parties should ensure that a suitable email account is available for this purpose and that this address is communicated. This process may be used for copy notices or permits for interested parties. Further information can be found at

<https://departmentfortransport.github.io/street-manager-docs/business-change/#Other>

8.5 Detailed Guidance

Guidance regarding the information required for each notification and the processes to be followed are detailed separately from this Code to enable guidance keeps pace with the Street Manager system.

Guidance on the operation of permit schemes is available in the HAUC(England) guidance, which can be found in Appendix B.

⁴⁸ The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2009 SI 303 (As Amended)

CHAPTER 9 - Notification Validity

9.1 Introduction

This chapter explains what the validity period is, how it works in practice, and also includes illustrations of common scenarios.

The validity period should not be confused with the prescribed period; which is detailed in Chapter 10.

9.2 What is the validity period?

The validity period is a period of time prescribed by regulation, that a notification remains valid before the works start on site.

The validity period starts on the proposed starting date, unless the proposed starting date is on a non-working day, in which case the validity period starts on the very next working day.

To clarify, this means that the validity period begins on the first working day of the notification.

A validity period is a number of working days.

Any planned works must commence before the expiry of the notice validity period unless an extension to the validity period has been agreed.

If works have not started, the notification for planned works ceases to have effect, or lapses, when the validity period expires.

Table 9.1

	Validity Period (in working days)	
	Provisional Advance Authorisation (PAA)/S54 ⁴⁹	Permit Application (PA)/S55 ⁵⁰
Major	15	5
Standard	N/A	5
Minor	N/A	2
Immediate - urgent	N/A	N/A
Immediate - emergency	N/A	N/A

⁴⁹ The Street Works (Registers, Notices, Directions & Designations) Regulations 2007 SI 1951 Regulation 8(3) Advance notice of works.

⁵⁰ The Street Works (Registers, Notices, Directions & Designations) Regulations 2007 SI 1951 Regulation 9(4) Notice of starting date of works.

9.3 How to determine the validity period

9.3.1 MAJOR WORKS S54 NOTICES & PAA'S

The following validity rules apply consistently in all circumstances. When the subsequent S55/PA is submitted, it must specify a proposed start date, which is:

- a) No earlier than three months after the date on which the advance notification is given, unless an early start has been agreed,
- AND**
- b) No later than 15 days beginning with the starting date given in the S54/PAA (fifteen day validity period)

9.3.2 MAJOR, STANDARD AND MINOR S55 NOTICES AND PERMITS

The following rules apply regarding the start of works: -

- a) Standard or major notifications – within five days of the proposed start date specified (five day validity period)
- b) Minor notifications – within two days of the proposed start date (two day validity period)

If the works have not started within these periods, the notification is no longer valid and a new S55(1)/PA should be given, unless the authority agrees to extend the validity period.

A new major S54/PAA is not required when there is still time left within the validity period on the major s54/PAA to give another S55/PA notification; otherwise a new S54/PAA will be required.

➤ *Remember the validity period begins on the first working day of the notification*

9.3.3 IMMEDIATE NOTICES AND PERMITS

Immediate notifications do not have a validity period because the works will have already started by the time the notice/PA is issued.

9.4 The validity period in practice

The use of a validity period is a legally allowable process and therefore should take precedence over **National Condition Text (NCT)1A/B** with regard to start dates.

9.4.1 HOW DOES IT WORK?

The validity period applies in both noticing and permitting regimes albeit in

practice it works in different ways.

9.4.2 IN A NOTICE REGIME:

1. A promoter can start proposed works on any day within the relevant validity period.

For example, on a 3 day duration minor works the validity period is 2 days. This means that the promoter can either start works on day 1, or, on day 2. If the works have not started by the end of day 2, the notification lapses and a new S55 must be submitted for new dates if works are still required.

2. If works start on a different date than the original planned date, but within the relevant validity period, the proposed end date will move to provide the same duration for the works.

For example, for works planned for 1st-3rd June (Tuesday to Thursday), where the promoter starts work on Wednesday 2nd June and submits the actual start notification – the proposed end date will move to Friday 4th June.

➤ *If proposed start date is a Monday, your validity period starts on Monday*

9.4.3 IN A PERMIT REGIME:

Additional consideration must also be given to the road category and the traffic sensitivity of the street.

1) For works on a street:

a) with a road category of 0, 1 or 2 with or without any traffic sensitivity recorded against the relevant USRN

OR

b) with a road category of 3 or 4 and works are planned to be taking place during traffic sensitive times

The following rules apply:

The end date is fixed at the point at which the PA is granted.

If works start on a different date than the original planned date, but within the relevant validity period, the proposed end date will remain as originally proposed.

For example, for works planned for 1st – 3rd June (Tuesday to Thursday), where the promoter starts work on Wednesday 2nd June and submits the actual start notification – the proposed end date remains as Thursday 3rd June; thus reducing the duration of the works from 3 days to 2 days.

➤ *In the scenario above, if you wish to retain the original duration, then you must apply for a duration variation as soon as practicable. Please note that the authority may not grant the request.*

2) For all other works in a permit regime

The duration is fixed at the point at which the PA is granted, but the start and end dates are flexible within the validity period.

If works start on a different date than the original planned date, but within the relevant validity period, the proposed end date will move to keep the original duration.

For example, for works planned for 1st – 3rd June (Tuesday to Thursday), where the promoter starts work on Wednesday 2nd June and submits the actual start notification – the proposed end date changes to Friday 4th June; thus retaining the original duration of 3 days.

9.5 What if things change?

9.5.1 CHANGES TO STARTING DATE

When a promoter needs to change the starting date after submitting a S54/PAA/S55/PA, the following rules apply:-

- If the works are to be re-scheduled within the validity period of the existing notification, then no further notice is required
- If the works are to be re-scheduled and the revised timing would contravene the statutory notice or validity period of the existing notification, a new S54/PAA/S55/PA must be served giving the revised dates.
- If the revised dates do not give sufficient time for the required notice period to be given, then an agreement for an early start is required before submitting the new notification.
- If the works are to be cancelled permanently, or there is no current plan to re-schedule them, the works should be cancelled.

➤ *Consideration should be given to the impact of moving the dates previously reported to the public.*

9.5.2 ADVANCE NOTIFICATION OF CHANGES TO MAJOR WORKS

To assist in coordination, works promoters should inform the authority concerned of plans to re-schedule planned works as soon as possible.

When Major works need to be postponed, the promoter should give a replacement S54/ PAA, or an initial, or replacement, S55/PA notice following the rules below:-

1. If the new proposed start date is within the current S54/PAA validity period,

this is notified on the initial S55/PA, or within a further S55/PA. No prior agreement is necessary unless an early start is required.

2. If the new proposed start date is outside the validity period of the current S54/PAA, but the new date **does not** allow a full 3 months' notice to be provided, then either:
 - (i) a further S54/PAA should be given, but the authority's agreement to an early start must be obtained before submission of the new notification;
 - or**
 - (ii) where the original date is deferred by a few days, an initial or further S55/PA may be given, but only if agreement to extend the validity period is obtained from the authority.
3. If the new proposed start date is outside the validity period of the current S54/PAA, and the new date **does allow** a full 3 months' notice to be provided, then a further S54/PAA should be given after cancelling the current notification.

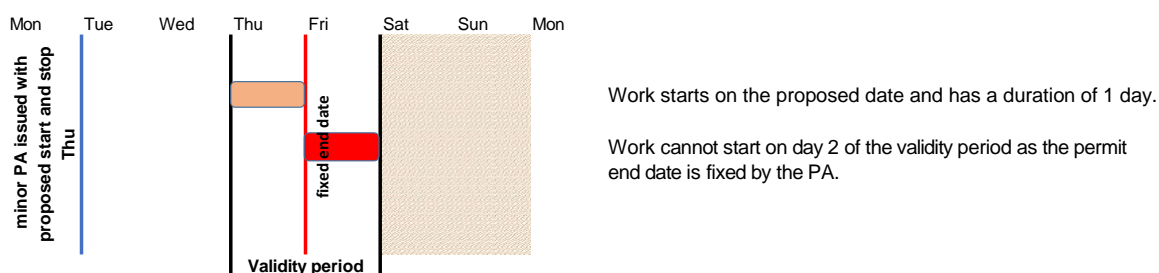
9.6 Illustration of examples

The following section provides some visual representations for common scenarios. Each is similar to illustration 1 below, which shows how the validity period works in practice for minor works permits with a one day duration.

Illustration 9.1

A minor works permit of 1 day duration on type 0,1,2 or during TS times.

Principle- if the validity period is longer than the permit period, the full validity period cannot be used.






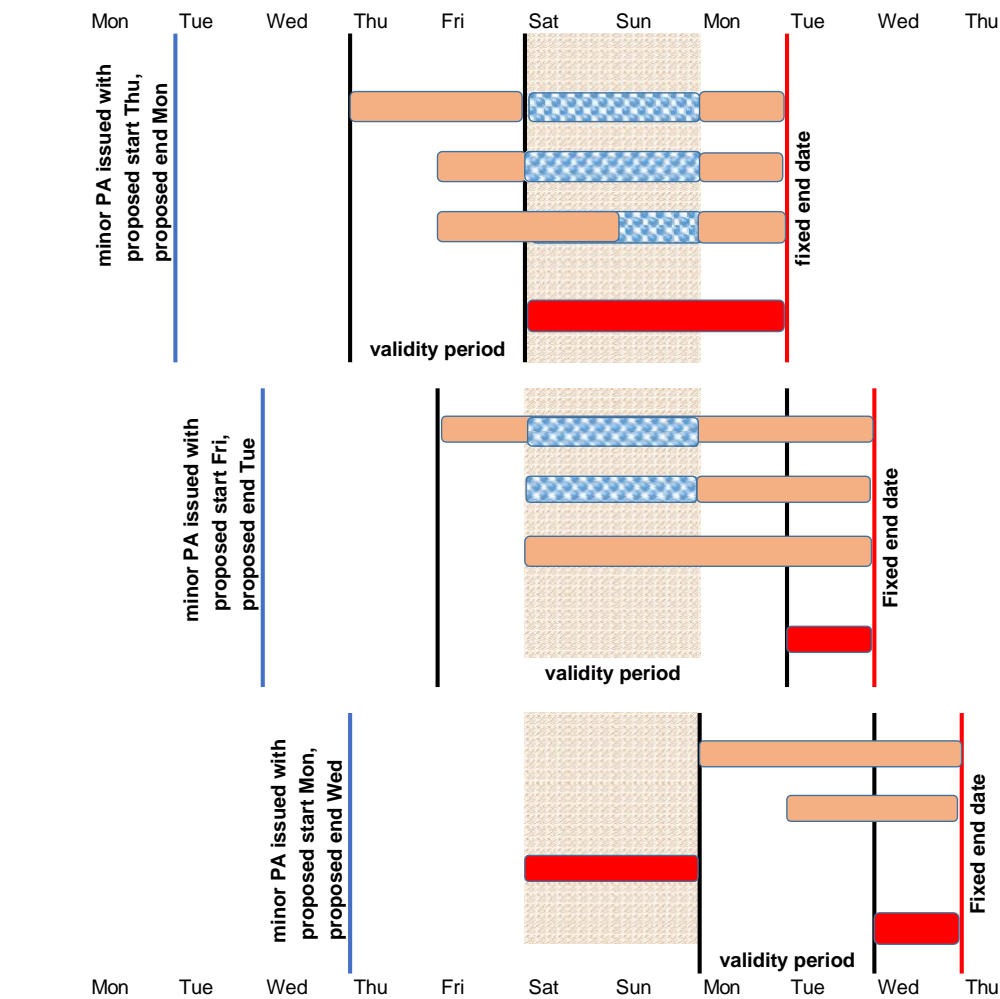
Key		
	Days on which work takes place	 Non NRSWA days
	Days on which work cannot start for this scenario	

Illustration 9.2

Examples – minor works on type 0,1 or 2, or during TS times

Minor works permit on Type 0,1,2 or during TS times

Principle: Start date may move within the validity period, but end date is fixed.






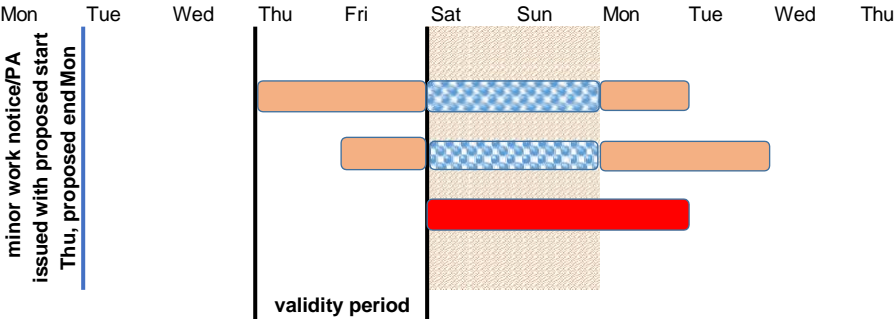
<u>Key</u>					
	Days on which work takes place		Non NRSWA days		Days on which work cannot start for this scenario

Illustration 9.3

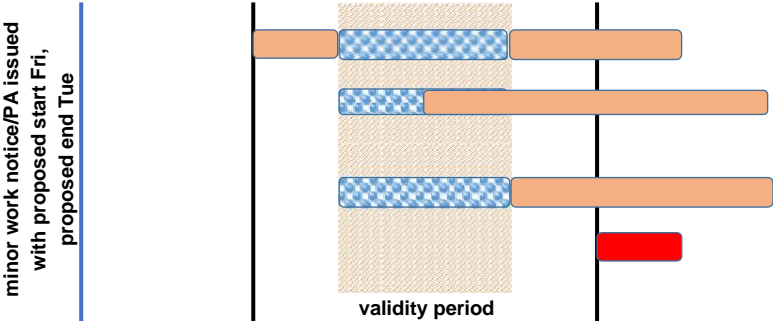
Examples – minor works on non TS type 3&4

Minor works notices or permit for type 3 &4 during non TS times.

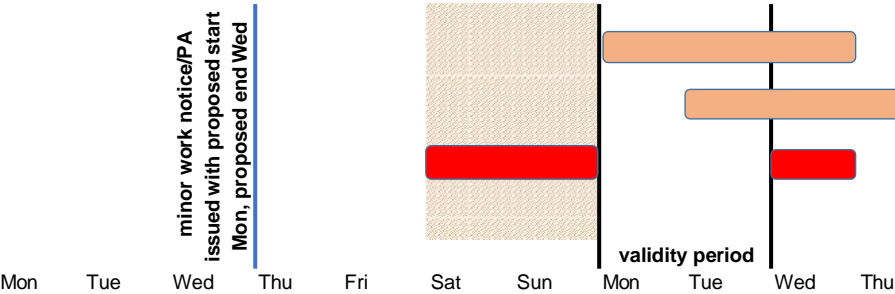
Principle- duration is fixed by the s55/PA and the start date may move within the validity period.



- Work starts on date planned for duration planned.
- Work starts on day 2 of validity period for the planned duration, moving the end date.
- Work not started within validity period. A new notice /PA should be raised if required.



- Work starts on date planned for duration planned.
- Work may start on a non NRSWA day where this is within the validity period. Unless this has been prohibited by the authority.
- Work starts on day 2 of the validity period and may continue for the planned duration.
- Work not started within validity period and cannot proceed without authority agreement to extend validity period.



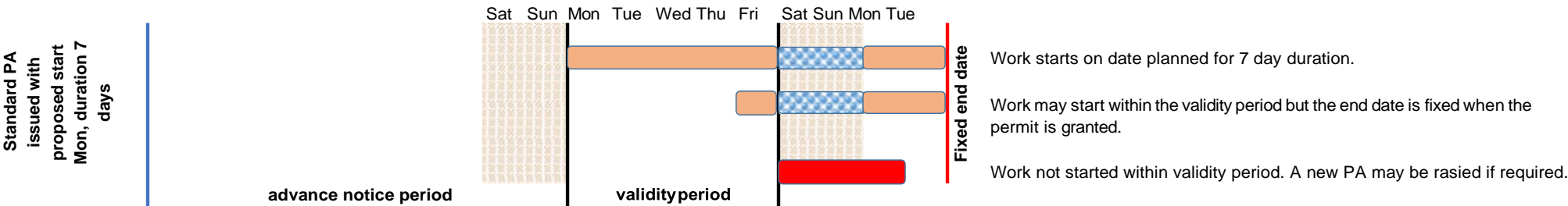
- Work starts on date planned for duration planned.
- Work starts on day 2 of validity period and may continue for planned duration
- Work cannot start on the non NRSWA days preceding the proposed start date.
- Work cannot start beyond the validity period.

Illustration 9.4

Examples – Standard works notifications

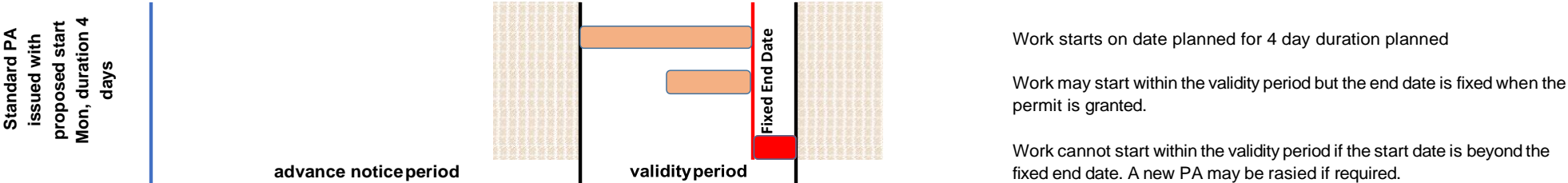
Standard works Permits for type 0,1,2 and during TS times

Principle: Works start date may move within the validity period, but works end date is fixed.



Standard works permit of duration 4 days on type 0,1,2 and during TS times.

Principle- The period in which work can be undertaken is less than the validity period



Standard works notices or permit for type 3 &4 during non TS times.

Principle- works duration is fixed by the s55/PA and the works start date may move within the validity period.

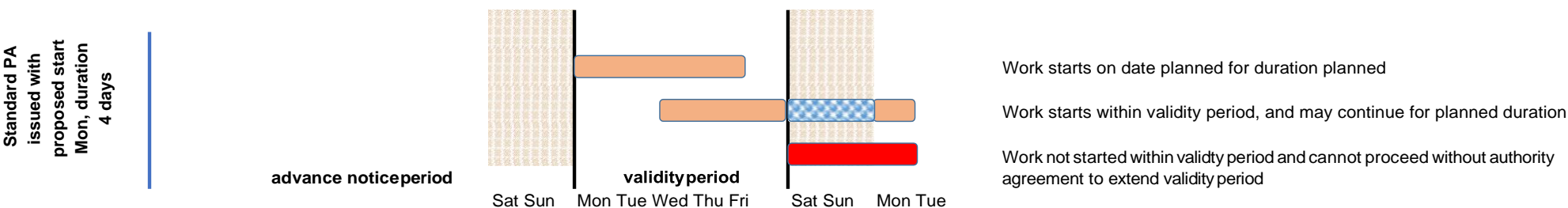
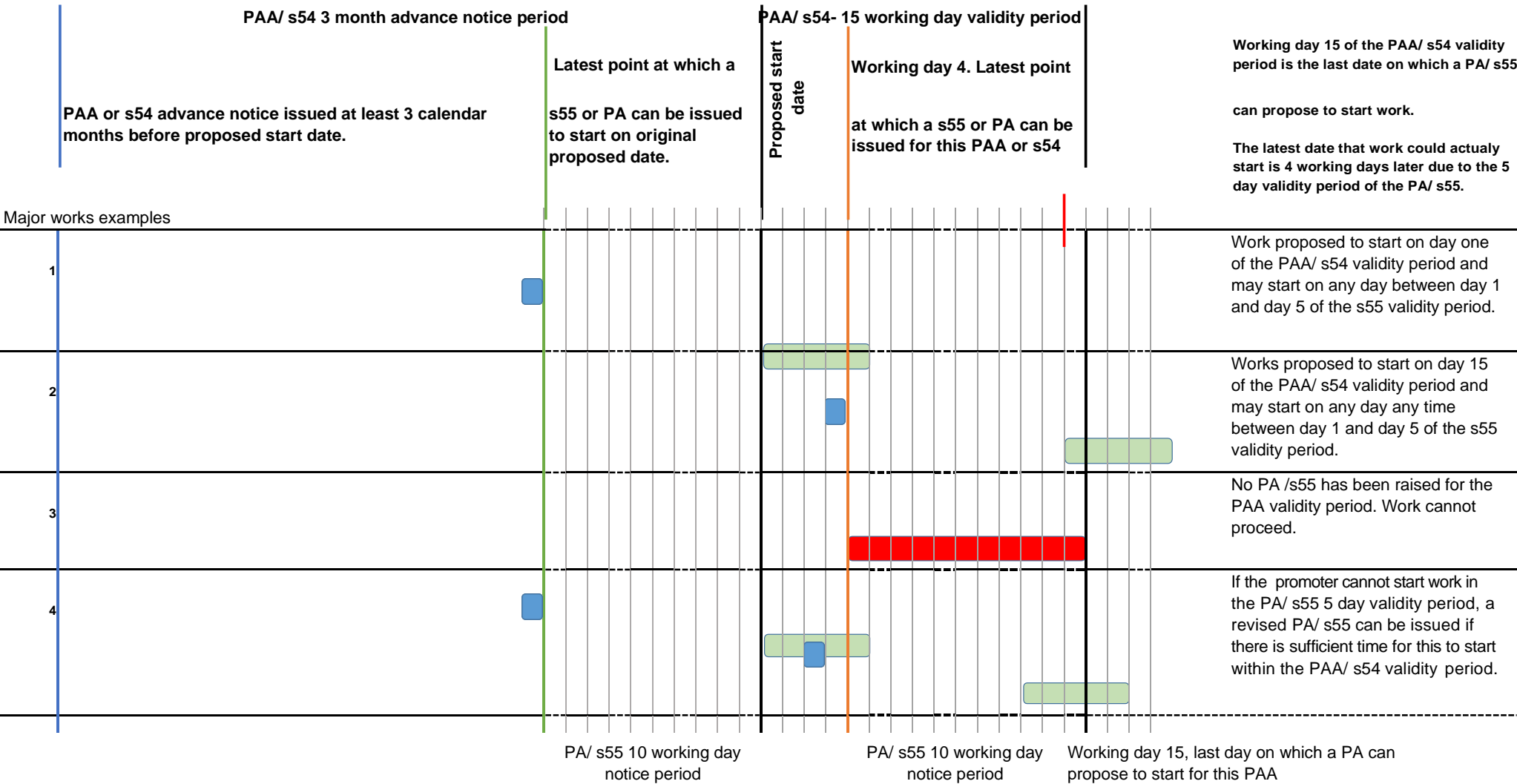


Illustration 9.5

Examples – major works notifications

Major works overview



Key

PA/ s55 validity period- work may start during this period.

PA/ s55 issued

Work cannot start as no PA/ s55 has been issued for the PAA/ s54 validity period.

CHAPTER 10 - Charging Schemes

10.1 Introduction

Authorities have a Network Management Duty⁵¹ to secure the expeditious movement of traffic on their, *and* neighbouring authorities', street networks. Additional powers to support this duty within NRSWA, as amended by the Transport Act 2000 and the TMA, are the provision for two charging schemes:

- section 74A – Charge determined by reference to duration of works; and
- section 74 – Charge for occupation of the highway where works unreasonably prolonged.

These two charging schemes should be used in such a way as to maximise capacity on the road network, with parity of approach to all Promoters, for the benefit of the public.

10.2 Section 74A – Charge determined by reference to duration of works

Section 74A requires Promoters to pay a daily charge for occupation of the highway whilst carrying out works. This is called 'Lane Rental'.

The Street Works (Charges for Occupation of the Highway) (England) Regulations 2012 (Statutory Instrument No 425) makes provision about section 74A charges. Separate non-statutory guidance about lane rental is available on the Department for Transport's website.

HAUC(England) may produce lane rental guidance to support those developing, operating and working in lane rental schemes.

10.3 Section 74 – Charge for occupation of the highway where works unreasonably prolonged

Section 74 of NRSWA allows Authorities to charge Promoters if works are unreasonably prolonged (i.e. take longer than previously agreed) and specifically for Statutory Undertakers where they are "*executing street works in a maintainable highway*"⁵². Chapter 7 details the definition of "*street works*".

If the works take longer than the "Prescribed Period" *and* either the permit

⁵¹ Traffic Management Act 2004, Part 2, section 16 *The network management duty*.

⁵² NRSWA section 74(1).

duration or the “Reasonable Period”, described later in this chapter, they become ‘unreasonably prolonged’. The Authority may levy a daily charge for each working day in excess of the longer of the two periods. The first chargeable day is the next working day of occupation, and is a daily rate regardless of how much of the day the site remains occupied; any subsequent reduction or waiving of charges are covered in 10.10.

The regulations, *The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009* (as amended)⁵³, apply to every publicly maintainable street, except:

- *a footpath or bridleway;*
- *a highway with a pedestrian planning order in force; and*
- *a highway where vehicular traffic is prohibited by a traffic order⁵⁴ – unless that prohibition is restricted to particular times.*

It is important to note that the exemptions above do not just relate to the charging under section 74, but the requirements detailed in section 74 and the associated Regulations. However it is good practice to treat all works as if it did apply, to ensure accurate information is available to the Authority, supporting their Network Management Duty, and also to inform the public.

10.4 Exempt Works

As well as parts of the highway where section 74 does not apply (see 10.3) there are also activities in applicable highway that are exempt from section 74 charges.

These exemptions are covered in the regulations⁵⁵ as follows;

Works that do not involve breaking up the street, or tunnelling or boring under it, and which take place;

- i. in a street which is neither a traffic-sensitive street nor a protected⁵⁶ street;*
- ii. in the footway of a traffic-sensitive street at a traffic-sensitive time;*
- iii. in the footway of a protected street at any time*

In addition, charges may not be levied against:

- replacing poles, lamp columns or signs in the same location;
- pole testing;
- any small diameter holes of less than 30mm diameter created for investigatory purposes (for example bar holes);

⁵³ Amended by The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2012 SI 2272 Regulation 5.

⁵⁴ “Traffic Order” means an order made under section 1,6 or 9 of the Road Traffic Regulation Act 1984

⁵⁵ The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2009 SI 303 Regulation 9(2) (As Amended).

⁵⁶ “Protected street” as defined in NRSWA 1991 section 61 & 62

- works for road purposes (see Glossary);
 - diversionary works (i.e. works needing to be taken in relation to an undertaker's apparatus in consequence of major highway, bridge or transport works – see section 84 of NRSWA and the associated *Code of Practice "Measures necessary where apparatus is affected by major work (Diversionary Works)1992"*); and
 - any warning signs legitimately left in place for a period following completion of the works (e.g. to warn of a slippery road surface).
 - activities carried out under an "Information Only" permit.
- If works are exempt, it is recommended that the Promoter should ensure the works description or activity type reflects this.

10.5 Prescribed Period

The "Prescribed Period" is the period during which no overrun charges can be levied. It has been set by the Secretary of State, in Regulations⁵⁷, at two working days, starting on the date works begin.

The length of the prescribed period is the same for all works. Its length is not a relevant consideration when Authorities and Promoters are trying to agree a 'reasonable period' for any given set of works, and should not be set as the default for any works duration.

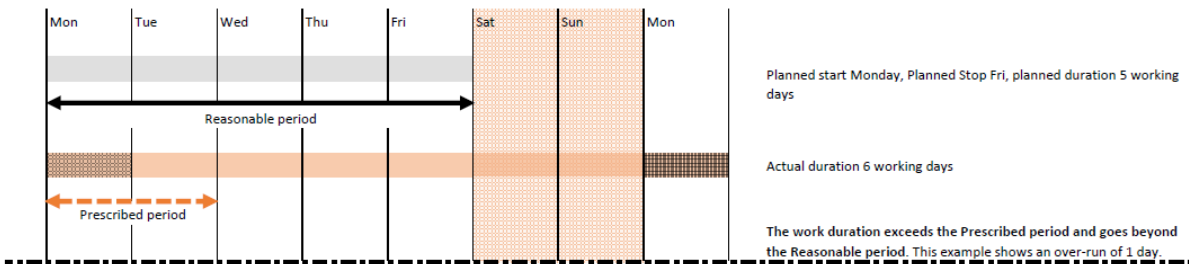
Every works covered by a permit or notice will have a prescribed period of two working days. Each phase of works has a new permit or notice and the prescribed period is reset each time.

The following diagrams provide illustrated examples of how the various time periods for a works operate.

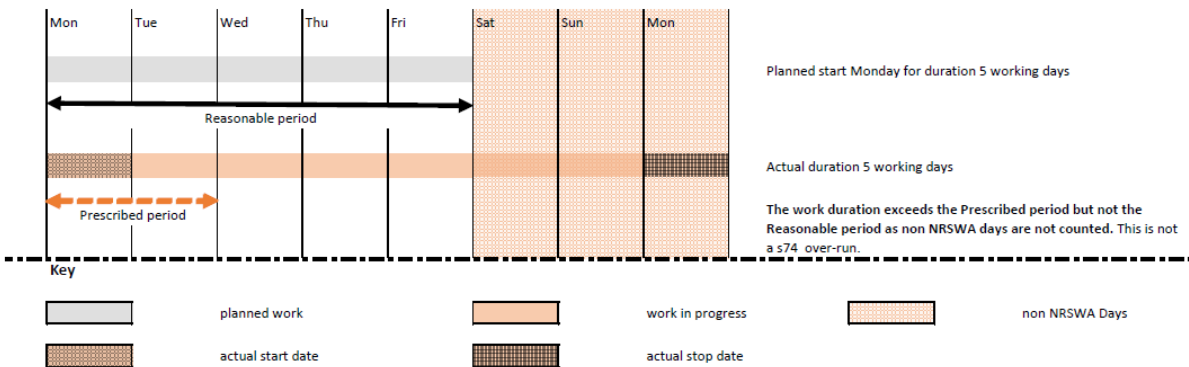
⁵⁷ 2009 SI 303 as amended by 2012 SI 2272 Regulation 7

In the following examples, the Reasonable period is set by the duration proposed in the granted or deemed permit and is fixed to the date range set by the permit. The Prescribed period starts when work starts.

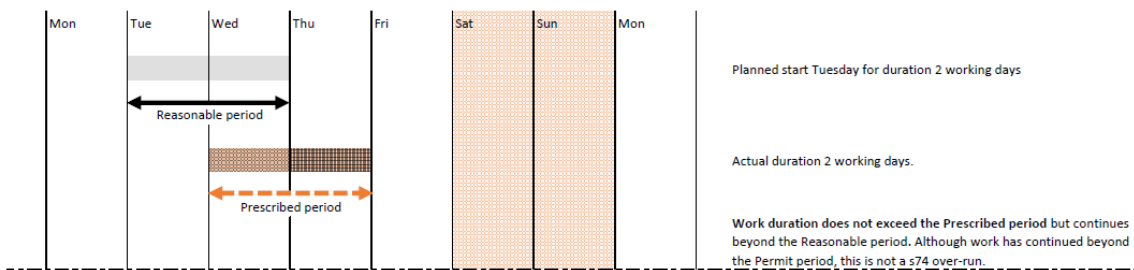
Example 1. Showing Prescribed and Reasonable periods with an over-run.



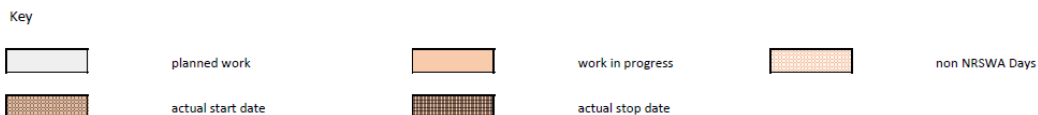
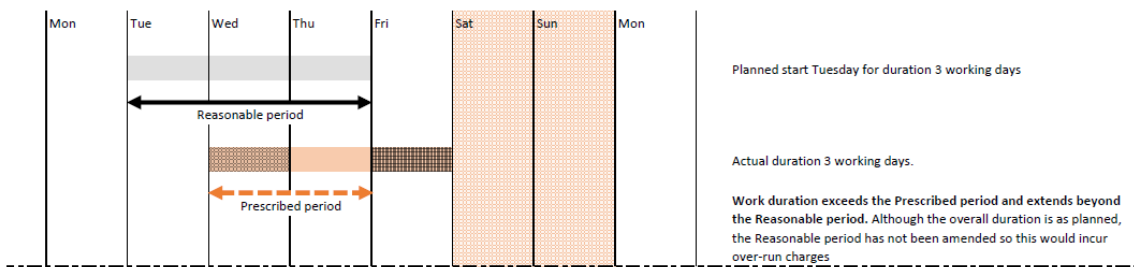
Example 2. Showing Prescribed and Reasonable periods with a bank holiday



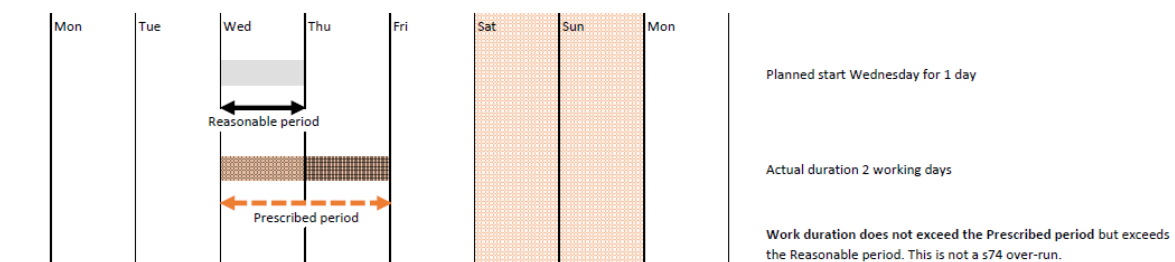
Example 3. the specific case involving work of 2 day duration, where work does not start on the first day of the validity period



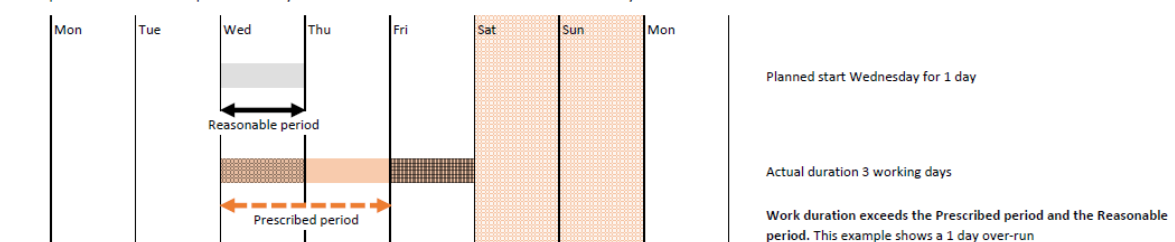
Example 4. work does not start on the first day of the validity period and goes beyond the permitted date.



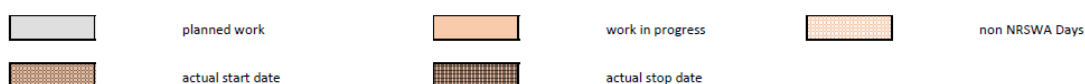
Example 5. the specific case where the Reasonable period is 1 day and the actual duration of work is 2 days.



Example 6. the Reasonable period is 1 day and the actual duration of work is more than 2 days.

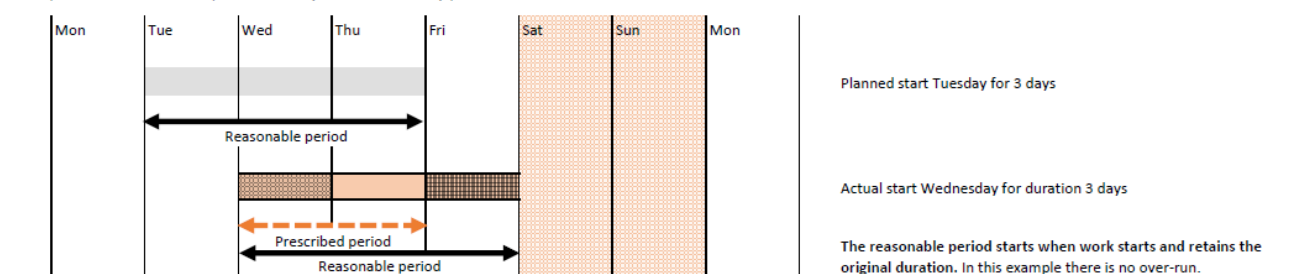


Key

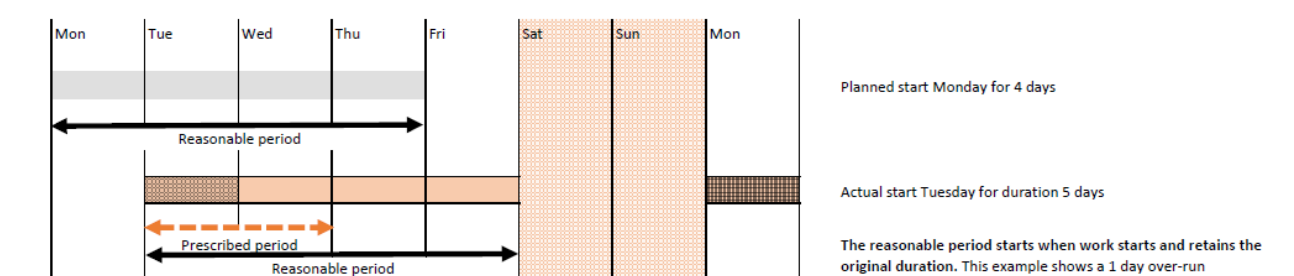


In the following examples, the Reasonable period is set by the duration proposed in the notice* or in the granted or deemed permit (type 3 and 4 non TS only) . The Prescribed period starts when work starts.

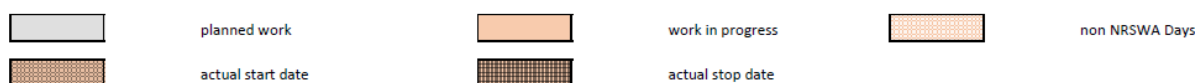
Example 7. the Reasonable period is 3 days and the Validity period** allows both start and end dates to move.



Example 8. the Reasonable period is 4 days and the Validity period** allows both start and end dates to move.



Key



*where a notice regime applies

** see 9.3 for Validity periods in practice

10.6 Reasonable Period

A “Reasonable Period” is a period agreed via the permit or notice, between the Promoter and the Authority, as reasonable for the street works in question. In default of agreement, it is the period determined by dispute resolution to be reasonable.

The reasonable period should be agreed within two working days of receipt of the notification of proposed minor or immediate works, or five working days for major or standard works. In practice, this agreement is done by granting a permit application or in the case of a notice taking no further action.

Works will have three different time periods; the prescribed period, the reasonable period and the permit period (or works duration). On the application and grant of a permit, the reasonable and permit period will be the same. If there is a change to the permit duration after it is granted, the reasonable period will need to be reset along with the permit period. There may be circumstances where the Authority only extends the permit period and not the reasonable period. The Authority should provide an explanation to justify this decision as section 74 charges may apply for the extended occupation.

10.7 Duration of Works

All permit applications and notices should include proposed start and end dates so that the **estimated duration** can be calculated for section 74 purposes, and it is this estimated duration that is agreed to set the Reasonable Period.

The **actual duration** used to assess whether works have overrun is measured from the *date* provided in the Actual Start notice to the *date* provided in the Works Closed notice (see 10.7.8 for notification timescales). It is important to extend the duration of a works if they will not be completed in the original timeframe. Please see 10.6 for the potential consequences regarding the reasonable period.

Interim and permanent reinstatements are separate phases. The period between these cannot be considered as an overrun provided the site has been properly cleared and fully returned to public use. In other words, all spoil, excess materials, stores, plant and equipment and all signs, lighting and guarding must be removed from site before works can be regarded as finished. See also 10.11 for guidance for circumstances where mitigated charges may apply.

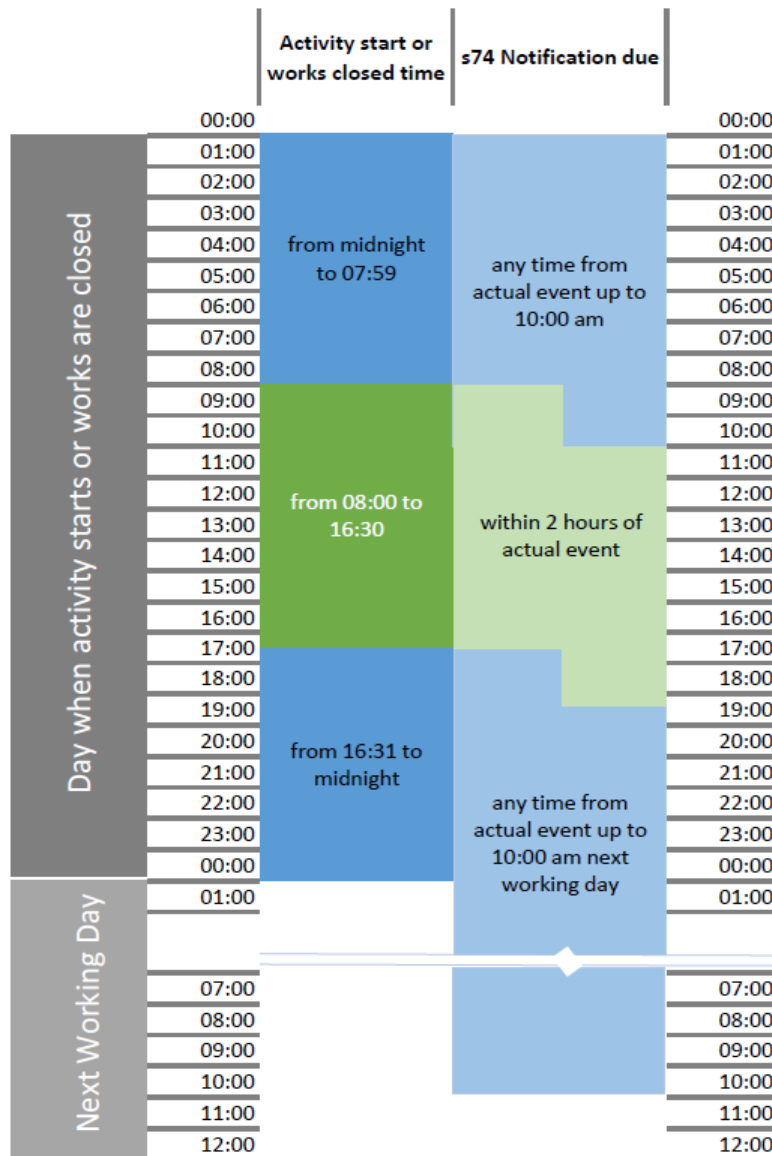
Further works to complete the reinstatement, for example the replacement of temporary road markings with permanent ones where delay is permitted by the *Specification for the Reinstatement of Openings in Highways*, should be

indicated by using the appropriate phase type, such as “interim reinstatement”. This includes circumstances where other materials in the highway are permanent.

Where the highway has been restored to use but the works cannot be fully completed in accordance with the SROH (i.e. permanent markings or high friction surfacing or similar that require a delay before application), suitable warning signs should be in place. These signs are not subject to s74 charges.

10.8 Notification Timescales for Actual Starts and Works Closed

This section explains the timescales for issuing notifications to update the status of works. These notifications must be given via the electronic system prescribed for this purpose. A diagram is provided here to illustrate the requirements for both notifications explained in this section.



10.8.1 ACTUAL STARTS

The Promoter must⁵⁸ give the Authority notification that works have begun on the highway, this is known as a “Start” notice. The point at which works have begun is when the occupation of the highway has started, such as the setting out of the traffic management but does not include the legitimate parking of vehicles prior to that. From this point the timescales for notification being received by the Authority are:

- Works start within the period 12am through to 7:59am on a working day:
Start notice received by 10am on the same day
- Works start within the period 8:00am through to 4:30pm on a working day:
*Start notice received within 2 hours**
- Works start within the period 4:31pm through to 11:59pm on a working day:
Start notice received by 10am on the next working day
- Works start on a non-working day (e.g. Saturday, Sunday, Public Holiday):
Start notice received by 10am on the next working day

*this mean two consecutive hours, e.g. work starts at 3:25pm = *Start notice received by 5:25pm same day.*

10.8.2 WORKS CLOSED

The Promoter must⁵⁹ give the Authority notification that works have completed on the highway, this is known as a “Works Stop” notice. For works to be complete the Promoter must have;

- Completed the interim or permanent reinstatement of the highway
- Removed;
 - All Signing, lighting and guarding, and
 - All remaining spoil, unused material and other plant
- Returned the highway fully to public use

From the point at which the highway is fully return to public use, the timescales for notification being received by the Authority are:

- Within the period 12am through to 7:59am on a working day: *Works Stop notice received by 10am on the same day*
- Within the period 8:00am through to 4:30pm on a working day: *Works Stop notice received within 2 hours***

⁵⁸ The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2009 SI 303 Regulation 6 Notices (As Amended)

⁵⁹ The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2009 SI 303 Regulation 6 Notices (As Amended)

- Within the period 4:31pm through to 11:59pm on a working day: *Works Stop notice received by 10am on the next working day*
- On a non-working day (e.g. Saturday, Sunday, Public Holiday): *Works Stop notice received by 10am on the next working day*

***this mean two consecutive hours, e.g. site cleared at 4:10pm = Works Stop notice received by 6:10pm same day.*

10.9 Informal Warning

Authorities have a network management duty (under TMA) to manage their network in such a way that reduces disruption to the movement of traffic. Therefore it is strongly recommended that an overrun warning is given, through the prescribed electronic system, where works are found in progress or items found left on site following receipt of a Works Stop notice. This is good practice to ensure prompt removal of any obstruction to the movement of pedestrians and other traffic. The issue of an informal warning does not exempt undertakers from any of their statutory obligations or from any liability for section 74 charges.

10.10 Charging Regime

A daily charge is applicable for each working day that the works exceed the longer of the prescribed or reasonable periods (see also 10.3). The maximum daily charge varies according to;

- the road category,
- if the street is traffic sensitive, and
- whether or not the works occupy the carriageway during the period of overrun.

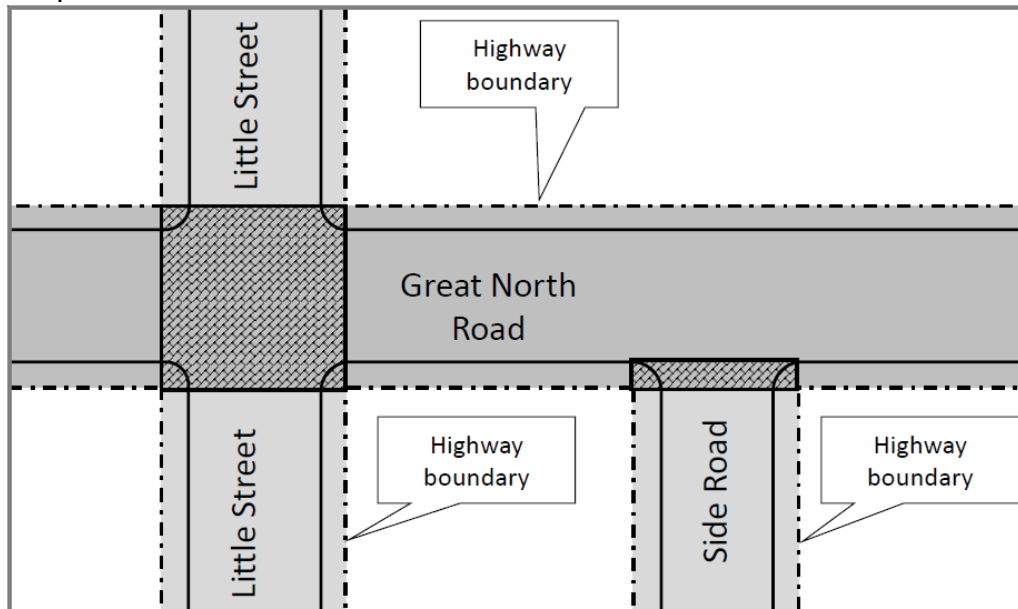
Road category is an indication of the importance of the street – 0 being the highest, 4 the lowest. Information about determining a road's category can be found in the *Specification for the Reinstatement of Openings in Highways (SROH)*.

The road category, as given in the Additional Street Data, should be treated as definitive. If road categories have not been entered on the National Street Gazetteer (NSG), they will be treated as category 4 for purposes of overrun charges. Authorities should ensure that street information on the NSG is up to date.

For works in an area that could be regarded as belonging to more than one street, charges should apply to the street with the highest road category. This is of particular significance for works at a junction.

In the plan below, Little Street and Side Road are category 4 roads and Main Road is a category 2 road. If a Promoter proposes works in an area, marked in a herringbone pattern, a permit or notice should be given against Great North Road.

If the intersecting roads are covered by different Authorities, the permit or notice should be given against Great North Road but copied to the authority responsible for the minor road.



10.10.1 MAXIMUM DAILY CHARGES

The applicable charges are set out in Tables 10.1 and 10.2 below. These are *maximum* charges, as the Authority has an *explicit* power⁶⁰ to reduce or waive charges as it sees fit and should exercise these powers of discretion reasonably.

Promoters should plan and manage their works effectively in line with their statutory duty to avoid unnecessary delay or obstruction on the highway. However, such circumstances may arise where Promoters can demonstrate that they have made genuine errors (and not repeated errors of the same type) and Authorities should consider each situation on its own merit and the conclusions reached need to be based on all of the specific circumstances.

Authorities must act reasonably when applying their powers as their decisions may be liable to challenge. Therefore, Authorities are strongly recommended to develop procedures that will stand up to audit where discretion or mitigation has been applied. It is recommended that consideration is given to the level of disruption and resultant impact on the highway network is taken into account when considering the reasonableness of charges applied.

⁶⁰ The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2009 SI 303 Regulation 9(10) (As Amended).

Table 10.1 Maximum charges in relation to works occupying the carriageway during period of overrun

Item	Description of street	Amount (£)(each of first three working days)	Amount (£)(each subsequent working day)
1.	Traffic-sensitive or protected street not in road categories 2, 3 or 4.	5,000	10,000
2.	Other street not in road categories 2, 3 or 4.	2,500	2,500
3.	Traffic-sensitive or protected street in road category 2.	3,000	8,000
4.	Other street in road category 2.	2,000	2,000
5.	Traffic-sensitive or protected street in road category 3 or 4.	750	750
6.	Other street in road category 3 or 4.	250	250

Table 10.2 Maximum charges in relation to works outside the carriageway during period of overrun

Item	Description of street	Amount (£) (each working day)
1.	Street not in road category 2, 3 or 4.	2,500
2.	Street in road category 2.	2,000
3.	Street in road category 3 or 4.	250

For the purposes of determining what charges are due, works are treated as being complete when;

- interim or permanent reinstatement has been completed,
- all road markings have been replaced to at least a temporary standard,
- all signing, lighting, guarding, spoil, materials and plant have been removed,
and
- the highway has been returned fully to public use.

For traffic-sensitive streets, the applicable maximum daily charge depends on whether or not the works affect the carriageway during the period of overrun. For these purposes, the highway authority may treat the overrun as affecting the carriageway if, at any time **during the overrun period**:

- there is any excavation of the carriageway where interim or permanent reinstatement has not been completed;
- any signing, lighting, guarding, spoil, materials or plant remain in the

- carriageway;
- some other aspect of the works prevents the normal free passage of traffic (including pedestrians) along the full width of the carriageway

Where there has been a reasonable attempt to complete or replace;

- reinstatement and/or
- markings and/or
- special surfaces

to a temporary, interim or permanent standard, but on inspection these do not meet the performance specification⁶¹ then section 74 does not apply. Instead the procedure in the Code of Practice for Inspections for non-compliance with the SROH should be followed. That is to say, no part of the highway is obstructed or otherwise unavailable for the normal passage of traffic (including pedestrians) for any reason connected with the works, with the exception of legitimately parked vehicles.

10.11 Mitigated Charges

In most circumstances, if the prescribed and reasonable periods have ended and reinstatement (either interim or permanent) has been completed and notified but the site has not been fully returned to public use (e.g. if spoil, excess materials, stores, plant and equipment, signs, lighting or guarding have not been removed (see 10.7)), the undertaker will be liable for overrun charges.

The Regulations⁶² provide for a mitigated charge of £100 to be charged in certain circumstances. This is where the works are notified as complete, however the Authority finds not more than five items of signing, lighting or guarding remaining on the highway and informs the Promoter of this; if the Promoter removes these by the end of the next working day following the date the request was received, then the charge must be £100.

If the Promoter fails to clear the site by the end of the next working day following notification by the Authority, then the authority may choose to apply the usual daily overrun charges. However, those charges should be applied only from the date the Authority informed the Promoter of the remaining items.

Authorities and Promoter should exercise common sense in determining what constitutes an “item” for these purposes.

Each situation must be considered on its merits, but the following scenarios are illustrative examples of where the use of discretion or even the mitigated charge might be appropriate:

- A Promoter can show that an overrun on a traffic-sensitive street was mostly confined to the footway and only briefly affected the

⁶¹ Specification for the Reinstatement of Openings in Highways

⁶² The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2009 SI 303 Regulation 9(7)(8)(9) (As Amended).

carriageway. In this case it might be reasonable to reduce the charge to less than the maximum daily “carriageway” rate;

- Although most signing, lighting and guarding was properly removed from the highway, more than five items were left behind in genuine error – left neatly in a location that had no significant impact on traffic (including pedestrians). In this case it might be reasonable to reduce the charge, bearing in mind that the charge would have been only £100 if up to five items had been left; and
- A Promoter has mostly completed the reinstatement and has cleared the site, but has failed to complete some aspect of the reinstatement – e.g. has made no attempt to replace road markings. If the Promoter can show that the absence of the road markings would have had no significant impact on users of the highway, a reduction in the charge might be appropriate.
- Following completion of works, a small amount of spoil remains or causes staining to the highway, without impacting on the safe operation of the highway.

10.12 Remedial Works and Subsequent Phases

Where a reinstatement is found to be defective, the subsequent remedial works shall be dealt with as new works, with their own duration estimate. Any overrun on remedial works will be charged at the appropriate rate. The period between the completion of the original works and the remedial works is not a section 74 matter.

In all cases, each phase will reset the prescribed period, see 10.5.

10.13 Charging Process

A Promoter is legally liable for section 74 charges only if the Authority sends⁶³ an account setting out the charges payable, within three months of receipt of a Works Closed notice (see 10.8.2). The account should state clearly the amount of the charge(s) which the Authority has decided to apply, and should identify the works to which each charge relates. It is recommended that these are sent by email, to an address provided by the Promoter for such purposes. The issuing of an account does not prevent further negotiation about the level of charge before the invoice is issued.

Both Authorities and Promoters should take care to ensure that the facts used for proposing or disputing charges are accurate and evidence-based, together

⁶³ The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2009 SI 303 Regulation 9(11)(As Amended).

with the category of road. Where there is evidence that the dates or location of occupation within the highway given in notifications were incorrect, the charges should be based on the evidence discovered on site. If incorrect information has been given in a notification and, if the Authority considers an offence has been committed, then it may issue a fixed penalty notice. See Chapter 11 for full guidance on the purpose and process of issuing fixed penalty notices.

Promoters may query either an overrun charge being levied or the level of an overrun charge. Therefore, it is recommended that highway authorities and undertakers discuss overrun charges before an invoice is issued.

If an overrun charge is disputed, the dispute resolution procedure in Chapter 13 should be followed.

Once the charge is agreed the invoice should be issued and paid promptly.

The Authority has to keep accounts⁶⁴ of the charges that it levies. Money obtained through levying charges can be used to pay for the cost of running the overrun charging scheme. Any excess must be used to develop and implement safe, integrated, efficient and economic transport facilities and services.

⁶⁴ The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway)(England) Regulations 2009 SI 303 Regulation 12 (As Amended).

CHAPTER 11 - Fixed Penalty Notices

11.1 Introduction

The **Fixed Penalty Notice (FPN)** scheme was introduced by Section 41 of the **Traffic Management Act (TMA 2004)**, which inserted Section 95A and Schedules 4A and 4B into NRSWA. This allows for certain legislative offences, under Part 3 of NRSWA (Street Works in England and Wales), to become Fixed Penalty Offences.

An FPN gives a promoter the opportunity to discharge any liability to conviction for a Fixed Penalty Offence, by payment of a penalty. This allows for resolution of minor infringements, without resorting to taking the matter to the Magistrates' Court, which can be both timely and costly to all parties involved. It is crucial that FPN's are served appropriately (i.e. in the situations where they are of most benefit) and any issues are resolved swiftly

The objectives of the FPN scheme are to:

- Encourage accurate and timely notice and permit information
- Improve the co-ordination of works
- Ensure compliance with permit conditions
- Improve data quality for all promoters
- Contribute to the wider aims of the TMA – including minimising disruption arising from road and street works, through provision of accurate and timely data to facilitate co-ordination of works.

It is important to note that FPNs:

- Apply to all Promoters, whether statutory undertakers or licensees under Section 50 of NRSWA
- May be given only for the street, or section of street, in which the works take place
- Cannot be given for authority works for road purposes, unless additional authority agreements exist to allow for contractual FPNs outside of NRSWA. Even if this is not the case, it is strongly recommended that an authority monitors the accuracy and timeliness of all notices and permits for works for road purposes to ensure parity to all promoters as required under the TMA.

11.2 Fixed Penalty Offences

11.2.1 OFFENCE TYPES

There are currently nine NRSWA offences (two specifically for Permit Scheme offences, and another for Lane Rental) which can be dealt with through the FPN scheme.

It is important that accurate information is provided in notices given under s54, s55 or s57, s70, s74A (*for Lane Rental schemes only*) and s74(7B) of NRSWA. Each set of works requires multiple notification types, so it is possible for more than one FPN to be issued for each set of works. However, typically only one FPN should be issued per notification type regardless of the number of errors – unless the authority has strong cause to issue more than one.

- These offences mainly refer to **notification failures**. Issue or payment of an FPN does not exempt an offender from other prosecutions or charges under NRSWA (e.g. s74 overruns).
- Authority Permit Schemes cannot create any additional FPN offences.
- For Authorities operating Permit Schemes, Statutory Guidance introduced offences under Regulation 19 (working without a permit) and Regulation 20 (breach of permit conditions). Again, typically only one FPN should be issued per notification type or condition breach, regardless of the number of errors – unless the authority has strong cause to issue more than one.
- These offences typically arise from **site activity failures** in relation to agreed permit conditions. Again, issue/payment of an FPN does not exempt an offender from other prosecutions or charges under NRSWA (e.g. s74 overruns).

The table, on the following page, summarises the duties and obligations to which the nine FPN offences relate. Due to the wide scope of noticing offences, it is not possible to categorically state what constitutes an offence under each NRSWA section.

All these offences can be prosecuted in Magistrates' Court. It is for the relevant authority to act on offences as they see fit.

The authority retains the power to take an alleged offender to the Magistrates' Courts, instead of giving an FPN.

All parties are strongly recommended to communicate openly, and consult NRSWA, the TMA and latest regulations for further information.

- It is important to note that under Permit Schemes, offences under s54, s55 & s57 are dis-applied. Any offences to be served should be issued under the correct code for Permit Scheme offences.

- An FPN is a legal transaction, therefore every effort should be taken to ensure the accuracy of information given when served.

Table 11.2.1 Summary of duties and obligations			
Offence	Offence Level	Brief description	Duties and obligations
An offence under s.54(5)	4	<p>Failure to comply with duties under s.54</p> <p><i>Dis-applied under Permits</i></p>	<p>In certain cases, prescribed in regulations prescribed periods of advance notice must be given to an authority by a promoter proposing to execute street works.</p> <p>Each notice must state the proposed start date on which it is proposed to begin the works and contain the information prescribed in regulations.</p>
An offence under s.55(5)	4	<p>Beginning to execute works in contravention of s.55</p> <p><i>Dis-applied under Permits</i></p>	<p>In relation to certain types of street works a promoter must give prescribed periods of advance notice, before works start, stating the proposed start date and containing information prescribed in regulations.</p>
An offence under s.55(9)	4	<p>Failure to give notice in accordance with s.55(8)</p> <p><i>Dis-applied under Permits</i></p>	<p>If the notice of starting date ceases to have effect, the promoter must give a further notice containing such information as may be prescribed in regulations and within the prescribed period.</p>
An offence under s.57(4)	4	<p>Failure to give notice in accordance with s.57</p> <p><i>Dis-applied under Permits</i></p>	<p>A promoter must give notice, stating intention or, as the case may be, the fact that works have begun to be executed on site and must be given within 2 hours (or such other period as may be prescribed) of starting works.</p>

Table 11.2.1 <i>continued</i>			
An offence under s70(6) consisting of a failure to comply with subsection (3) or (4A)	4	Failure to comply with requirements to give notice of completion of reinstatement	Section 70(1) imposes a general duty on the promoter to reinstate the street. The promoter must, within ten working days from the date on which the reinstatement is completed give notice, containing the prescribed information, to the authority of that completion.
An offence created by regulations made under s.74(7B)	4	Failure to give a notice required by regulations under s.74 (<i>charge for occupation of the highway where works unreasonably delayed</i>)	The promoter must provide the appropriate notifications, under S74, as per the prescribed regulations. Further information can be found in Chapter 10 of this code.
An offence created by regulations made under s74A(11)	4	Failure to give a notice required by regulations under s.74 (<i>Charge determined by reference to duration of works</i>)	A promoter executing street works in a highway, to which these regulations apply (i.e. Lane Rental schemes), must, not later than the end of the day following the day on which the works begin, give the approved authority an "actual start of works notice". This should confirm the start date (and/or time) and specify by reference to the nationally consistent street gazetteer, the street or streets in which the works are to be carried out.
An offence under regulation 19 - Part 2 of the DfT Statutory Guidance for Permit Schemes National Conditions (July 2020)	5	Working without a Permit on a street covered by a Permit Scheme	It is an offence for a promoter to carry out works without a permit in authority area where the street in which work takes place forms part of a Permit Scheme.

Table 11.2.1 <i>continued</i>			
An offence under regulation 20 - Part 2 of the DfT Statutory Guidance for Permit Schemes National Conditions (July 2020)	4	Breach of permit conditions	It is an offence for a promoter to breach any permit condition agreed with the authority during the permit approval process.

The decision as to whether a case justifies the giving of an FPN, or prosecution in the Magistrates' Court, is for the relevant authority to decide upon – based on the facts of the case, their own legal advice, and any internal enforcement policy.

- Authorities should act responsibly before issuing FPNs that discourage submission of accurate information. For instance, following an FPN being given for working without a permit, giving further FPNs for retrospective works start and works stop (when the time to serve them correctly has passed) is not encouraged.
- Following identification of an FPN offence it is important that, in addition to payment of any fixed penalty to discharge liability, the issue creating the offence is resolved by the promoter within a reasonable time period.

11.2.2 CONTINUOUS VS. REPEAT OFFENCES

Where an issue or similar issues arise spanning more than a single day and which could result in an FPN, there is a clear distinction between the two routes of action:

- 1) **Continuous** – a single ongoing FPN offence that hasn't been substantially resolved, existing for more than a single day (e.g. clearance of spoil where this is a permit condition).
 - Where an identified offence is not being resolved to the point that operational safety is compromised, it is recommended that further action be taken by the authority to resolve the situation at the earliest possible time.
- 2) **Repeat** – an offence or similar that is found to have been committed on more than one day and is distinctly from continuous (the same offence).
 - Where the initial offence is corrected but then repeated on other days, an FPN should be issued for the first offence and for additional similar offences where the permit

authority has noted that the offence has been additionally committed on subsequent days.

11.3 Penalty Fees & Time Periods

FPNs should be issued as soon as reasonably practicable following identification of offence. It cannot be given more than 91 calendar days after the date of offence, beginning on the day of offence – unless otherwise agreed between both parties.

The penalty charges for FPN offences are:

Offence	Full Charge
NRSWA Sections 54,55,57,70,74 or 74A	£120
Regulation 19 (Working without a Permit)	£500
Regulation 20 (Breach of Permit Conditions)	£120

The period for payment is 36 calendar days, beginning with the day on which the FPN is given. The authority may extend this period at its discretion in any case.

A discounted charge will apply **if payment is made within 29 calendar days**, beginning with the day on which the FPN is given. The discounted period cannot be extended, unless the last day of the discounted period does not fall on a working day – the discounted payment period is then extended until the end of the next working day.

Discounted charges are as follows:

Offence	Discounted Charge
NRSWA Sections 54,55,57,70,74 or 74A	£80
Regulation 19 (Working without a Permit)	£300
Regulation 20 (Breach of Permit Conditions)	£80

If the promoter pays either the full penalty, or the discounted charge, within the required 36 calendar day period, no further proceedings can be taken for that offence.

If the authority chooses to issue an FPN for an offence, any legal proceedings for that offence cannot commence until after the end of the 36 calendar day payment period – unless otherwise agreed by both parties.

If the promoter does not pay the proposed penalty within the 36 calendar days permitted, the authority may choose to bring proceedings in the Magistrates' Court for the offence.

Authorities should be aware of the deadline under Section 127 of the Magistrates' Courts Act 1980 to bring cases before Magistrates' Court within 6 months from the time at which the offence was committed.

- Due to this 6 month time limit, it is strongly recommended that promoters engage in open dialogue to resolve Fixed Penalty Offences within the 36 day payment period wherever possible.

11.4 Guidance for Street Authorities

11.4.1 BASIC PRINCIPLES

Open communication between authorities and Promoters is essential for timely resolution of matters related to FPNs.

Authorities are strongly recommended to issue FPNs at the earliest possible time following discovery of the offence, and in instances where they have the most benefit in assisting with fulfilment of their Network Management Duty. The same due process should be applied when giving an FPN, as an authority would normally follow in taking the Promoters to Magistrates' Court for the offence; this should include sharing of evidence to support or defend the offence where requested.

An agent may deal with FPNs on behalf of the authority. The authority remains responsible for ensuring that the powers under Section 95A of NRSWA are used correctly and responsibly.

- It is important to stress that issuing FPNs should not be used as the primary method of communicating safety issues to works promoters, to avoid delays in fundamentally resolving issues.

11.4.2 SERVING THE FIXED PENALTY NOTICE

The FPN must be given in the format and the manner prescribed in the regulations⁶⁵.

An FPN is deemed to have been given on the date and time recorded in the prescribed electronic system.

It is important that the issuing authority collect and provide enough evidence to accompany the FPN (e.g. Works Inspection Report) demonstrating any offence, to avoid delays in resolution and support any Magistrates' Court decision. Photographs are not a requirement, but strongly recommended to visually

⁶⁵ The Street Works (Fixed Penalty) (England) Regulations 2007 SI 1952 (as amended) *Regulation 5*

demonstrate any issues that have arisen on site.

11.4.3 WITHDRAWING A FIXED PENALTY NOTICE

If an authority considers that an FPN offence has not been committed at any point following issue, the FPN should be withdrawn and any amount that has been paid by way of penalty should be repaid. Proceedings shall not be commenced or continued for that offence.

In any other circumstances where an FPN is to be withdrawn, it should be done so in accordance with the regulations⁶⁶.

The FPN withdrawal must be given in the format prescribed in the regulations⁶⁷.

11.5 Guidance for Works Promoters

11.5.1 BASIC PRINCIPLES

Open communication between authority and promoters is essential for timely resolution of matters related to FPNs.

Any FPN will be given to the promoter executing the works and not to any contractor carrying them out.

- It is important to note that under permitting offences (Regulation 19 & Regulation 20), it is possible for a contractor to be prosecuted for an offence, as well as the promoter.

The promoter should inform the authority if it wishes FPNs to be handled by any third party agent. The promoter remains responsible for any FPNs given to them, along with responsibility for managing the process of resolving any FPN and ultimately complying with its statutory duties and obligations under NRSWA Part 3.

11.5.2 PAYMENT OF THE FIXED PENALTY NOTICE

The promoter should set up payment facilities, give contact details, and agree methods of payment with the authorities' finance department and/or nominated authority contact.

Electronic payment methods are strongly encouraged. However, it is an authorities' responsibility to establish the preferred payment method.

Regardless of the form of payment used, all payments should be accompanied by a list detailing the relevant FPN offence references (or numbers) and values being paid against each charge (i.e. discounted or full). In the case of BACS

⁶⁶ The Street Works (Fixed Penalty) (England) Regulations 2007 SI 1952 (as amended).

⁶⁷ The Street Works (Fixed Penalty) (England) Regulations 2007 SI 1952 (as amended).

payment, such a list should be provided separately to the authority finance department and/or nominated authority contact at the time of payment.

11.6 Representations

Authorities' must⁶⁸ have a nominated official to consider any FPN representations from promoters and should ensure that a fair and open system is in place to consider them.

There is no set response time for making representation to a FPN. However, it is strongly recommended that promoters make representation within four weeks of receipt of an FPN to accommodate the 36 day full payment period, and the six month timescale to bring matters to Magistrate's Court.

Before making any official representation, the promoter is advised to try to resolve the issue informally by contacting the authority officer who served the FPN to attempt resolution. If this is not successful, the promoter should make a formal written representation to the nominated official, as specified on the FPN as responsible for considering representations.

The authority may extend the full payment period while representations are being considered, up to a maximum of 6 months.

- Whilst it is not possible to extend the discounted payment period, this may be agreed in exceptional circumstances at the discretion of the relevant authority.

11.3 General Guidance

11.7.1 USE OF FPN PROCEEDS BY AUTHORITIES

The FPN scheme is not intended as an additional source of income for authorities who should not expect overall net proceeds.

The authority may deduct, from the Fixed Penalty payments received under Schedule 4B to NRSWA, reasonable costs incurred in operating the FPN scheme. The authority shall then utilise any net proceeds to develop policies to promote and encourage safe, integrated, efficient and economic transport facilities and services, to, from and within its area.

Authorities should be able to demonstrate that the costs of running the FPN scheme are reasonable, and that any net proceeds, are being correctly applied. Although separate accounts are not required for an FPN scheme, there should be a clear audit trail demonstrating authority income and expenditure in relation to FPNs.

⁶⁸ Traffic Management Act 2005 Schedule 3, that inserts Schedule 4B of the New Roads & Street Works Act into section 95A, "Contents of fixed penalty notice".

CHAPTER 12 - Related Matters

12.1 Introduction

This chapter covers a number of different subjects that are important to be aware of when planning, co-ordinating or carrying out works on the highway. Within this chapter, there is guidance on:

- Road closures and traffic restrictions
- Duty to maintain apparatus
- Works near rail tracks and tramways
- Vehicle parking at street and road works
- Traffic signals
- Storage of materials
- Apparatus belonging to others

12.2 Road closures and traffic restrictions

Provisions governing temporary road closures and traffic restrictions for street works are found in Sections 14-16 of the Road Traffic Regulation Act 1984, as amended by the Road Traffic (Temporary Restrictions) Act 1991 and Regulations made under the 1984 Act.⁶⁹

Under this legislation, restrictions can be introduced to temporarily stop or limit vehicular and/or pedestrian traffic along a highway. This may include road closures, waiting restrictions, weight restrictions, banned turns, one-way restriction (or suspension of an existing one-way), speed limit or prohibition of entry.

- Please note for the purposes of this section, the processes described below only relates to street works, works for rail purposes, works for road purposes and highway works. For all other circumstances where a traffic regulation is required please refer to the relevant legislation and associated procedures.

There are two procedures:

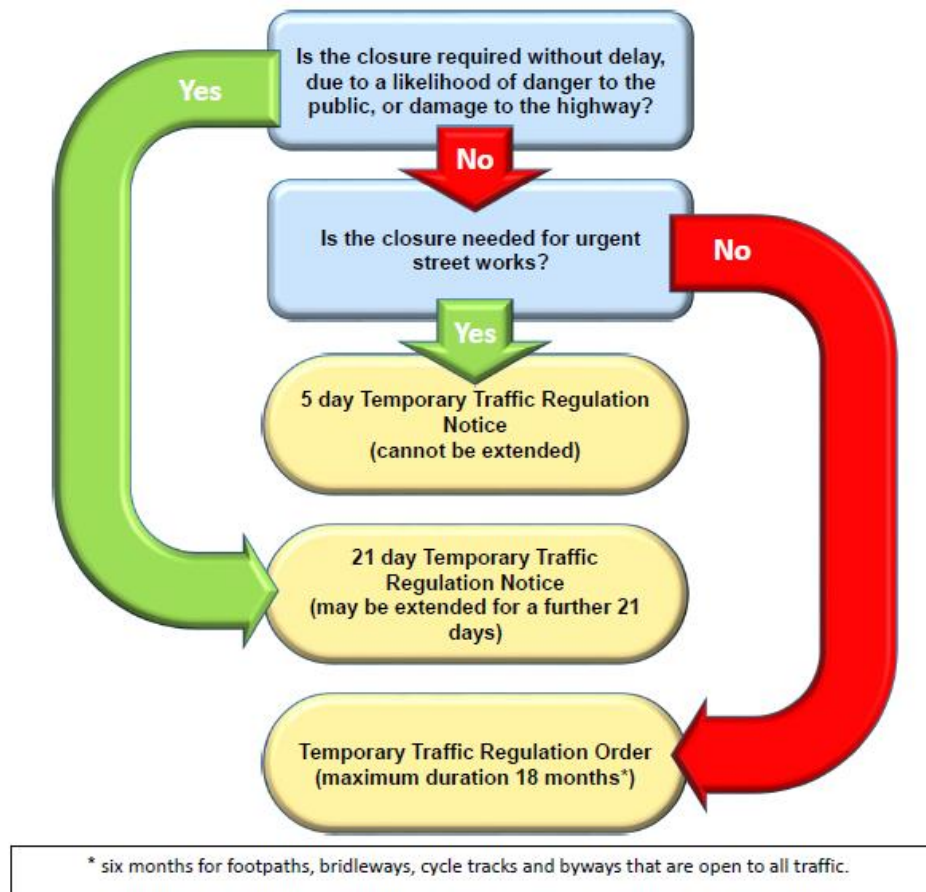
a) Where **urgent action** is needed – the traffic authority may issue a **Temporary Traffic Regulation Notice (TTRN)** imposing a short-term closure or restriction. Prior notice is not necessary. There are two types of TTRN:

- If there is a danger to the public or risk of serious damage to the road, independent of street works; for example, a leaking gas or water main, a TTRN can be made with a duration of up to 21 days and can only be extended by one further notice i.e. a further 21 days

⁶⁹ The Road Traffic (Temporary Restrictions) Procedure Regulations 1992 SI 1992/1215

- If there is no risk of danger or damage, a TTRN is restricted to 5 days duration and cannot be extended.

b) In non-urgent cases – the traffic authority may make a **Temporary Traffic Regulation Order (TTRO)**, which may remain in force for up to 18 months. A TTRO is limited to six months for footpaths, bridleways, cycle tracks and byways that are open to all traffic.



Both TTRN and TTRO may provide that restrictions have effect only when traffic signs are lawfully in place. This will help limit traffic disruption where activities progress along a length of road.

An application for a road closure should only be made after careful consideration of all other alternatives. The authority has a statutory duty under the Traffic Management Act 2004 to secure the expeditious movement of traffic on its road network.

12.2.1 PROCEDURE

These notes are intended as a general guide, authorities processing legal orders should refer the Road Traffic Regulation Act (as amended) and the relevant procedure regulations.

12.2.2 TEMPORARY TRAFFIC REGULATION NOTICE (TTRN)

These apply to works that need to take place without delay.

Actions for Promoters:

The promoter will inform the authority as soon as they are aware of the need for a closure or restriction, even if the work requiring the closure will not start immediately.

The following information must be provided to apply for a TTRN:

- The reason for issue;
- Its effect;
- Alternative routes (where applicable); and
- The date and duration of the notice.

When the need for a TTRN is communicated to an authority in advance of the date on which work will start, this assists the authority to effectively co-ordinate and manage road space.

Actions for Authorities:

Upon the issue of a TTRN, the authority must notify all relevant stakeholders including the emergency services. It is important to ensure that any other traffic authority with roads that may be affected are also notified.

In certain circumstances an authority may authorise the use of a TTRN, e.g. for new customer connections. A works promoter may request this, however, the decision if a TTRN can be used lies solely with the authority.

12.2.3 TEMPORARY TRAFFIC REGULATION ORDER (TTRO)

These are for planned works and the legal order will have a maximum duration of 18 months.

Actions for Promoters:

When a TTRO is required for planned work at least 3 months' notice to the authority is required.

The promoter must submit all the information needed to justify the need for a road closure with the application.

This will allow the authority time to consult, and to obtain approvals and advertise the order. It will also permit the authority to inform the appropriate public transport providers such that they may inform the Traffic Commissioner of any service alterations.

The promoter must ensure they have a valid TTRO before commencing works. This is a separate process to the granting of a permit.

Actions for Authorities:

The authority *must*:

1. Publish a notice of intention to make a temporary order at least seven calendar days in advance and
2. Within 14 calendar days after making the order publish a notice to confirm the that the order has been made
3. Notify all relevant stakeholders including the emergency services. It is important to ensure that any other traffic authority with roads that may be affected are also notified.

For any other circumstances not covered in this guidance please refer to the appropriate legislation.

12.2.4 CONTINUATION OF CLOSURES AND RESTRICTIONS

Temporary notices (TTRN)

- A 5-day temporary traffic regulation notice cannot be extended.
- A 21-day temporary traffic regulation notice can be extended by one further notice giving up to 21 days more.
- A 21-day notice may be followed immediately by a TTRO; this may be made without the seven days prior publication normally needed for such orders.

There will be cases where works will unavoidably take longer than the TTRN period. As soon as this is apparent, promoters must inform the authority. Where possible, the authority will take the necessary action.

After work has started, if it becomes apparent that this will not be complete within the temporary notice period, direct contact should be made with the authority as soon as possible to ensure that any requested closure duration extension can be agreed (in line with the above limitations).

Where it is not possible to make a follow-up TTRO/N before expiry, the works may have to be suspended. The promoter and authority will then need to agree the way forward to complete the works.

The 18 month time limit for 'TTRO's' (see 12.1), may be extended subject to Secretary of State consent. If this is required, the promoter should notify the authority immediately, giving, wherever possible, at least one month's notice. If one month's notice cannot be given, then it may not be possible to extend the order.

- Alterations to the duration of the TTRO/N agreed with the authority are separate to the process for agreeing alterations to the duration of a permit

or notice. Where agreement is given to extend a TTRO/N then the promoter must also vary the permit or notice to include the revised works duration using Street Manager (the prescribed electronic street works system).

12.2.5 CHARGES

Section 76 of NRSWA allows for authorities to recover the reasonable costs of issuing temporary notices or making temporary traffic regulation orders. These may include the following:

- (a) cost of order;
- (b) publication; and
- (c) administration.

Authorities should be prepared to provide a breakdown of reasonable costs, on request.

12.2.6 EVENTS ON THE HIGHWAY

Please note that the Road Traffic Regulation (Special Events) Act 1994 inserted sections 16A to C into the Road Traffic Regulation Act 1984 (RTRA) and gave local traffic authorities powers to make orders to impose temporary restrictions on the highway for sporting events, social events or entertainment (collectively known as special events). More information can be found at;
<https://www.gov.uk/government/publications/section-16-temporary-traffic-regulation-orders-for-special-events/temporary-traffic-regulation-orders-for-special-events>

12.3 Duty to maintain apparatus

12.3.1 POLICY GUIDANCE

Section 81 of NRSWA “*Duty to maintain apparatus*” provides a legal framework, detailed in 12.3.2, around the Promoters’ (Undertakers’) apparatus that is situated at or about the level of the surface of the street.

Where an Authority identifies apparatus that requires action by the Promoter to:

- make the apparatus safe (in relation to the surrounding street)
- to ensure that the apparatus does not create an inconvenience (e.g. a noisy cover)
- affect the structure of the street

the Promoter has a duty to act reasonably in order to communicate and facilitate the required actions to resolve the situation to the satisfaction of the Authority.

12.3.2 LEGISLATIVE FRAMEWORK

Section 81 of NRSWA sets out the duty of Promoters (Undertakers) to maintain their apparatus in the street, to the *reasonable satisfaction of*:

- (a) *the street authority, as regards the safety and convenience of persons using the street (having regard, in particular to the needs of people with a disability), the structure of the street and the integrity of apparatus of the authority in the street; and*
- (b) *any other relevant authority, as regards any land, structure or apparatus of theirs;*

and he shall afford reasonable facilities to each such authority for ascertaining whether it is so maintained.

Section 81 gives the Authority powers to execute works if the Promoter fails:

- *to give a relevant authority to facilities required by this section*
- *to secure that apparatus is maintained to the reasonable satisfaction of a relevant authority*

The Regulations⁷⁰ define apparatus, for the purposes of section 81 as follows;

“relevant apparatus” means manholes or other surface boxes and covers at or about the level of the street surface and manhole chambers, tunnels and other structures affecting the integrity of the structure of the street.

The relevant apparatus does not include any fillets or surrounding reinstatement. This is not covered by section 81; instead the Specification for the Reinstatement of Openings in Highways should be consulted.

Where damage is caused to the highway, or other utility apparatus, this is known as ‘consequential damage’ and is covered by section 82⁷¹ of NRSWA and this does not fall under section 81. An example of ‘consequential damage’ would be subsidence of the carriageway following a burst water main.

In summary, the section 81 process in 12.3.3 & 12.3.4 should only be used where a Promoters’ relevant apparatus (surface boxes, covers, manholes, manhole chambers and tunnels) is causing subsidence or disturbance to the road surface and action is needed to rectify this.

The purpose of section 81 is to maintain a safe highway surface. Authorities and Promoters must therefore have a shared interest in the safety and welfare of the public whilst ensuring the integrity of the highway and the apparatus within it.

⁷⁰ The Street Works (Maintenance) Regulations 1992 SI 1691, Regulation 2.

⁷¹ NRSWA 1991 section 82 “*Liability for damage or loss caused.*”

12.3.3 RECOMMENDED PROCESS

This Code makes the following recommendations regarding a consistent process for the notification of action needed to maintain relevant apparatus that is affecting the integrity of the structure of the street. In the section where the term 'apparatus' used, this should be read as 'relevant apparatus' as defined in 12.3.2.

Any formal notifications should be made using the Street Manager (the prescribed electronic street works notification system).

When an Authority becomes aware of unsatisfactory apparatus, it should notify the relevant Promoter, providing sufficient information to enable that Promoter to identify whether or not the apparatus in question is their asset.

Where an Authority has carried out an assessment and identified that immediate action is needed (i.e. the inspection should be in line with the authority's own policy and risk assessed against intervention criteria), then a telephone call to the relevant Promoter providing sufficient information for identification of the apparatus should be made. It is recommended that a reference number is given to enable further communications to be related back to this initial contact.

If the apparatus presents a hazard that could result in danger to the public then the Authority representative should take appropriate action (for example, remain on site until either the apparatus owner attends or ensure suitable provisions to make the site safe are carried out). In the event of the Authority incurring reasonable costs (e.g. hire of traffic management) then these costs are recoverable from the Promoter.

Where the apparatus does not present an immediate hazard, but there is a need for maintenance or remedial works, the notified Promoter should confirm or deny ownership. If ownership is denied, then the Authority should endeavour to establish the correct owner. Once ownership is confirmed, then the Authority and the Promoter should agree a suitable timeframe for completion of the required works.

12.3.4 DETAILED GUIDANCE

Guidance regarding the information required for each notification and the processes to be followed are detailed separately to enable guidance keeps pace with the Street Manager system. This guidance also includes information on the section 81 Inspection process and can be found in **Appendix F** of this Code.

12.4 Working near rail tracks and tramways

Please see Appendix C.

Promoters planning works near to, adjacent or across the lines of street-running tramways must contact the Authority responsible for that tramway as early in their planning cycle as possible. The Promoter's requirements can be incorporated into the contract documents.

12.5 Vehicle parking at street and road works

This is not safety advice. The *Code of Practice on Safety at Street Works and Road Works* should always be consulted.

12.5.1 VEHICLE WITHIN WORKS SITE

A works vehicle may be parked in a works site, provided that it is necessary for carrying out those works. Basic site layouts are shown in the *Code of Practice on Safety at Street Works and Road Works*. A vehicle entirely within the coned-off area of the site may require a larger coned-off area than would otherwise be the case.

12.5.2 VEHICLE OUTSIDE WORKS SITE

A vehicle may be parked outside a works site provided that it obeys the parking rules that apply to any other vehicle in that street. Outside the works site, the vehicle has no special status and no exemption from parking enforcement.

12.5.3 IMPLICATIONS

When assessing the impact of works the parking of works vehicles must be taken into account.

This is a particular problem for works which, but for the presence of a works vehicle, would take place entirely within the footway. If a vehicle is parked adjacent to the works, in a place which vehicles could not normally use, then it must be part of the works site. It must be signed and guarded appropriately. The works are then not wholly confined to the footway but encroach onto the carriageway.

12.5.4 PARKING RESTRICTIONS

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

The imposition of additional temporary parking controls will require an application to the Authority for a TTRO/ TTRN dependent on the urgency of the works, see 12.2 of this chapter.

12.6 Traffic Signals

12.6.1 PORTABLE TRAFFIC SIGNALS (PTS)

Formal authorisation is required for any Promoter wishing to use **Portable Traffic Signals (PTS)** on the highway. It is an offence to place and operate portable traffic signals on the highway without permission from the relevant Authority as given in Traffic Signs Regulations and General Directions 2016

Placement of portable traffic signals for Immediate works (Emergency, Urgent, Dangerous Remedial) still requires permission; this may be by a fast-track process, retrospective or assumed dependent on the circumstances and the Authority's procedure.

It is important to contact the Authority as soon as possible regarding the immediate placement of PTS as they may be in a position to implement signalling strategies within the wider area to mitigate the impact of the works.

- For a permit authority the granting of the permit for any works includes the assessment and the giving of permission for the use of PTS; however for Immediate permits, the application for the use of PTS may be sent as a variation if not known about at the time of initial application and the grant of the variation provides the permission.

12.6.2 SWITCH OFF OF PERMANENT TRAFFIC SIGNALS

Where works with positive traffic control are in the immediate vicinity of permanent traffic signals (e.g. within 100m), Promoters may need to contact the relevant Authority to discuss the potential for a switch off application of the permanent signals so as not to cause conflict with the indications of the permanent traffic signals for drivers passing through the works. If it is determined that the permanent signals need to be switched off, an application will need to be submitted in sufficient time to enable the Authority's authorised operatives to carry out the switch off.

- Permanent signals should not be switched off, hooded over or otherwise interfered with by the promoter or their contractors without the express approval of the relevant Authority.
- The Promoter will be responsible for the supply, erection, maintenance and removal of signing, lighting and guarding in accordance with "Safety at Street Works and Road Works – A Code of Practice".

Where pedestrian and/or cyclist facilities are incorporated in the permanent

signals the Promoter will need to consider and include provision for these within the scope of their works.

- The application in this section to request the Authority to switch off permanent signals does not form part of a permit application and Promoters should ensure this is provided in accordance with the Authorities' procedure.

12.7 Storage of materials and other equipment

Promoters and Authorities should take care to place materials and welfare facilities so that they do not cause an obstruction to road users. This is especially important if the materials are stored away from the works site but still within the highway boundaries. Storage in a different street from the works site must be covered by a permit, a notice or a licence as appropriate.

12.8 Apparatus belonging to others

There may be other apparatus where works are planned and under section 69⁷², those carrying out works must ensure that the owners of that apparatus are able to monitor the works and that requirements to take reasonable steps to protect the apparatus are followed. Failure to do so is a criminal offence under section 69(2).

⁷² New Roads & Street Works Act 1991 Section 69 *Works likely to affect other apparatus in the street.*

Chapter 13- Dispute Resolution

13.1 Introduction

This Code is intended to provide sufficiently detailed guidance to enable agreement on its operation and implementation to be reached at local level. Authorities and promoters should always try to resolve disputes without having to refer them to a formal appeals procedure. This could, for instance, be achieved by referring the issue to management.

13.2 Dispute review

If agreement cannot be reached locally on any matter arising under any part of this Code, the dispute should be referred for review on the following basis.

13.21 STRAIGHTFORWARD ISSUES

Where the two parties consider that the issues are relatively straightforward, the matter should be referred to the Chairs of a regional HAUC for mediation. The chairs may appoint impartial members of the regional HAUC to review evidence for the case. Impartial members are those not representing parties directly involved in the dispute.

Each party must make available all financial, technical and other information relevant to the matter in dispute.

The review should take place within ten working days of referral or other agreed time. It is recommended both parties accept the result as binding.

Should the regional HAUC be unable to provide advice for both parties the matter should be referred to HAUC (England) for mediation, see complex issues 13.2.2

13.22 COMPLEX ISSUES

Where the parties consider that the issues are particularly complex, they should apply to HAUC (England) for mediation, which will comprise a review panel of at least two persons (one utility and one authority). The findings will be reported to the HAUC (England) joint chairs.

Each party must make available all financial, technical and other information relevant to the matter in dispute.

The review should normally take place within ten working days or other agreed time from the date of referral to HAUC (England). It is recommended each party accept the advice given by the review panel as binding.

Should HAUC (England) be unable to provide advice for both parties the matter should be referred to HAUC (UK) for mediation following a similar process to that for HAUC (England) with the exception of the panel being of four persons one of whom will be the appointed chair.

The advice given may with the agreement of both parties be shared in anonymised form to further understanding.

13.3 Adjudication

If agreement cannot be reached by any of the procedures in 13.2 above, the dispute should be referred to independent adjudication. The decision of the adjudicator is deemed to be final. The costs of adjudication will be borne equally unless the adjudicator considers that one party has presented a frivolous case, in which case costs may be awarded against them. Where the adjudication route is to be followed, the parties should apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from suitable recognised professional bodies.

13.4 Arbitration

Disputes relating to matters covered by the following sections of NRSWA may be settled by arbitration, as provided for in section 99:

- section 58 (7A) – restriction on works following substantial road works;
- section 58A – restriction on works following substantial street works;
- section 61 (6) – consent to placing apparatus in protected streets;
- section 62 (5) – directions relating to protected streets;
- section 74 (2) – charges for occupation of the highway where works are unreasonably prolonged;
- section 74A (12) – charges determined by reference to duration of works;
- section 75 (5) – Inspection fees;
- section 84 (3) – apparatus affected by major works; and
- section 96 (3) – recovery of costs or expenses.

If an important point of principle, or a particularly expensive scheme, is involved, either party may refer the matter to arbitration, as if it were a matter to be settled by arbitration under section 99 of the Act.

APPENDICES

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APPENDIX A: GLOSSARY

Term	Definition	Comments/Legislation/Source	References in document
Additional Street Data (ASD)	ASD. Additional information about the type and nature of a Street to be found in an LSG and the NSG.	Several different types of additional street data can be recorded against any street in the NSG; the different types are detailed in section 4.3. All ASD is submitted to the NSG Concessionaire for validation and inclusion in the published NSG.	3.1,3.3, 6.3, 6.3.1, 8.2, 10.9
Apparatus	Apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus	Section 105(1) of NRSWA	2.2, Table 3.3.1, 5.1, 5.2.3, 5.2.5, 5.3.2, 5.3.3, 5.4.1, 6.1, 7.2.2, 8.2, 10.4, 12.2
Arbitration	Any matter which is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers"	Section 99 of NRSWA	5.2.5, 6.5.1, 6.5.3, 6.7,13.4
Authority	See street authority, transport authority, highway authority, permit authority, notice authority, bridge authority		
Bank holiday	Bank holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated	Section 98(3) of NRSWA	4.5.1
Bar Hole	Bar holes are small diameter holes made in the ground along the route of a gas pipe in a bar test survey to determine the location of any leakage.		7.1, 7.3.3, 10.4
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street)		6.5.1, 7.2.2, 7.3.1, 7.3.2, 10.4
Bridge	References to a bridge include so much of any street as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the street	Section 88(1)(a) of NRSWA	Table 3.3.1, 5.2.4, 5.3.1, 5.3.2, 5.3.4, 5.3.6, 7.2.1, 7.2.3, 10.4
Bridge Authority	An authority responsible for the maintenance of a bridge	Section 88(1)(b) of NRSWA	table 3.3.1, 5.3.2
Bridleway	A highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway. "horse" includes a pony, ass and mule, and "horseback" shall be construed accordingly	Section 66 of the Wildlife and Countryside Act 1981.	6.2.1, 10.3, 12.1

BS7666	BS 7666:2006 Parts 0, 1 and 2. British Standard used for the compilation and implementation of an Local Land and Property Gazetteer (LLPG) or Local Street Gazetteer (LSG)		3.4.3
Carriageway	The part of a road intended for vehicles rather than pedestrians		5.2, 5.3, 5.4, 6.2.1, Table 6.1, 7.2.3, 7.3.1, 7.3.2, 10.4, 10.9, table 10.3, 12.2.2, 12.4.3
Category of works	A collective term for the four different types of works defined by regulation; comprised of immediate, minor, standard and major works		7.1, 7.4
gyratory or roundabout system	A gyratory or roundabout system where, in the absence of street works or works for road purposes, no less than 5 per cent of peak hour vehicles on average are delayed by more than 20 seconds		5.4.2,
Critical signalised junction	A traffic signal junction at which, in the absence of street works or works for road purposes and at times when the exit is not blocked, no less than 5 per cent of peak hour vehicles on average fail to clear the junction on the first green signal		5.4.2,
Culvert	A structure in the form of a large pipe or pipes, box or enclosed channel generally used for conveying water under a road		Table 3.3.1, 5.3.2
DNO	Distribution Network Operator (Electricity network)		7.2.5
Duration of works	The duration of works is calculated in working days.		7.4, 8.3, 10.1, 10.7, Table 11.2.1, 13.4
Emergency Works	Works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or Property	Section 52 of NRSWA	6.5.1, 7.4, 8.3, table 9.1, 12.5,
Excavation	Breaking up the street		5.3, 6.5.1, 7.3, 10.9,
Footpath	A highway over which the public have a right of way on foot only, other than such a Highway at the side of a public road. Excludes Footway	Section 66 of the Wildlife and Countryside Act 1981	6.2.1, 10.3, 12.1
Footway	A way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only	Section 329 of the HA 1980	5.3, 5.4.2, 6.2.1, 7.2.3, 10.4, 10.9.1, 12.4.3
FPN	Fixed Penalty Notice. A notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty"	Schedule 4B to NRSWA,	See Chapter 11

GDPR	General Data Protection Regulation. To give control to individuals over their personal data and to simplify the regulatory environment for international business by unifying the regulation within the EU	General Data Protection Regulation (EU) 2016/679.	8.2
Highway	Any way over which there is a public right of passage		Table 3.3.1, 4.1, 4.4, 6.1, 6.2.1, 6.4.1, 6.5.1, 7.2.1, 7.2.3, 7.3.1, 7.3.2, 8.1, 8.3, 10.1, 10.2, 10.3, 10.4, 10.7, 10.9, table 11.2.1, 12.1, 12.2.2, 12.5, 13.4
Highway Authority	Any Authority responsible for a Highway to be Maintainable at Public Expense.	Sections 1, 2 and 3 of the Highways Act 1980.	
Immediate works	Immediate works (or immediate activities) are either Emergency works as defined in NRSWA Section 52, or Urgent works as defined in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007		Table 3.3.1, 5.3.6, 7.1, 7.3, 7.4, 8.2, 8.3, table 9.1, 9.2.3, 10.6, 12.5,
Local Street Gazetteer (LSG)	LSG. The local highway authority street dataset	Each local highway authority creates, and maintains, detailed information of all streets within their area. The LSG is submitted to the NSG Concessionaire on a regular basis.	3.2, 3.4,
Maintainable highway	A highway which by virtue of section 36 above or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense	Section 329 of HA 1980	4.1, table 4.4, 7.2.1, 10.3,
Major works	Street works other than immediate works, 1) which are normally planned at least six months in advance of the date proposed for the works; or 2) the street authority or the undertaker considers that a temporary prohibition or restriction on roads is required or, 3) which have a planned duration of 11 days or more.		5.3.6, 6.2.2, 7.4.1, 8.3, 9.2.1, 9.4.2, 13.4
Minor Works	Minor works are those street works, other than immediate or major works , where the planned duration is 3 days or less.		7.4, 8.3, table 9.1, 9.2.2, 9.3.1, 9.5, 10.6,
National Street Gazetteer (NSG)	NSG. The compilation of a list of street information maintained in local highway Authorities	The NSG holds detailed information on all streets and is published on a monthly basis.	3,5.5, 5.6.3, 6.3, 8.2, 10.9, table 11.2.1,
Network Management Duty	The duty imposed on authorities to manage their road Network	Section 16, Part 2, TMA 2004	7.3.2, 8.1, 10.1, 10.8, 11.1, 11.4
Notice/noticing authority	An authority who is yet to introduce a permit scheme in their area		

NSG Concessionaire	The NSG concessionaire receives, validates and combines the individual LSG's , TRSG and any individual ASD records into the NSG which is then published on a monthly basis		3.2, 3.3, 3.4
NRSWA	New Roads and Street Works Act 1991		
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		7.2.2, 7.3.1
Passenger Transport Authority	One of several geographical authorities made up of representatives from local authorities in the area, responsible for public transport in their area		5.5
Permit authority	An authority who is operating a permit scheme in their area		
Prescribed	Prescribed by the Secretary of State by regulations, which may (unless the context otherwise requires) make different provision for different cases"	Section 104 of NRSWA	
Prescribed period	The period during which no overrun charges can be levied. It has been set in regulations at two working days, starting on the date works begin	2009 SI 303 as amended by 2012 SI 2272 Regulation 7	10.3 ,10.5, 10.6,
Promoter	Any organisation carrying out works in the highway regardless of whether they are working directly for, or on behalf of an authority or an undertaker		
Protected Street	A Street where specific permission for works must be granted	Section 61 of the New Roads and Street Works Act 1991.	Table 3.3.1, 3.4.1, table 4.4, 5.1, 5.2, 5.5, 5.6.1, 10.4, table 10.2, 13.4
Public Rights of Way (PRoW)	PRoW. One of the following: (1) A synonym for a Highway, that is, any Way over which there is a public right of passage including those Ways for which there is no statutory method for recording their existence. (2) One of the four rights recordable on the Definitive Map: • Public footpath. • Public bridleway. • Restricted byway. • Byway open to all traffic.	Section 66 of the Wildlife and Countryside Act 1981. Section 48 (4) of the Countryside and Rights of Way Act 2000.	3.4.1
Reasonable period	A reasonable period means such period as is agreed by the authority and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question	Section 74(2) of NRSWA	10.3, 10.5,10.6, 10.7,10.9,

Reconstruction	The removal of some or all of the various layers that make up a road pavement and their replacement		6.2.1
Reinstatement Category	A classification of reinstatement based upon volumes of traffic utilising the street.	S1.3 of The Specification of Reinstatements of the Highway (SROH)	3.4.1, table 6.1,
Resurfacing	The removal of the running surface of a carriageway and its replacement to restore surface integrity and skid resistance.		6.2.1, 6.3, table 6.1, 7.3.1,
Road works	Road works are different from street works. They are works carried out to repair or improve the highway including footways, pavements and street lighting. Also known as works for road purposes which is defined in S86(2) of NRSWA		
Special Designation	A special designation record provides details of any special attributes of a particular street. It forms part of additional street data (ASD).		2.2, 3.3, table 3.3.1,
Special Engineering Difficulty (SED)	A Special Engineering Difficulty is defined in NRSWA S63. The term relates to streets or, parts of streets associated with structures, or streets of extraordinary construction where street works must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure.		Table 3.3.1, 3.4.1, table 4.4, 5.1, 5.3,
Standard works	Standard works are those works other than immediate or major works where the planned duration exceeds 3 days but does not exceed 10 days		
Statutory Undertaker	A legal term used to describe those organisations that have certain legal rights and obligations when carrying out particular development and infrastructure work. Typically they are utilities and telecoms companies: those who deal with water, gas, electricity etc. The statutory right is enabled in primary legislation such as the Electricity Act, the Water Act, the Gas Act or the Communications Act;	Section 48(4) NRSWA	6.2.2, 7.2.1, 7.2.2, 7.2.4, 7.3.1, 10.3, 11.1, 12.2,
Strategic Route	A network of strategic routes across England and Wales identified, using criteria set out by the DfT in England and the Welsh Assembly Government in Wales, such routes are aligned to regional and national transport policies and strategies. Most Strategic Routes, which include Motorways and Trunk Roads are managed and maintained by Highways England, Transport for London, the South Wales Trunk Road Agent (SWTRA) and the North & Mid Wales Trunk Road Agent (NMWTRA). Some Strategic Routes, more likely to be termed Primary Route Network are managed and maintained by Local Highway Authorities.		Table 3.3.1, 3.4.1

Street Authority	The authority, body or person liable to maintain a Street. If the Street is publicly maintainable then it is a Highway Authority. Also known as Street Works Authority.	Section 49(1) of NRSWA	
Street managers	An authority, body or person liable to the public to maintain or repair a street which is not a publicly maintainable highway or, if there is none, an authority, body or person having the management or control of the street	Section 49(4) of NRSWA	4.1, table 4.4, 7.2.1,
Street works	Street works are carried out by statutory undertakers using equipment and machinery on or under the road. Statutory undertakers include: utility companies, Section 50 Licenceholders, contractors.	Section S48(3) of NRSWA.	3.4.4, 4.1, 5.1, 5.3, 6.1, 6.2, 6.3, table 6.1, 6.5, 7.2, 7.3, 7.4, 10.3, 10.6, 11.1, table 11.2.1, 12.1, 13.4
Substantial road works	Works for road purposes which comprise a reconstruction, widening, alteration in the level, resurfacing or specialist non-skid surface dressing of the part of the highway Concerned		6.1, 6.2.1, 6.6, 13.4
Substantial street works	Major street works		6.1, 6.2.2, 13.4
Traffic Sensitive	A Street which is designated as critical to the flow of traffic in the area. This Mandatory designation is for the purposes of Street works	Section 64 of the New Roads and Street Works Act 1991. The criteria for designating a street as traffic sensitive is defined in Regulation 16 in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.	Table 3.3.1, 3.4.1, table 4.4, 5.1, 5.2, 5.4, 5.5, 5.6.1, table 6.1, 7.3.1, 9.3.1.2, 10.4, 10.9, table 10.2,
Transport Authority	The authority, body or person having the control or management of a transport undertaking	Section 91 (1)(a) NRSWA	
Trunk Road Street Gazetteer (TRSG)	TRSG. A gazetteer produced by Highways England parallel to the NSG.		3.2, 3.4.4
Undertaker	See Statutory undertaker		
Unique Street Reference Number (USRN)	USRN. A unique identifier assigned to each Street within an LLPG and LSG	DTF current version. See also BS 7666-1:2006, page 7, section 6.2 for description	3.4.3, 6.3, 6.3.1, 8.2, 9.3.1.2,
Validity period	The validity period is a period of time prescribed by regulation, that a notification remains valid before the works start on site		9
Working day	A day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday	Section 98(2) NRSWA 1991	6.3, 6.5.2, 7.4, 8.2, 9.1, table 9.1. 9.2.2, 10.3, 10.5, 10.6, 10.9, table 10.2, 11.3, table 11.2.1, 13.2.1
Works for road purposes	see Road works		table 3.3.1, table 4.4, 6.1, 6.2, 6.5, 7.2, 7.3, 10.4, 11.1,

APPENDIX B: HAUC(ENGLAND) PERMIT GUIDANCE



**HAUC(England) Guidance
Operation of Permit Schemes
(inc. Permit Condition Text)
August 2020
Version 1.1**

Please click on image above for link to copy of the guidance.

APPENDIX C: WORKS AT OR NEAR LEVEL CROSSINGS

C.1 Purpose

Safety precautions for street works and other road works carried out in the street/road in the vicinity of Network Rail level crossings are described in legislation specific to street works and health and safety. These guidelines have been developed in the light of experience gained following incidents where collisions occurred from traffic tailing back across level crossings, even though the work sites were a considerable distance away. The available advice has been brought together in this Appendix, to provide guidance for all those carrying out street works and other road works at or near to level crossings.

C1.1 References

Within this Appendix to the appropriate National Authority refer to:

- In England, the Secretary of State for Transport
- In Scotland, the Scottish Parliament
- In Wales, the National Assembly for Wales (www.welsh-hauc.org.uk)

as appropriate

C.2 Scope

This Appendix specifies requirements for the execution of all works in the street/road at or near Network Rail level crossings. These should be identified in the National Street Gazetteer/Scottish Road Works Register.

This Appendix applies equally to statutory undertakers, highway/road authorities and others who execute works at or near level crossings. Access to, or work within, other Network Rail property is subject to separate requirements, details of which can be obtained from the Network Rail website.

It applies to works that take place within the boundary of the level crossing, in the highway immediately in the vicinity, or some distance away where traffic may tail back across the level crossing as a result of the traffic management system employed during the works.

C.2.1 It does NOT apply to:

(a) Railways not owned by Network Rail. However, the advice is equally applicable to other railway authorities. It is strongly recommended that these principles be incorporated into appropriate arrangements for works at level crossings on railways not owned by Network Rail, such as heritage railways.

(b) Non-public road level crossings where all relevant legislation should be considered when processing these works. For example:

Statutory Undertakers may have particular powers under their enabling legislation

and wayleave, or easement agreements may apply in a particular case

Statutory Undertakers must consult Network Rail and ascertain what requirements apply before undertaking their proposed works.

(a) Street/road running tramways.

A working party representing the Highway Authorities and Utilities Committee (HAUC) and Railtrack plc prepared the original guidelines. These have subsequently been revised for this document in co-operation with Network Rail Infrastructure Limited, HAUC-UK, RAUC(S), Welsh-HAUC and DfT.

Network Rail is responsible for the maintenance of all infrastructure assets and for the day-to-day management of operations on the railway. The provision of train services and associated activities are the responsibility of individual train operating companies.

Regional HAUCs in England, Welsh HAUC in Wales and Area RAUCs in Scotland, as appropriate, should be the first point of contact for any queries relating to policy matters or interpretation of this Appendix. It is intended to post the addresses of Secretaries of Regional HAUCs on the HAUC(UK) website: www.hauc-uk.org.uk.

C.3 Legislation

For works at a level crossing, those undertaking the works must comply with the requirements of Network Rail made under Sections 93 and 152, as appropriate, of the New Roads & Street Works Act 1991. All parties concerned must comply with the requirements of Network Rail made under the Health and Safety at Work, etc Act 1974 (HASWA) and its associated Regulations (e.g. The Construction (Design and Management) Regulations 2015 (CDM) and Management of Health and Safety at Work Regulations 1999).

C.4 Special Features of Level Crossing Work

C.4.1 Works at or near level crossings

Works at or near level crossings may impact upon one or more of the following:

- Safety of road users, pedestrians, railway passengers and personnel
- Train operation
- Structural integrity of the railway infrastructure and associated assets
- Railway overhead traction cables, electrified third-rails and feeder or continuity cables
- Railway underground apparatus serving the railway and running parallel to it

Statutory Undertakers, the highway/road authorities, Network Rail and others carrying out street or road works and other works have a duty to co-ordinate their activities and to follow the special safety precautions which apply at level crossings. Risk Assessments with continuous monitoring, are essential to safe operation of street or road works at or near to level crossings.

C.4.2 Safety of road users, railway passengers and employees

Risk assessments must be carried out both before and during street or road works

at or near to level crossings in order to minimise the risk.

Safe systems of work must be in place and maintained during the street or road works. Risk Assessments are further described in section C7.

Traffic that stops or moves slowly over a level crossing causes potential danger to road and rail users alike.

Particular attention must be paid to situations where street or road works may be a considerable distance away from the crossing, as they may cause traffic tail backs over the crossing.

C.4.3 Other safety issues

When work is being carried out in the vicinity of overhead traction cables, electrified third rails and feeder or continuity cables, great care must be taken to avoid danger from electrocution. Electronic pipe and cable location equipment can potentially interfere with railway signalling apparatus and must not therefore be used within railway land without express permission from Network Rail, who will advise on the circumstances and type of equipment which apply at each level crossing that can be used.

C.4.4 Network Rail's responsibility

Network Rail will assess, the information received from those proposing to execute works. Where the works are likely to affect train operations Network Rail will advise of any special requirements. For works at a level crossing, those undertaking the works must comply with the requirements of Network Rail made under sections 93 and 152 of the Act. In view of the requirements of the Rail Regulator, timing directions given under sections 93 and 152 may entail considerable delays to the project, and therefore it is recommended that consultation with Network Rail take place at the earliest possible opportunity. All parties concerned must comply with the reasonable requirements of Network Rail made under the Health and Safety at Work etc, Act 1974 (HASWA) and its associated Regulations (e.g. the Construction (Design and Management) Regulations 2015(CDM)).

The whole of Network Rail's rail network infrastructure is a continuous site for the purposes of CDM. All work that is planned to take place within the precautionary area of the level crossing [a distance of 200m when travelling out from the centre of the level crossing] requires Network Rail's permission. For permission to be given for any works to commence, Network Rail require details of the proposed works and the competence of those employed to carry out the works.

Network Rail must assess the possible effects of proposed works on the railway infrastructure and associated assets and advise on any additional measures required.

C.5 Designation

In order to assist works promoters in fulfilling the obligations set out herein, it is recommended that the location of level crossings, and where applicable an

associated Precautionary Area, where special controls will apply, should be identified and publicised using the National Street Gazetteer or the Scottish Road Works Register, as appropriate.

This information is to be provided in the form of a Special Designation File added, as appropriate, to either:

- The National Street Gazetteer by Network Rail in accordance with the procedures laid down by the National Street Gazetteer concessionaire or,
- The Scottish Road Works Register in accordance with the procedures laid down by RAUC(S)

Highway/Road Authorities should cooperate with Network Rail in following the designation procedure set out below, in order to establish an initial footprint of streets/roads that will comprise the Precautionary Area of each level crossing.

Statutory Undertakers and other works promoters should recognise that both NRSWA and HASWA require them to consider the implications of their works and identify the effects on traffic in the vicinity of level crossings.

C.5.1 Identification of the Precautionary Area

Network Rail must identify individual level crossings, together with the Precautionary Area, and input this information into the National Street Gazetteer ASD data or the Scottish Road Works Register, including an indication of the position of the crossing, its type and whether any barriers are manually or automatically controlled.

The exercise should identify each street/road falling wholly or partly within 200 metres of each crossing when following a route leading from the crossing.

The whole, or part of, each street/road identified above, will become part of the Precautionary Area and subject to special controls as described below. Minor modifications may be made at this stage, for example, the exclusion of one-way streets/roads with traffic flowing towards a level crossing.

C.5.2 Monitoring the Precautionary Area

The initial footprint of the Precautionary Area is to be kept under review by Network Rail, utilising the highway/road authority's local knowledge. Therefore, promoters of any works are to check the National Street Gazetteer/Scottish Street Works Register to ensure that they are aware of the extent of the current precautionary area.

C.6 Consultation

Street/road authorities have a duty under the Act to co-ordinate all works in the street/road. Where this duty extends to works that are likely to affect a level crossing, Network Rail must be included in the co-ordination exercise.

C.6.1 Co-ordination Meetings

Network Rail may be expected to attend co-ordination meetings when they are promoting works. Network Rail may also be expected to attend when advised of proposed works that may affect level crossings.

C.6.2 Advance Consultation with Network Rail

Works planned by any promoter within the precautionary area of a level crossing must be advised to Network Rail's Asset Protection Team at least one month in advance (further in advance if possible) of serving the initial notice, permit application or provisional advance authorisation where a permit scheme is in force. Additionally, any planned works which are likely to affect the crossing because of traffic tailbacks (usually referred to by Network Rail as "blocking back"), must be advised to Network Rail even if beyond the precautionary area. The form shown in Annex A must be used for this purpose. The appropriate Asset Protection Team can be identified from the Network Rail website. Upon receipt of Annex A and the Asset Protection Initial Enquiry Questionnaire Network Rail will endeavour to respond, within 10 working days, to acknowledge receipt of the questionnaire. If Network Rail deem it necessary, a meeting will be arranged with the promoter to discuss the special requirements to be agreed and included in the Health and Safety Plan for the works. This meeting may take place at a Co-ordination Meeting or separately, depending on the nature and complexity of the proposed works.

Confirmation of these agreed special requirements are to be given to Network Rail in writing and provided to the Highway/Road Authority together with the Acknowledgement of Receipt of Advice (by Network Rail) when the promoter serves the initial application.

In the case of highway/road authorities' works for road purposes this will be the only notification required to be given to Network Rail however, where a permit scheme is in force, a permit application or provisional advance authorisation is required.

In the case of statutory undertakers and others, statutory Notices under the Act will be required, and where a permit scheme is in force either a permit application or provisional advance authorisation. Promoters of works should also note that where the level crossing has been designated on behalf of Network Rail under the Act as a street/road with Special Engineering Difficulty, undertakers and others should ensure details of their proposed works are added using Annex B.

C.6.3 Undertakers' Statutory Notices under the Act

Sections 93(2) or 152(2) of the Act require statutory undertakers to give notice to Network Rail of the starting date of proposed street works which are to take place at a level crossing, notwithstanding that such notice is not required under section 55 or 114 (notice of starting date).

C.6.4 Minimum Notice Periods

It is strongly recommended that notice/permit periods are treated as the absolute

minimum periods and, wherever possible, longer notice should be given. This is particularly important in the case of level crossings, where Network Rail may have to make special arrangements ranging from the provision of railway safety cover to complete closure of the rail route and rearrangement of rail services while the street works take place.

C.6.5 Immediate Works

Where it is necessary to carry out immediate works at or near to a level crossing it is vital that the highway/road authority and Network Rail are contacted immediately, and work is not commenced until the work promoter has been assured that all necessary safety precautions are in place. Please call our National Helpline on 03457 11 41 41 for infrastructure related emergency or urgent issues.

C.6.6 Street works licences/road works permissions

Those without a statutory right to carry out street/road works must be authorised by the street/road authority (ie the highway/road authority or street/road managers) by means of a licence/permission before works may commence. In addition, other relevant authorities or owners of apparatus affected by the work will require the holder of the licence/permit to comply with their requirements. It is recommended that specific reference to this guidance should be made within licences for works in the vicinity of railway level crossings. Network Rail, as the street/road manager at the level crossing, will similarly ensure that the requirements of this guidance are followed when licences or permissions are issued.

C.6.7 Unqualified staff within the railway boundary

If it is necessary to use promoter's personnel to execute works within the track area they must not be allowed to enter until Network Rail nominated personnel have arranged appropriate protection and confirmed that it is safe to do so.

C.7 Risk Assessments and Traffic Control

C.7.1 Codes of practice and other advice

The Code of Practice Safety at Street Works and Road Works issued under sections 65 and 124 of the Act is based on the Traffic Signs Manual (Chapter 8) and is a statutory requirement for undertakers' street/road works. It specifies the requirements for signing, lighting and guarding and traffic control at street/road works.

Chapter 8 of the Traffic Signs Manual 2009 also gives additional advice on traffic control at railway level crossings.

C.7.2 Risk Assessments

Risk Assessments are a requirement of the Construction, Design and Management Regulations 2015 and Health and Safety at Work Regulations 1999 and it is particularly important that they are carried out at Network Rail level crossings and

on railways not owned by Network Rail, such as heritage railways. Arrangements made as a result of Risk Assessments should be continuously monitored so that appropriate remedial measures can be taken quickly if required.

Risk assessments should consider the distance of the crossing from the proposed works and the volume of traffic using the street/road. Particular attention must be given to the possibility of traffic congestion tailing back over a level crossing at any time during the duration of the works, for example during an all-red traffic light period imposed to allow difficult operations to take place at the work site. There have been instances where this situation has arisen from works that have been a considerable distance from the level crossing and this possibility should always be borne in mind during works.

C.7.3 Traffic Control Measures at or near Network Rail Railway Level Crossings

Traffic control at or near level crossings are to be in accordance with the guidance set out in Chapter 8 of the Traffic Signs Manual 2009

- Part 1 Design: D5.17.
- Part 2 Operations: O3.25

C.8 Network Rail's Requirements

NRSWA Asset Protection Initial Enquiry Questionnaire provides your link to discuss the requirements for all works affecting the railway and associated assets.

There is no provision in the Act for the recovery of costs for special arrangements such as those described below, and costs incurred by each party will therefore lie where they fall.

C.8.1 Level Crossing Attendant

A level crossing attendant will ensure the crossing is cleared before lowering barriers and authorising a train to move. See Traffic Signs Manual Chapter 8 Part 2 Operations [O3.25.5]. Please note an attendant holding appropriate competencies may only be omitted if this is specifically authorised in writing by the railway authority.

C.8.2 Temporary Speed Restrictions

In some instances, it may be necessary to impose a temporary speed restriction on trains. Temporary speed restrictions take time to arrange, so discussions with Network Rail should take place as early as possible, before any formal notice is given for the works. Where a temporary speed restriction may already have been arranged for other purposes, the highway/road authority, statutory undertaker or other persons should consider rearranging the timing of their works to be able to make use of it, thereby minimising disruption to rail traffic.

C.8.3 Trenchless Construction

Where trenchless construction is to be employed beneath the railway track, Network Rail must approve the method. A temporary speed restriction may be imposed on trains and Network Rail may be required to oversee works in progress. Pipe bursting techniques will require special consideration by Network Rail, due to possible effects on the railway infrastructure and associated assets.

C.8.4 Works on railway land that do not affect the railway infrastructure or associated assets

These are works that do not affect the track or its surrounding land, such as works at a manhole, erection of poles and wires/cables, pressure testing pipes which do not pass under the track or excavations several metres away from the track.

C.8.5 Works outside the confines of a level crossing, using existing ducts which pass beneath the railway.

These works may proceed without special early notification to Network Rail. However, risk assessments and traffic control as described in Section C7 must be followed.

C.8.6 Use of mechanical excavators and cranes near the railway

Network Rail will advise of any necessary precautionary measures whenever cranes, mechanical excavators, vehicles or other construction plant are to be operated close to railway traffic. The purpose is both to protect trains from accidental contact with the plant and to protect operators from the likelihood of death or serious injury arising from contact with live traction equipment and trains on the railway.

Network Rail may require the submission of plant operating diagrams and/or method statements, prepared by the plant operator and approved by the statutory undertaker, highway authority or other persons carrying out the work, to enable Network Rail to decide the magnitude of any potential problems. These diagrams and method statements should consider the possible results of machine failure, structural failure or uncontrolled operation of the plant.

C.8.7 Electrification continuity cables

In areas where the railway is electrified using the third rail system particular care must be taken to ensure that continuity cables, which connect the ends of the live rail to maintain electrical continuity, are not damaged whilst excavations are being undertaken. In most cases these will be laid parallel to the rails at, or just below, the adjacent ground level.

C.9 Reinstatement of the Road at Level Crossings

Where the highway/road authority resurfaces a road or carries out alterations on the approach to a level crossing, alterations should not be made to any signs or road

markings which are a requirement of the Level Crossing Order. Alterations such as carriageway and footway width and centre of carriageway markings on the approach to the crossing will require notification to Network Rail to request and obtain a revised Level Crossing Order.

C.10 New Works near Level Crossings

When statutory undertakers are proposing to install new supplies, the proposed routes should wherever possible avoid traversing level crossings. Where avoidance is not possible, trenchless methods of installation must be considered.

C.11 ORR Requirements

Specific attention is drawn to Level Crossings: A guide for managers, designers and operators Railway Safety Publication 7 December 2011

http://www.rail-reg.gov.uk/upload/pdf/level_crossings_guidance.pdf and the necessity to comply with the advice contained therein.

APPENDIX C - Annex A

ADVICE OF INTENDED WORKS AT OR NEAR A RAILWAY LEVEL CROSSING	
<p>To: (Name) Network Rail (Address)</p> <p>Tel No: Email: select form website list</p> <p>Date:</p>	<p>From: (Name) (Company) (Address)</p> <p>Tel No: Sender's Ref No: Works Ref No: On behalf of HA/SU:</p>
<p style="text-align: center;">PRELIMINARY ADVICE</p> <p>Works are proposed at/near the level crossing at:</p> <p>..... (street/road name, railway line)</p> <p>Details of the works are given in the Additional Information box, I confirm it contains</p> <ul style="list-style-type: none"> ➤ a description of the works ➤ site location map ➤ TM plan and/or signing schedule for the diversionary route <p>Intended start date of works</p> <p>Likely duration of works.....</p>	
<p>Additional Information:</p>	
<p style="text-align: center;">ACKNOWLEDGEMENT OF RECEIPT OF ADVICE (by Network Rail)</p> <p>Details of your proposed works, Ref No: has been received.</p> <p>The person dealing with the proposal is:</p> <p>Tel No: E-Mail:</p> <p>The proposal has been given the Network Rail Ref No:</p> <p>*delete as appropriate</p> <p>*A1. The works may proceed in accordance with the arrangements set out in your proposal. This Form and a copy of the arrangements to be forwarded to the Highway/Road Authority with your application, for their information.</p> <p>Or</p> <p>*B1. The works are not yet approved. We will be in contact again by (date) to arrange a meeting to agree special requirements.</p> <p>Followed by</p> <p>*B2. The works may proceed in accordance with the agreed special requirements. This Form and a copy of the agreed special requirements to be forwarded to the Highway/Road Authority with your application, for their information.</p> <p>Signed for Network Rail Date</p>	

APPENDIX C - Annex B

Example of consultation form for Special Engineering Difficulty

NEW ROADS AND STREET WORKS ACT 1991

UNDERTAKER:
HIGHWAY

To: NRSWA Asset Protection Anglia	From:
Tel No: 020 3356 2510	Tel No:
Email: { HYPERLINK "mailto:NRSWAAssetProtectionAnglia@networkrail.co.uk" } or as selected from list	Email:
Contact:	Contact:
File Ref:	
Date:	

PRELIMINARY CONSULTATION Relating to proposed works in Streets with Special Engineering Difficulty (section 63 & Schedule 4) or in the vicinity of Highway Structures (in the case of bridges section 88)

LOCATION:

Plan Attached	YES/NO* (Please attach whenever possible)
Plan No	
Road Name/Number	
OS Reference	
Bridge/Structure No	

DESCRIPTION OF PROPOSED WORKS:

New/Renewal/Refurbishment*	Major/Standard/Minor*
Size and Type	
Proposed depth of excavation	
Proposed depth of cover to service on completion	
Expected start of works	

*Delete as appropriate

APPENDIX D: CO-ORDINATION SCHEDULE

The co-ordination of works over longer periods is aided by the exchange of forward planning information.

Promoters can send forward planning information about works electronically using the format in Table 2 below. Information should be provided in the order shown with the fields forming a horizontal row. The highway authority may need to reorder data before converting it into a CSV file for entry into the register. The six-digit grid reference number is important for providing reasonably accurate information on location of works.

	Guidance notes. (Do not include guidance notes in spreadsheet)
Street authority	
Operational district	
Works promoter	
Date of last update	If applicable
Works promoters reference	If applicable
Town	
Locality	
USRN	
Street name	
Road number*	Road classification number
Grid reference (Easting)	Approximately the centre point of the proposed works
Grid reference (Northing)	Approximately the centre point of the proposed works
Works promoter contact name	Name of person who can answer queries regarding the works.
Works promoter contact number	Telephone number of above
Works description	
Works position	When known. Carriageway = C. Footway = F. Verge = V.
Traffic management type	When known
Length of works	When known
Width of works	When known
Start date of works	This may be just a financial or calendar year
End date of works	This may be just a financial or calendar year
Notes	
*Road classification provides works co-ordinators with information on a route basis.	

APPENDIX E: COLLABORATION FRAMEWORK

This section is intentionally blank whilst this guidance is developpe

APPENDIX F: S81 DUTY TO MAINTAIN APPARATUS GUIDANCE

This section is intentionally blank whilst this guidance is developed.

APPENDIX G: SPECIAL ENGINEERING DIFFICULTY DESIGNATION



Special Engineering Difficulty Designation Request Form

Under NRSWA 1991 a street authority can be asked to designate a street as having special engineering difficulties by a transport authority or Utility on the grounds of the proximity of the street to one of its structures or an undertaker having apparatus in the street.

This form has been created for Statutory Undertakers to raise a Special Engineering Difficulty Designation with Local Highway Authorities (LHA) with the necessary information supplied to create an ASD Item.

1. Raised by:

Organisation	
SWA Code	
Email	
Date of request	

2. SED Information








USRN	
LHA SWA Code	
Location (Coordinates or Plan Preferred)	

Please provide information on what the Special Engineering Difficulty is and why it needs to be designated.

--

1. Special Designation Description

Under the specification a description of each special designation is required with a character limit of 250, please provide a description that you would like included. Type of SED

    1 / 1   

END OF DOCUMENT