



Department
for Transport

Consultation outcome

Street works: fines and lane rental surplus funds – outcome

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This publication is available at <https://www.gov.uk/government/consultations/street-works-fines-and-lane-rental-surplus-funds/outcome/bbed3de3-6c4a-4ccc-8b1c-30cae3b69e1d>

The government has decided to proceed with the proposals outlined in the consultation. These include:

- requiring at least 50% of any surplus lane rental funds to be spent on highway maintenance
- doubling the level of fixed penalty notices that can be issued for 5 street works offences
- allowing overrun charges to apply at weekends and bank holidays

Executive summary

Introduction

This outcome relates to plans to reform street works fines, penalties and use of surplus lane rental funds in England. It presents the government's response to the proposed amendments to the:

- [Street Works \(Charges for Occupation of the Highway\) \(England\) Regulations 2012](https://www.legislation.gov.uk/ukxi/2012/425/contents/made) (<https://www.legislation.gov.uk/ukxi/2012/425/contents/made>) (2012 lane rental regulations)
- [Street Works \(Fixed Penalty\) \(England\) Regulations 2007](https://www.legislation.gov.uk/ukxi/2007/1952/contents/made) (<https://www.legislation.gov.uk/ukxi/2007/1952/contents/made>) (2007 FPN regulations)
- [Traffic Management Permit Scheme \(England\) Regulations 2007 as amended](https://www.legislation.gov.uk/ukxi/2007/3372/contents/made) (<https://www.legislation.gov.uk/ukxi/2007/3372/contents/made>) (2007 permit regulations)
- [Street Works \(Charges for Unreasonably Prolonged Occupation of the Highway\) \(England\) Regulations 2009](https://www.legislation.gov.uk/ukxi/2009/303/made) (<https://www.legislation.gov.uk/ukxi/2009/303/made>) (2009 charges regulations)

Between 15 January and 11 March 2024, the Department for Transport (DfT) carried out a [Street works: fines and lane rental surplus funds consultation](https://www.gov.uk/government/consultations/street-works-fines-and-lane-rental-surplus-funds) (<https://www.gov.uk/government/consultations/street-works-fines-and-lane-rental-surplus-funds>) that set out proposals to:

- require local authorities with lane rental schemes to use at least 50% of any surplus funds on pothole repairs or resurfacing

- increase the level of fixed penalty notices (FPNs) available for some street works offences
- extend charges for overrunning street works to weekends and bank holidays

These proposals would involve the following amendments to secondary legislation.

2012 lane rental regulations

Amending the [2012 lane rental regulations](https://www.legislation.gov.uk/ukxi/2012/1322/made) (<https://www.legislation.gov.uk/ukxi/2012/1322/made>) to require highway authorities to invest at least 50% of surplus lane rental funds into highway maintenance. This would make an appreciable difference to those areas with lane rental schemes and would mean that the authority operating the scheme could, for example, repair more potholes on its network. Setting the level at 50% would mean that funds would still be available for innovation projects and to mitigate the effects of works on congestion.

2007 FPN regulations and 2007 permit regulations

Amending the [2007 FPN regulations](https://www.legislation.gov.uk/ukxi/2007/1952/contents/made) (<https://www.legislation.gov.uk/ukxi/2007/1952/contents/made>) and the [2007 permit regulations](https://www.legislation.gov.uk/ukxi/2007/3372/contents/made) (<https://www.legislation.gov.uk/ukxi/2007/3372/contents/made>) to raise the level of FPN charges payable for criminal offences relating to street works. As many FPNs relate to notification failures, this would encourage prompt notification of works start and stop notices, and registration of reinstatements that trigger inspections. These are important to ensure that up to date information is available to road users to reduce congestion and the impact of works on, for example, buses. This would also increase the level of deterrent provided by FPNs and improve compliance.

2009 charges regulations

Amending the [2009 charges regulations](https://www.legislation.gov.uk/ukxi/2009/303/made) (<https://www.legislation.gov.uk/ukxi/2009/303/made>) to allow overrun charges to be applied at weekends and bank holidays. Roads are often just as busy on weekends as they are on weekdays. Application of charges at weekends would remove a potential loophole, helping to ensure compliance with requirements to complete the necessary interim or permanent reinstatement and clear the site in line with the duration allowed by the permit or the reasonable period.

In total, we received 479 responses to the consultation. Not all respondents answered all questions. The breakdown of those respondents is set out in Table 1.

Table 1: Number of responses to the consultation

Respondent	Number of responses
Architecture firm	1
Cycling association	1
Highway authority	81
Highway/traffic engineering consultancy	1
Members of the public	309
Members of Parliament (MP)	4
Non-departmental public body	2
Representative organisation	15
Road resurfacing organisation	2
Trade supplier	1
Traffic authority	4
Traffic management company	1
Utility company	57
Total	479

This report summarises the overall responses to the consultation questions relating to amendments to secondary legislation and sets out the government's response.

Lane rental surplus funds

This section of the consultation asked for views on a proposal to seek an amendment to the 2012 lane rental regulations that would require authorities to spend at least 50% of any surplus lane rental funds on repairing potholes.

Lane rental allows for charges of up to £2,500 per day for works on the busiest roads at the busiest times. This proposal was intended to make an

appreciable difference to areas operating lane rental by allowing the authority operating the scheme to repair more potholes on its network.

Under this proposal, the remaining 50% of surplus funds would still be available for innovation projects and to mitigate the effects of works on congestion. Governance groups for each scheme would also remain in place to oversee the application of the funds.

Question 1: Do you support or oppose the proposal that a minimum 50% of surplus lane rental funds are spent by highway authorities on repairing potholes? If so, why?

Table 2: Responses to question 1

Respondent	Support	Oppose	Don't know	Total
Architecture firm	1	0	0	1
Cycling association	1	0	0	1
Highway authority	50	25	6	81
Highway/traffic engineering consultancy	0	1	0	1
Member of the public	267	25	16	308
MP	4	0	0	4
Non departmental public body	0	2	0	2
Representative organisation	4	9	1	14
Road resurfacing organisation	0	2	0	2
Trade supplier	1	0	0	1
Traffic authority	3	1	0	4
Traffic management company	1	0	0	1
Utility company	9	46	1	56
Total	341	111	24	476

The vast majority of respondents from most groups who responded supported this proposal. The main comments given in support included:

- there has been a lack of investment in highway maintenance resulting in structural deterioration of the highway as a result, so any extra funding would be beneficial
- diverting 50% of funds to pothole repair will alleviate the pressure on highway maintenance funds
- requiring the authority to allocate 50% of the funds on potholes or other highway repairs would go some way towards offsetting the costs of the scheme to the authority
- more authorities will be encouraged to introduce lane rental schemes, which provide an appropriate incentive for utility companies to avoid the busiest roads at the busiest times
- potholes are a health and safety hazard to drivers, cyclists and pedestrians due to cars swerving to avoid potholes. Investment in road maintenance will improve safety for all users of the highway
- potholes cause unnecessary damage to vehicles. Investment in pothole repairs will mitigate the rise in damage to cars and increasing insurance premiums seen in recent years
- this funding would enable the authority to repair potholes caused by poor utility reinstatements in cases where the defect appears after the guarantee period has expired
- potholes slow the movement of traffic, therefore any measures leading to increased pothole repair will contribute to the expeditious movement of traffic on the network
- a significant number of highway authority respondents also noted that in order to maximise the positive impact on the network, it would be beneficial to ensure that funding is not limited to fixing potholes but can be used for other highway maintenance works such as preventative surface treatments, large scale patching and full width resurfacing

Most opposition to this change came from utility companies. Comments made against this proposal included:

- clarity was sought on the percentage of roads where lane rental can be applied and concerns were expressed over whether an increase in lane rental schemes could impact the delivery of broadband and electric vehicle charging infrastructure
- an increase in the use of lane rental schemes may result in increased costs for the utility company which may be passed directly to customers
- the need for a defined framework to oversee how authorities use the funds allocated and to ensure that repairs are completed to a good standard
- additional funds could become the sole focus of implementing a lane rental scheme rather than the suitability or change in utility behaviour

- clarity was sought on whether a change in the use of lane rental surplus would affect current DfT funding levels

Government response

The government has decided to proceed with this proposal.

The majority of concerns expressed by utility companies were about the possibility of an increase in lane rental schemes. However, we have decided to proceed with this proposal because we want to support councils to introduce more lane rental schemes due to the many benefits they bring in terms of reducing the number and duration of works on busy roads. It would also help to deliver this government's commitment to repair potholes and support investment in highway maintenance.

We expect lane rental to cover between 5% and 10% of an individual highway authority's network, which will enable the delivery of broadband and EV charging infrastructure. Lane rental should provide utility companies opportunities to avoid charges by:

- moving works to other roads
- carrying them out at less busy times
- collaborating with other organisations wanting to carry out work at the same time

It should also be noted that the vast majority of charges in existing lane rental schemes are avoided due to those promoting works taking the necessary action.

We have updated our [street works lane rental guidance](https://www.gov.uk/government/publications/street-works-lane-rental/lane-rental-schemes-guidance-for-english-highway-authorities) (<https://www.gov.uk/government/publications/street-works-lane-rental/lane-rental-schemes-guidance-for-english-highway-authorities>) to clarify many of the issues raised by utility companies. This includes statements to ensure that lane rental is not used to generate revenue but that it continues to target congestion reduction on the busiest roads at the busiest times.

Utility companies will continue to be consulted on each new scheme. The 2012 regulations include a requirement for the authority to keep and publish accounts of sums received under these schemes and scheme governance groups should oversee the application of funds to ensure compliance with regulations. Utility companies sit on these groups.

In response to feedback expressing a desire to maximise the beneficial impact on the network, we will amend the 2012 lane rental regulations to

require authorities to spend a minimum of 50% of surplus funds on highway maintenance, as opposed to just pothole repairs.

Fixed penalty notices

This part of the consultation asked for views on a proposal to amend the 2007 FPN regulations and the 2007 permit regulations to increase FPN charges for fines relating to:

- offences under the New Roads and Street Works Act 1991 (NRSWA) sections 70 (late registration of a reinstatement), 74 (late submission of works start and stop notices) or 74A (late registration of lane rental works start and stop notices)
- regulations 19 and 20 (working without a permit and breaching permit conditions) of the 2007 permit regulations

The regulations could be amended in the following ways.

Option A

Fines would be raised in line with inflation (rounded up), which would mean FPNs of £170 full charge and £115 discounted charge for NWSRA offences and breaching permit conditions. FPNs would be £700 full charge and £425 discounted charge for working without a permit.

Option B

Fines would be doubled which would mean FPNs of £240 full charge and £160 discounted charge for NWSRA offences and breaching permit conditions. FPNs would be £1,000 full charge and £600 discounted charge for working without a permit.

Question 2: What are your preferred options for raising the amount of FPN that is payable? Option A or B (see below), or would you prefer that FPN levels are not altered? Please provide an explanation for your reply.

Table 3: Responses to questions 2

Respondent	Option A	Option B	No change	Total
Architecture firm	1	0	0	1
Cycling association	1	0	0	1
Highway authority	11	68	1	80
Highway/traffic engineering consultancy	0	0	1	1
Member of the public	110	168	29	307
MP	0	2	1	3
Non departmental public body	2	0	0	2
Representative organisation	2	5	6	13
Road resurfacing organisation	0	0	2	2
Trade supplier	1	0	0	1
Traffic authority	0	3	0	3
Traffic management company	0	1	0	1
Utility company	3	2	52	57
Total	131	249	92	472

The majority of respondents supported the proposal to raise the level of FPNs with 53% of respondents expressing a preference for option B. Responses were polarised, with highway authorities and members of the public expressing strong support, whereas most utility companies were against the introduction of this measure. The main comments given in support included:

- the only way to make sure companies maximise their efficiency and minimise disruption is to financially penalise those who do not operate within the rules
- this measure would encourage undertakers to plan works accordingly, helping the authority to effectively manage works on their network and minimise congestion
- the effect of FPNs has been eroded over time by not raising fines in line with inflation. This means compliance with regulations is often more

costly than the FPN. Raising FPN levels will create an incentive to invest in compliance systems and processes thereby promoting behavioural change

- some respondents felt that rises in line with inflation would be fair, but most suggested that inflation-related fines would need to be reviewed annually, so doubling fines would future-proof these measures

Comments made against this proposal included:

- FPNs are already at an appropriate level to incentivise compliance
- concerns that highway authorities may use FPNs as a method of generating income
- some thought that this is an unfavourable economic situation to raise charges, with many respondents citing that costs would be likely to be passed on to customers via indirect means. To note, as FPNs are linked to criminal offences, utility companies are not allowed by regulators to pass these onto customer bills
- clarity was sought on whether the system would be monitored to ensure that FPNs are being used reasonably
- FPNs should apply to highway authority works as well as utility works to ensure fairness
- a performance-based approach would be more beneficial with poorer performers receiving increased fines
- a request that FPN data be assessed against FPNs paid rather than FPNs issued

Government response

The government has decided to proceed with option B and will amend regulations to raise FPNs to double their current level in response to significant support from the majority of respondents.

FPN levels have not been raised since 2007 and the increase will mean that FPNs continue to provide a significant deterrent and an incentive to comply with legislation as originally intended.

To address concerns raised by statutory undertakers, the regulations will be supported by updates to the [co-ordination code of practice](https://www.gov.uk/government/publications/street-works-co-ordination) (<https://www.gov.uk/government/publications/street-works-co-ordination>) about FPNs. Data relating to FPNs will also reflect FPNs withdrawn for greater accuracy and performance monitoring going forward.

We appreciate concerns about increased costs. However, these are avoidable costs which will not be incurred if utility firms comply with

regulatory requirements.

Overruns at weekends and bank holidays

Overrun charges can be issued by authorities for works that overrun the durations agreed by the permit on weekdays. The amount of charge that can be applied varies according to the type of road and the number of days overrun and can be up to £10,000 per day. They currently apply to weekdays only. Charges are paid to the authority.

Question 3: Do you support or oppose overrun charges, applied under section 74 of the New Roads and Street Works Act 1991, being applied at weekends?

Table 4: Responses to question 3

Respondent	Support	Oppose	Don't know	Total
Architecture firm	1	0	0	1
Cycling association	1	0	0	1
Highway authority	77	1	1	79
Highway/traffic engineering consultancy	0	1	0	1
Member of the public	255	35	14	304
MP	3	0	0	3
Non departmental public body	0	2	0	2
Representative organisation	6	7	1	14
Road resurfacing organisation	0	2	0	2
Trade supplier	1	0	0	1
Traffic authority	3	0	1	4
Traffic management company	0	1	0	1

Respondent	Support	Oppose	Don't know	Total
Utility company	4	53	0	57
Total	351	102	17	470

Question 4: Do you support or oppose overrun charges, applied under section 74 of the New Roads and Street Works Act 1991, being applied at bank holidays?

Table 5: Responses to question 4

Respondent	Support	Oppose	Don't know	Total
Architecture firm	1	0	0	1
Cycling association	1	0	0	1
Highway authority	73	2	2	77
Highway/traffic engineering consultancy	0	1	0	1
Member of the public	247	41	17	305
MP	3	0	0	3
Non departmental public body	0	2	0	2
Representative organisation	6	7	1	14
Road resurfacing organisation	0	2	0	2
Trade supplier	1	0	0	1
Traffic authority	3	0	1	4
Traffic management company	0	1	0	1
Utility company	3	54	0	57
Total	338	110	21	469

The majority of respondents support these proposals. The main reasons given in support of these proposals were:

- introducing these proposals will increase corporate focus on avoiding overruns and encouraging timely completion of works
- there have been instances of roads being closed unnecessarily over bank holiday weekends and the traffic authority has not been able to issue a section 74 overrun charge. These proposals will provide an incentive for the contractor to re-open the road when overrun charges can be applied
- the proposals will resolve the issue of utility companies using the weekend as an unregulated extension period to the duration of a work that should have concluded on a Friday
- the proposals will help to minimise disruption to the public and public services at the weekends, for example, bus services

Most opposition to this proposal came from utility companies. Some concerns raised were:

- consideration will need to be given to the impact on both authority and utility company workforces in terms of increased resource and delivery burden
- concern that additional resource costs will be passed on to customers
- clarity sought on how the proposals would work in practice with many authorities not operating during weekends and bank holidays
- clarity was sought on how these proposals would affect notice requirements for working days versus calendar days and referred to section 98 of NRSWA

Government response

The government has decided to proceed with these proposals.

We know that overrun charges on weekdays provide an effective incentive for utility companies to complete works in a timely way when they are completed during the week.

By proceeding with this policy, we will be able to use the same measures to reduce congestion and disruption at weekends by enforcing compliance with requirements to complete the necessary interim or permanent reinstatement and clear the site in line with the duration allowed by the permit or the reasonable period.

The 2009 charges regulations will be amended to allow overrun charges to be applied at weekends and bank holidays. Most authority respondents

expressed support for the proposals, indicating that they will be prepared to meet the administrative requirements to implement the new measures.

FPNs at weekends and bank holidays

An amendment of the requirement for works start and stop notices to be submitted on any day of the year, including at weekends and on bank holidays was made in 2023. However, the coordination code of practice which accompanied the regulations stated that FPNs should not be issued, as DfT wanted to give organisations a grace period and time to update systems.

To support the implementation of weekend and bank holiday overrun charges, we proposed to amend the code of practice to support highway authorities issuing FPNs for non-compliance with the notices required under section 6 of the 2009 regulations.

Question 5: Do you support or oppose FPNs being available for late submission of works start and stop notices at weekends?

Table 6: Responses to question 5

Respondent	Support	Oppose	Don't know	Total
Architecture firm	1	0	0	1
Cycling association	1	0	0	1
Highway authority	70	7	2	79
Highway/traffic engineering consultancy	0	1	0	1
Member of the public	252	31	24	307
MP	3	0	0	3
Non departmental public body	0	2	0	2
Representative organisation	6	7	1	14
Road resurfacing organisation	0	2	0	2

Respondent	Support	Oppose	Don't know	Total
Trade supplier	1	0	0	1
Traffic authority	3	0	1	4
Traffic management company	0	1	0	1
Utility company	5	52	0	57
Total	342	103	28	473

Question 6: Do you support or oppose FPNs being available for late submission of works start and stop notices on bank holidays?

Table 7: Responses to question 6

Respondent	Support	Oppose	Don't know	Total
Architecture firm	1	0	0	1
Cycling association	1	0	0	1
Highway authority	67	8	5	80
Highway/traffic engineering consultancy	0	1	0	1
Member of the public	240	39	25	304
MP	3	0	0	3
Non departmental public body	0	2	0	2
Representative organisation	6	7	1	14
Road resurfacing organisation	0	2	0	2
Trade supplier	1	0	0	1
Traffic authority	3	0	1	4
Traffic management company	0	1	0	1

Respondent	Support	Oppose	Don't know	Total
Utility company	5	52	0	57
Total	327	112	32	471

The majority of respondents supported these proposals. The main reasons given in support of these proposals were:

- if works are allowed to take place on weekends and bank holidays, then fines should be applicable at the same time to prevent performance degradation
- this supports the aim of providing timely and accurate information to the public on works that are being carried out
- most authority networks are just as busy on weekends and bank holidays as they are on working days. Fines should reflect this
- FPNs being available at these times will force utility companies to provide accurate real time information for highway authorities to carry out their coordination role

Most opposition to this proposal came from utility companies. Some concerns raised were that any increased costs would be passed on to customers.

To note, FPNs are linked to criminal penalties and regulators do not allow these to be passed onto customer bills.

Government response

The government has decided to proceed with these proposals.

Applying FPNs to late submission of works start and stop notices at weekends will incentivise companies to comply with the timings in regulations, thereby preventing overruns and reducing congestion. This offence already applies to works carried out on any day of the year.

However, the co-ordination code of practice advised that FPNs were not applied at weekends. Our response to a 2022 consultation notes that this was to give undertakers time to become accustomed to the new requirements and to comply.

Given that not all organisations are complying with the timings set in regulations for weekend works, and that they have now had time to update

systems, it is appropriate to apply FPNs at these times to encourage compliance and minimise disruption whatever day of the week.

The coordination code of practice will be amended to support authorities issuing FPNs for late submission of works start and stop notices at weekends and bank holidays.

We appreciate concerns about increased costs. However, these are avoidable costs that will not be incurred if utility firms comply with regulatory requirements.

Next steps

The government thanks stakeholders for their responses to this consultation, as well as their engagement during its development. The evidence provided during this consultation has been beneficial in helping us develop our policy proposals.

A summary of the decisions taken as a result of this consultation can be found in Table 8 below.

Table 8: Summary of decisions

Proposal	Decision
Require highway authorities to spend a minimum of 50% of surplus lane rental funds on repairing potholes	The government will proceed with this proposal. It will apply the requirement to highway maintenance
To increase FPN charges for fines relating to offences under the NRSWA, either raising them in line with inflation (option A) or doubling them (option B)	The government will proceed with option B
To allow overrun charges, applied under section 74 of the New Roads and Street Works Act 1991, to be applied at weekends and bank holidays	The government will proceed with these proposals
To allow highway authorities to issue FPNs for late submission of works start and stop notices at weekends and bank holidays	The government will proceed with these proposals

The government plans to lay regulations that will make the necessary changes to come into force in summer 2025.

Relevant updates to the [street works co-ordination code of practice](https://www.gov.uk/government/publications/street-works-co-ordination) (<https://www.gov.uk/government/publications/street-works-co-ordination>) and the [street works permit scheme statutory guidance](https://www.gov.uk/government/publications/street-works-permit-schemes) (<https://www.gov.uk/government/publications/street-works-permit-schemes>) will be made at the same time.



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