

**Code of practice for the**

**co-ordination of street and road works**

March 2023

Department for Transport

Great Minster House

33 Horseferry Road

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Executive summary

The New Roads and Street Works Act 1991 (NRSWA) and the Traffic Management Act 2004

(TMA), supported by relevant regulations and codes of practice, provide a legislative

framework for street works by undertakers (including utility companies) and the road works carried out by highway authorities – to the extent that these must be co-ordinated by street

authorities. Highway authorities are the street authorities for the public road network. The aim of this code of practice 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 code

• Reflects various changes made to the provisions of NRSWA by the Traffic Management Act 2004 (TMA) and subsequent legislation to enable the administration and management of all street and road works 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 authorities more power to co-ordinate, control and direct works effectively with the aim of minimising disruption.

• Gives practical guidance on both undertakers’ and authorities' responsibilities with regard

to street or road works and the legislation.

• Was prepared by a Highways Authority and Utility Committee (HAUC) England working group, comprising representatives of the Department for Transport (DfT), the utility industries and highway authorities and was subject to extensive consultation with all

practitioners before presenting it to the DfT. The DfT thanks everyone who has been involved in the production of this guidance and for the time and work that has been put into it.

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This 5th edition of the code is issued under sections 56A(8), 59(3) and 60(2) of NRSWA as statutory guidance by the DfT for use in England. It comes into force as statutory guidance on

3rd April 2023 and authorities must have regard to it.

It supersedes the 4th edition of the code that was published in October 2012 and any other

previous versions.

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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 gives practical 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” covers the following definitions of authority since they are, usually, the same organisation

• highway authority

• street authority

• transport authority

• permit authority

• noticing authority (refers to an authority that used the notices provided for in NRSWA.

Almost every authority now operates a permit scheme)

• bridge authority

• strategic highways company (refers to National Highways)

The term “promoter” means the organisation promoting the works and includes

• undertaker

• utility company

• highway authority

• other organisations such as, for example, London Underground and Network Rail

These terms are also covered in the glossary in appendix A.

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**1.1.1 Other definitions**

The key words, "must", "must not", "required", "shall", "shall not", "should", "should not", "recommended", "may", and "optional" used in this document are to be interpreted as follows

• legislative requirements are defined in this code by the terms “must” or “must not”, “shall” or “shall not”

• the terms “should” or “should not” and “recommended” or “not recommended”, whilst not clear legislative requirements, nevertheless can have legal repercussions and therefore are expected practice. Deviation from this ought to be justified

• the terms “may” or “optional” refer to accepted good practice

**1.2 Legislative framework**

NRSWA sets out the objectives of the co-ordination function

• to ensure safety

• to minimise inconvenience to people using a street, having regard, in particular, to the needs of people with a disability

• to protect the structure of the street and the apparatus in it

This code is intended to help authorities carry out the above duties which are set out in section 59 of NRSWA, and promoters to fulfil their duty to co-operate in this process which is set out in

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

• 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 the legislative requirements to serve notifications and apply for permits, as well as the electronic system(s) 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 focused on particularly sensitive streets, such as traffic-sensitive streets.

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• 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 utility company customers

• the importance of co-operation and regular communication between authorities and promoters

• 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

transactions by which works were communicated and managed between authorities and promoters. Almost every authority in England operates a permit scheme, with the last one or two expected to introduce schemes shortly. Permit schemes are, or shortly will be, the means

by which all street and road works are planned, co-ordinated and administered.

This code applies to prospectively maintainable streets (under section 87 of NRSWA) as well as to the public road network (roads maintainable at public expense).

The provisions of this code 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 (National Street Gazetteer (NSG)), Additional Street Data (ASD), and that all permits are administered in accordance with Street Manager (the DfT's digital service for planning and managing works in England and

which must be used by every authority and promoter).

**1.3 Other statutory obligations**

Both authorities and promoters operate in line with other statutes which impose additional obligations and need to comply with these as well as the duties in NRSWA.

Permit schemes were introduced by Part 3 of the TMA to improve authorities’ abilities to minimise disruption from street and road works. Section 16 of the TMA also introduced the network management duty. The network management duty requires authorities to manage

their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives

(a) securing the expeditious movement of traffic on the authority's road network, and (b) facilitating the expeditious movement of traffic on road networks for which another authority

is the traffic authority. Traffic includes pedestrians and cyclists.

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

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

• that minimum application times for permits specified in the permit scheme statutory guidance 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

• the importance of the designation of streets subject to special controls. Authorities should only use designation in cases where it is strictly necessary. Promoters must respect the objectives of designation when planning and carrying out works.

The authority has further powers through other legislation such as the Highways Act 1980 and

the Road Traffic Regulation Act 1984. It may also have powers granted by local acts,

particularly in London.

An authority’s duties and powers must be balanced against the statutory obligations of the promoter, and must adhere to duties under sections 59 and 60 of NRSWA for authorities to co-ordinate works and for promoters to co-operate.

This code should also be read in conjunction with the relevant regulations, guidance relating to Street Manager, and other guidance issued including in relation to permit schemes, inspections, safety and the technical guidance relating to reinstatements for a full understanding of the administration of street and road works.

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Chapter 2 – Co-ordination and collaboration

**2.1 Introduction**

This chapter sets out the key principles of effective co-ordination, collaboration, and works processes that should 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, including contact details with each permit

• details of how works will be undertaken so 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

• 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

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• communication of decisions at the earliest opportunity so that promoters’ plans can be

adapted, if necessary

• 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 there should

be engagement with the authority and relevant stakeholders.

**2.2.2 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 should provide forward planning information about road or street works. This may

include but not be limited to

• those works in their annual operating programme

• three or five-year rolling programmes such as mains replacement programmes or the reconstruction of main roads, which will be planned several years ahead • works identified through asset condition surveys

Forward planning information can be provided at any time before an application for a provisional advance authorisation or permit application, but is encouraged to be submitted at the earliest opportunity to support co-ordination. It is much easier to adjust medium and long term programmes to co-ordinate with the plans of others if forward visibility is given in advance, than it is for short term programmes where contractual commitments may have been made.

Submission of forward plans should be via Street Manager.

It is essential that information on large-scale or potentially very disruptive works is included in Street Manager 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 which 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 Street Manager is still current and to update these plans accordingly.

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**2.2.3 Co-ordination 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 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 meetings 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

**2.2.4 National and regional HAUC meetings**

National and regional HAUCs hold regular meetings. Principal issues discussed at these meetings will be national policy implications and they will provide policy guidance on a local basis. They will also facilitate local mediation procedures.

**2.2.5 Liaison with other bodies**

Authorities must liaise with neighbouring 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

• freight operators

• any other appropriate bodies, for example, organisations representing people with disabilities, pedestrians, motorists, equestrians and cyclists the appropriate planning and environmental health officers

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**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, that is, traffic management, innovative technology and construction methodologies

• the effect of other planned or active works, other licences and activities that will occupy the highway, any known events, any forward planning information and other licences or consents issued in respect of affected streets

• developments for which there is a resulting impact on the highway

• 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.

The promoter might, for example, also want to consider issues like the future accessibility to all assets both above and below ground and the availability of a workforce to begin and complete works as quickly as possible before submitting permit applications.

**2.3.1 Communication**

Whilst all works are required to be published on public facing websites, and are included in Street Manager's open data, when considering the impact of the works during the assessment

process, authorities and utility companies 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

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• letter drops to householders or businesses with frontages on the street • 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. Utility companies can also propose communications that could help to mitigate the impact of their works.

**2.4 Co-operation**

The primary aim of section 59 of NRSWA is for the authority to co-ordinate works in the street

with the active co-operation of all parties concerned.

Undertakers 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 undertaker 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 and the TMA.

**2.5 Collaborative working**

Collaborative working is something that all promoters, whether authority or undertaker, should consider during the planning process. Collaborative works can only take place where parties can identify the opportunities to do so, and 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 undertaker 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 works activities mean improved safety for public and workforce • overall efficiencies gained for the UK

• improved public perception from visible collaboration efforts

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• the industry acts as socially responsible organisations

• fewer individual excavations can result in lower impact on the integrity of the highway asset

Lane rental and permit schemes may incentivise collaboration with discounts on lane rental charges and permit fees.

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

• Special engineering difficulty (SED). There is an opportunity for promoters to work together on other network activities when bridge works, for example, are planned. This

needs to be agreed with owners of structures in advance.

• 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?

• 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 permitting implications in relation to the different work

types.

• 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. For example, 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. For example, 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 traffic 17

management 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 promoter's 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.

• 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 Street Manager 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 for site safety, permitting requirements and reinstatement. There should be an agreed primary promoter, with other collaborating promoters designated as secondary promoters. 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 for 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.

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• Permits/lane rental. Each party will be required to submit relevant permits but these will differ depending on whether they 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. In the case of collaborative works with shared trenches, provided that one undertaker accepts responsibility for the works, the calculation of units of inspection will be based on the cumulative duration of all works on the primary promoter's permit. This should not be seen as a deterrent to collaborative works since the benefits of these type of works are significant and can reduce the total time the highway is occupied.

• Each promoter should indicate the type of traffic management for which they are responsible when applying for a permit. This is not the most severe type of traffic management for the entire works, but the element relevant to that permit application. For example, promoter 1 applies for a permit with a “road closure”, and promoter 2 applies for a permit with “some carriageway incursion”. In more complex scenarios, further information can be provided in the works' description.

**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 used, 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.

Further guidance 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.

Further guidance 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, discussions and agreements may be made via phone calls and e-mails outside of Street Manager and other street works systems.

It is recommended that all promoters are clear about their individual responsibilities to record relevant information in Street Manager.

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Promoters and authorities should also, where possible, ensure that relevant contact information is recorded in Street Manager to facilitate effective communication.

**2.5.7 Special considerations for authorities**

**Durations**

A major objective of collaboration is to reduce the disruption caused by repeated street and road works at the same location. Where, in isolation, each promoter's 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.

The following example shows a collaboration work where promoter 1 completes the final reinstatement 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**

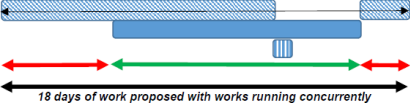
This example shows collaboration between 3 promoters with promoter 1 as the primary promoter, taking responsibility for the final reinstatement of the site.

Promoter 1 – duration now proposed at 18 days from excavation to reinstatement. Unable to

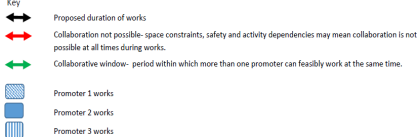
complete reinstatement until other promoters have completed work.

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. 20



Under this collaborative scenario, the duration of promoter 1's works is three days longer than without collaboration. But the overall duration for all 3 works results in 11 days' less disruption for road 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.

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Chapter 3 - The national street gazetteer

**3.1 Introduction**

This chapter provides information about the national street gazetteer (NSG) which holds detailed information about all the streets in England and Wales and other additional street data (ASD).

**3.2 The local and 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

(GeoPlace) 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.

National Highways produce the trunk road street gazetteer (TRSG) which contains details of

the strategic and trunk road network maintained by National Highways. The LSGs and TSRGD then combine to form the NSG.

**3.3 Additional street data**

Additional street data (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 (see below). The data requirements of each different type of ASD are defined by the NSG concessionaire, within the DTF

specification.

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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 DfT may expand the scope of ASD as required.

The co-ordination process is greatly enhanced by ensuring all ASD is current and recorded on all appropriate streets.

**3.3.1 Interest records**

The principal purpose of this record is to identify any organisation that has an interest in the street and the nature of that interest.

It also identifies whether the street is a highway maintainable at public expense and, where this is not the highway authority, who is responsible for maintaining the street. For example, Transport for London, National Highways, Network Rail or a private street manager.

**3.3.2 Construction records**

The purpose of this information is to identify the standard of construction that is used in the street, as specified by the current Specification for the Reinstatement of Openings in Highways (SROH).

It also identifies any special surface or construction needs in the street, as specified by the current SROH

• special surface (a discretionary record) identifies areas of the street where special surfacing materials were used, for example, porous asphalt, high friction surfacing, coloured surfacing, modular surfacing, other asphalt areas (footways, including mastic asphalt) and replacement modules

• special construction needs (a discretionary record) identifies areas where the street is subject to special construction methods or where they were used, for example, geosynthetic materials, geotextile materials, reinforcement grids, sulphate resistant concrete, air entrained concrete, HD26 design standard, high sulphate areas.

If the standard of construction varies along the length of the street, it is possible to have multiple construction records that apply to each street.

**3.3.3 Special designations**

The purpose of a special designation is to identify any special attributes relating to the street

that would be useful in street works' co-ordination.

Statutory designations should be recorded against any street where they exist.

Conditional designations should be recorded against any street where they exist. 23

All special designations should be reviewed on a regular basis to ensure that any amendments are available to all users. This should be at least every 3 years.

All special designations should 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.

See Annex F for the current list of special designations.

**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

• the street authority responsible for maintaining the street

• the maintainability of the street, whether the street is publicly maintainable, prospectively publicly maintainable, or private

• 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

• all traffic-sensitive designations

• all formally protected street designations

• all special engineering difficulty designations

• all lane rental scheme designations

• if the street forms part of a strategic route

• all Public Rights of Way (PRoW) rights that currently exist

• 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 data for all streets within its geographical area, whether or not it is the street authority for any particular street. This includes all streets that are not maintainable at public expense.

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

• National Highways

• Transport for London

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Any other organisation with an asset in the street may submit records to the NSG concessionaire where they are the definitive source of a type of data. They may also submit an interest record. An example of such an organisation is Network Rail.

Any other organisation with only an interest in the street may submit records to the NSG concessionaire where they have an interest in activities happening in the street. An example of this is a neighbouring authority, exercising their network management duty.

These records may also be entered into the ASD maintained by the authority where the data cannot be submitted directly.

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

**3.4.3 Format of data**

The NSG is a geographical dataset that 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 centerline geometry objects (defined as level 3 geometry in BS7666), 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.

**The minimum specification of the common map base**

| Scale | Urban areas: 1:1250  Rural areas: 1:2500  Remote areas: 1:10000 |
| --- | --- |
| Accuracy | Urban areas: ± 1.0m  Rural areas: ± 2.0m  Remote areas: ± 4.0m |

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| 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 maximum |

All streets in a LSG should reference the road centreline geometries as defined above, which should in turn reference polygons representing the road surface.

All streets in a LSG must be identified using a Unique Street Reference Number (USRN). In essence, for each street, authorities should provide

• USRN definitions and attribution as defined in BS7666: 2006 Part 1

• the geometries recorded by referencing the road centreline objects in the digital map base

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

All data should follow the NSG standards.

**3.4.3 Procedure for updating and publication**

For updates, all LSGs and the TRSG should be submitted to the NSG concessionaire at least once per calendar month. The frequency of updates may be subject to change following review by the NSG concessionaire and the DfT. The data should be submitted to a nationally consistent standard where it is validated 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 publication may be subject to change following review by the

NSG concessionaire and the DfT.

All authorities and statutory undertakers can obtain the street data and ASD from Geoplace's website

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 should use the most current data. Street Manager is updated with the latest NSG data at least every month.

The NSG dataset should be used to underpin all statutory duties on the authority as identified in the following process diagram.

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Chapter 4 - Register of works in a street

**4.1 Introduction**

Part 8A of the Traffic Management Permit Scheme (England) Regulations 2007 as amended (the 2007 permit regulations) was inserted by the Street and Road Works (Amendments

Relating to Electronic Communications) (England) Regulations 2020 to enable the Secretary of State to charge authorities and statutory undertakers for use of Street Manager and to require use of it by authorities and statutory undertakers.

Regulation 38A applies the modifications to section 53 of NRSWA set out in regulation 38B to specified streets within permit areas and requires authorities to maintain a register of each

street covered by their scheme containing information with respect to all specified works on those streets.

For highways maintainable at the public expense, the street authority is the highway authority.

For streets that are not maintainable at public expense, the street authority is the relevant street manager (different to Street Manager - the digital service) as defined in section 49 of

NRSWA. However, the regulations still require the street authority maintains a register of such

streets if they are "specified streets" (see regulation 9 of the 2007 permit regulations). Such streets may be specified streets if

• the authority anticipates that the street will become a maintainable highway • the permit scheme provides that the controls on specified works shall apply only in relation to works in that street which are carried out after the street has become a maintainable

highway

• they are publicly maintained streets but are not included in the permit scheme

Authorities must use Street Manager - the digital service - as the register for the information set out in the 2007 permit regulations and section 53 of NWSRA, as amended.

Both authorities and statutory undertakers are joint data controllers with the DfT under the Street Manager terms and conditions and as set out in the Data Privacy Impact Assessment.

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**4.2 Public access to information contained in street manager**

Street Manager publishes a sub-set of the data included within it via open data. This data includes information about the work, its location, its type, the promoter and the expected duration. Actual start and stop data are also provided. This data can then be used by external companies, app developers and other technology companies to provide information to the general public. Statutory undertakers and other authorities will have access to information across England about other works that are planned or underway.

Authorities are strongly recommended to publish the register on their public website. Public access to websites should be read-only to prevent unauthorised amendment to records.

Restricted information must not be shown on authorities’ websites. The promoter should indicate restricted information on the permit application. The case for restriction needs to be considered on a permit-by-permit basis, rather than a works-by-works basis.

It is essential that both authorities and promoters ensure the information included in Street Manager is accurate and up to date for the benefit of all users, including the open data customers. It is also essential that information on major, large-scale works, or potentially very disruptive activities is included in the permits register on Street Manager at the earliest opportunity (using the forward planning feature). The entry should give as much detail as possible. This will enable activity promoters to take part in early co-ordination enable:

• consideration of joint working (including trench sharing)

• identification of other activities which need to be coordinated with these activities and • production of reports for activity coordinators

**4.3 Entering information on the register**

It is the authority's responsibility to enter forward planning information into the relevant section of the register but, if agreed, the promoter may submit forward planning information. Street Manager has been developed to enable this and for all promoters to enter their own forward

plans in line with modern working practices.

**4.4 Requirements for Street Manager**

The following registration requirements must be carried out via Street Manager

• every permit (consolidated so as to incorporate any variations of the permit) • every variation of a permit

• every variation and revocation of permit conditions

• every provisional advance authorisation

• every application for a permit

• every application for a variation of a permit

• every application for a provisional advance authorisation

• every refusal to grant a permit

• every refusal to grant a variation of a permit

• every refusal to grant a provisional advance authorisation

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• every permit, provisional advance authorisation, variation of a permit and variation to permit conditions deemed to have been granted under regulation 16 of the 2007 permit regulations

• every permit revocation.

• every notice given under section 58 NRSWA

• every notice given under 58A and Schedule 3A NRSWA

• every notice given under regulation 6 of the Street Works (Charges for Unreasonably Prolonged Occupations of the Highway) (England) Regulations 2009 (the 2009 charging

regulations)

• every notice given under section 70(3) or (4A) NRSWA

• every notice given under regulation 9B, 21 or 27 of the 2007 permit regulations • every fixed penalty notice given or notice withdrawing a fixed penalty given under

regulation 5(1) of the Street Works (Fixed Penalty) (England) Regulations 2007 • every notice given under section 81 NRSWA.

**4.4.1 Retention of information**

Street Manager will store data for seven years. After that data, authorities and promoters can

download their data and store it for a further period of time if needed in their own systems.

Authorities, in particular, will need to consider doing this for data needed to deal with any personal injury claims.

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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 as amended (the 2007 noticing regulations).

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.

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**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 (for example, motorways), are protected streets. In addition, an authority may designate other protected streets that meet criteria specified in regulation 14 of the 2007 noticing regulations.

Once a street has been designated 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 designation alone would not prevent significant traffic disruption during works, and where all of the following apply

• the street serves, or will serve, a specific strategic traffic need (see the glossary in appendix A), and

• has high and constant traffic flow, and

• there is a reasonable alternative route in which 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.

**5.3.3 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

• consider the needs of utilities to supply and maintain services to householders and businesses with frontages on the street, and to use such streets for existing trunk supplies • 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.

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**5.3.4 New streets**

Where construction of a street is planned and it is being considered for designation, the authority shall consult all appropriate statutory undertakers and others, such as transport, bridge and sewer authorities, as well as adjacent landowners and householders and businesses with frontages on the street 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.

**5.3.5 The implications of designation**

Once a street is designated as protected, statutory 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. Permitting requirements still apply. However, NRSWA s61(4) provides 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. This can include, for example, if the new apparatus could be provided using a reasonable alternative route.

If permission is granted with conditions attached, the authority may contribute to the statutory 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, permission should not be unreasonably refused. An authority's own 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, that is, the street authority, and/or the sewer, transport or bridge authority.

Criteria that may lead to an SED designation are set out in regulation 15 of the 2007 noticing regulations.

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**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.

• **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.

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• **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 should reply to the request within 1 month. It shall then follow the procedure for making a designation and subsequently make the designation, with or without modifications.

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.

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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 statutory 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 households and businesses with frontages on the street 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 in the 2007 noticing regulations, or by written agreement with the majority of undertakers whom they know to have apparatus in the street concerned.

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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, up to date traffic data, and be reviewed at least every three years.

Regulation 16 of the 2007 noticing regulations sets out the criteria that may lead to a traffic

sensitive designation. It was amended in 2022 with changes coming into force on 3 April 2023.

The amendments removed three criteria (‘is designated by the authority as part of its winter maintenance programme’; ‘is on a tourist route or within an area where major events take place’; and ‘is covered by a congestion charge’). It means that, with effect from April 2023,

streets cannot be designated as traffic-sensitive using any of these criteria.

Authorities should review their existing designations before the end of 2023 to check if they have any streets designated under one of these three criteria and they should assess whether a traffic-sensitive designation should still apply to those streets. It may be that one of the remaining criteria will continue for apply, for example, the street may carry more than eight buses an hour. However, if another criterion does not apply, the designation should be removed at the earliest opportunity so that access for street and road works is not

unnecessarily restricted and traffic sensitive rates are not inadvertently charged as part of permit fees. Access can still be managed through permits and authorities can add conditions about when and, on what days, works can take place.

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

• 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, disregarding bus or cycle lanes • 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

• the street is one on which more than 25% of the traffic flow in both directions consists of heavy commercial vehicles

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• the street is one on which the traffic flow in both directions includes more than eight buses

per hour

• the street is within 100 metres of a critical signalised junction or a critical gyratory or

roundabout system

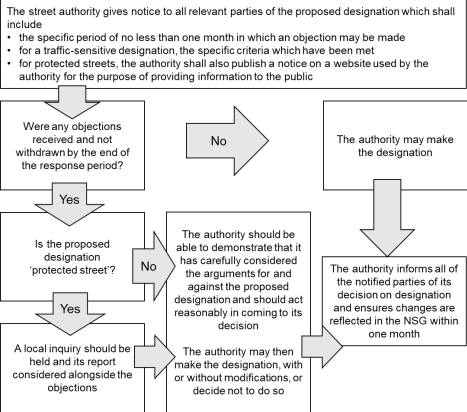
• the street has a pedestrian flow of at least 1,300 people per hour, per metre width of

footway

Regulation 16(5) of the 2007 noticing regulations also allows designation of a street as traffic sensitive with the agreement of the majority of statutory undertakers whom they know to have apparatus in the street.

**5.5 Procedure for making designations**

The procedure for making designations is contained in the schedule to the 2007 noticing regulations and is summarised in the following diagram and described thereafter.

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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, for example, National Highways,

Network Rail and any other relevant transport authority

• for the designation of streets as protected, the occupiers of properties which have a frontage onto the part of 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 carefully consider 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.

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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.

**5.6 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 the schedule to the 2007 noticing regulations.

**5.6.1 Periodic review of designations**

There will be occasions where criteria originally used in making a designation are no longer met. It is therefore recommended that the authority reviews its designations at least every three years, especially as criteria affecting traffic sensitivity could change significantly in relatively short periods. Authorities that have not reviewed their designations for several years should do so as soon as possible.

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.

**5.6.2 Challenging a designation**

Any person included in the consultation process, 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.

**5.6.3 Withdrawal of a designation**

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

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• 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

• if the original designation was made following a direction by the Secretary of State, no withdrawal shall take place without his/her 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

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Chapter 6 - Restrictions

**6.1 Introduction**

This chapter covers 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 sections 59 and 60 of

NRSWA for all parties when working in the highway:

• Section 59 – 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.

• Section 60 – 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.

| **Restriction Category** | **Section of**  **NRSWA** |
| --- | --- |
| Restriction on street works following substantial road works | Section 58 (as  modified for the purposes of permit    schemes by  regulation 37(2) of the 2007 permit regulations) |
| Restriction on street works following substantial street works | Section 58A and Schedule 3A (as modified for the |

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|  | purpose of permit schemes by  regulation 37(9) of the 2007 permit regulations) |
| --- | --- |

Under sections 58 and 58A of NRSWA, street authorities have the power to impose a restriction on further street works on a street. These powers are defined in primary legislation.

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 as amended

• The Traffic Management Permit Scheme (England) Regulations 2007 as amended

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 street 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 road works by an authority. It is important to be clear as to where and when the powers under section 58 can be used. The 2007 noticing regulations provide:

(1) 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 –

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(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 (a)(i) and (ii) or (b)(i) and (ii) must be met whilst the road works are in progress.

The terms used in the above are defined in the 2007 noticing regulations, but are included here for ease of reference:

• “cycle track” has the same meaning as in section 329(1) of the Highways Act 1980 • “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

To note, “non-skid surface dressing” means a high friction surface applied leading up to and at hazard points on the highway, such as pedestrian crossings, bends and junctions. The current term for “non-skid surface dressing” is High Friction Surfacing (HFS).

The use of a section 58 restriction must fully satisfy the requirements listed in regulations and,

where a restriction is to be used in order to support the coordination duty in section 59, 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 street works by an undertaker.

It is important to be clear as to where and when the powers under section 58A can be used. The 2007 noticing regulations provide that, for the purposes of Schedule 3A to the NRSWA,

“substantial street works means major works”. The definition of major works can be found in regulation 3 of the 2007 noticing regulations 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.

**6.3.1 Process**

All promoters should submit future work programmes to allow early discussion around substantial works.

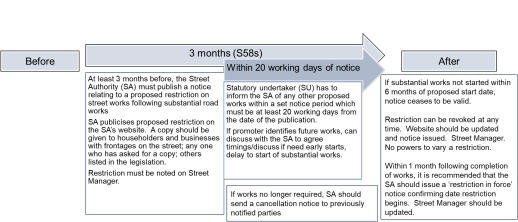
44

The authority shall use their best endeavours to discuss any potential restrictions at the

relevant co-ordination meeting to fulfil duties under section 59 of NRSWA.

The diagram below summarises the current requirements for information exchange for **section 58** notices about proposed restrictions and updates on the start and end dates of

restrictions.



In more detail:

At least 3 months before, the street authority (SA) must publish a notice relating to a proposed restriction on street works following substantial road works on any website maintained by the authority for the purpose of providing information to the public (regulation 11(4) of the 2007 noticing regulations).

A copy of the notice must be given to parties prescribed in the legislation including

• the occupier of any premises which have a frontage onto the part of the highway to which the proposed restriction relates

• any other person who has made a written request asking for a copy of any such notice, and

• others set out in section 58(3) of NRSWA, for example, the sewer or bridge authority.

The notice of a proposed restriction ceases to be effective if the road works to which it relates are not substantially begun within six months of the later of:

(a) the date specified in the notice as being the date on which it is proposed to begin the

works; or

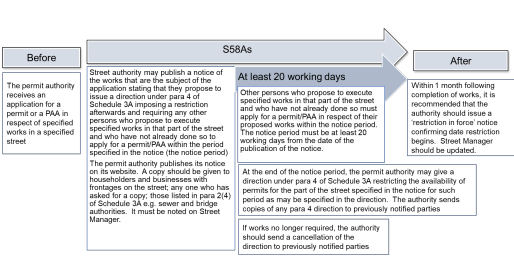
(b) the completion of all works executed as a consequence of any notice given to a SA in

accordance with regulation 9(3) (regulation 9(3) provides that an undertaker should give notice 45

of any proposed works not more than 20 working days from the publication date of the notice

of a proposed restriction).

The diagram below summarises the current requirements for information exchange for **section 58A** notices.



In more detail, the process for section 58A and Schedule 3A notices is as follows.

The permit authority receives an application for a permit or for a provisional advance authorisation in respect of specified works in a specified street (paragraph 1(1) of schedule 3A of NRSWA as amended by regulation 37 of the 2007 permit regulations).

The authority may publish a notice of the works that are the subject of the application and stating that they (the authority) propose to issue a direction under paragraph 4 of Schedule 3A imposing a restriction afterwards (paragraph 2(1) of schedule 3A of NRSWA). The notice should state the duration of the proposed restriction and the part of the street to which it relates.

Other persons who propose to execute specified works in that part of the street are then required to apply for a permit (or provisional advance authorisation, as applicable) in respect

of their proposed works within the period specified in the authority's notice (paragraph 2(1)(d) of schedule 3A of NRSWA). That notice period must be at least 20 working days (so could be more than that) from the date of the publication of the notice (paragraph 2(2) of Schedule 3A of NRSWA and regulation 12(2) of the 2007 noticing regulations).

Copies of the notice must be given to parties prescribed in the legislation including: 46

• the occupier of any premises which have a frontage onto the part of the highway to which the proposed restriction relates

• any other person who has made a written request asking for a copy of any such notice, and

• others set out in paragraph 2(4) of schedule 3A of NRSWA, for example, the sewer or bridge authority.

After the expiry of the notice period, the authority may issue a direction under paragraph 4 of

Schedule 3A, restricting the availability of permits for such period as may be specified in the direction (paragraph 4 of Schedule 3A of NRSWA).

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.

Once the proposed restriction has been recorded via Street Manager, if a promoter identifies their own future works, they need to submit a permit application/PAA within the notice period 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.

It is appropriate for an authority to use the permit process to ensure co-ordination. Under regulation 5(2) of the 2007 noticing regulations (service of notices: maintainable

highways), notices under section 58 and 58A must be submitted via Street Manager.

As soon as reasonably practicable following completion of the works, the authority should also issue a section 58/58A restriction in force notice via Street Manager, confirming the date the restriction began. This is a direction restricting further works under s58A (see paragraph 4 of Schedule 3A NRSWA).

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

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 a section 58 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. It is, therefore, vitally important that the correct notification process is followed to ensure a legally compliant restriction comes into force.

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**6.3.2 Revocation of a restriction**

An in-force restriction may be revoked at any time if circumstances change and mean the

restriction is no longer required. Revocation should be carried out via Street Manager by

cancelling the restriction in force, as well as updating the authority’s website and notifying other prescribed parties.

**6.3.3 Promoters**

The following steps regarding restrictions are advocated for promoters

• identify via Street Manager or co-ordination meetings all future works (planned) that are

known to the promoter. This allows visibility of future works to identify potential conflicts • ensure that systems are configured to draw attention to any restrictions that may be proposed or in force when proposing works

• 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 the 2007 noticing regulations.

**Table 6.1 Maximum durations of restrictions**

| 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 above) | 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 and 6.2.2) | 1 year | 6 months |
| 4. Combination of 1 or 2 plus 3 | Higher of figures | Higher of figures |

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| 5. Customer connections | 20 days |
| --- | --- |

In accordance with regulation 11(2) of the 2007 noticing regulations, section 58 restrictions can be in place for:

• 3 years in relation to substantial road works involving reconstruction • 2 years in relation to substantial road works involving resurfacing or an alteration in the level of the highway

• 1 year in relation to any other substantial road works carried out in a traffic-sensitive street or a street in road category 0, 1 or 2 which is not a traffic-sensitive street, and

• 6 months in relation to any other substantial road works carried out in a street in road category 3 or 4 which is not a traffic-sensitive street

**6.5 Works during a restriction**

Works may be carried out during a restriction if the works fall within the categories of exempt

works.

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 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 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

• after any relevant statutory section 58/58A restriction period has ended, or

• within the section 58/58A restriction period, where allowed under legislation

Works which are exempt or subject to reduced restrictions are specified in the 2007 noticing and 2007 permit regulations (unless indicated otherwise)

• emergency works

• urgent works

• street works that do not involve breaking up or excavating the street • 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 1998 (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

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• street works carried out to comply with a programme approved under regulation 13A of the Pipelines Safety Regulations 1996 that could not have been identified before the restriction began

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

The regulations specifically provide 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 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 (from the date the restriction begins plus 19 days) 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 consent. This code recommends the following

• 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 • if the authority refuses consent, they should provide written justification. If the promoter considers this unreasonable, the matter may be settled by arbitration

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

A section 58 restriction will cease to be effective if the substantial road works have not substantially begun 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, then the authority should be contacted to confirm the restriction status of the street if the promoter cannot find a record of any restriction.

The section 58/58A restrictions which are currently in force or active can be found in several

places depending upon when they were activated

• for those section 58/58A restrictions created in EToN (electronic transfer of notifications systems) prior to July 2020, they may remain in those EToN systems and are still valid.

The latest end date of any such section restrictions will be 30th June 2025.

• for those section 58/58A restrictions which were created in Street Manager as ‘activities’ from 1st July 2020, they will remain as an activity in Street Manager and are still valid. The earliest end date of any such section 58/58A restrictions will be 31st March 2025.

• on 1st April 2022, Street Manager introduced a dedicated function to record proposed and in-force section 58/58A restrictions. After 30th June 2025, this will be the only place to view all section 58/58A restrictions.

• it is possible that some authorities also used co-ordination meetings or emails to inform promoters of section 58/58A restrictions prior to the functionality in Street Manager being available.

If, having received a 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” (for example, a larger patch) reinstatement to be carried out by the promoter. This cannot be a permit condition or basis for

withholding consent.

Where a promoter needs to carry out planned works in a restricted street where exemptions do not apply, 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.

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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 section 58. This is 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 offences for which fixed penalty notices can be issued associated with section 58 restrictions. There is, of course, an offence for working without a permit.

**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.

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Chapter 7- Works' classification

**7.1 Introduction**

This chapter explains the circumstances when a permit is required, and the correct category of

works to use. It also provides further guidance on immediate works as well as bar holes and

street lighting.

**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 NRSWA are

• "undertaker", as defined in section 48(4), refers to: (a) the person by whom the relevant statutory right is exercisable (that is, a statutory undertaker, with the statutory right enabled

in primary legislation such as the Electricity Act, the Water Act, the Gas Act or the Communications Act) and (b) the holder of a street works licence under section 50 (a street works licensee)

• Street authority, as defined in section 49(1). This includes the highway authority for a

maintainable highway or a street manager of a non-maintainable or private street, as well as National Highways 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

• Network Rail is a statutory undertaker due to enactments to construct and operate railways, and a street manager for non-maintainable or private streets (for example, station approach roads)

• enabled by the Highways Act 1980, such as developers working under section 38 or section 278 of the 1980 Act

Undertakers, highways, street and other authorities (sewer, bridge or transport) must all follow the requirements of permits under the Traffic Management Act 2004 or the licences required under NRSWA for applicable works.

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Further guidance about licences under section 50 of the 1991 Act or the 1980 Highways Act (including sections 38 or 278 of the 1980 Act) are out of scope for this code.

**7.2.2 Undertakers**

It is important to understand that the qualifying criteria for deciding if a permit is needed for an undertaker starts with the NRSWA definition of street works in section 48(3) and 48(3A)

**Section 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 highways company” (National Highways), 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.

**Section 86 Highway authorities, highways and related matters**

(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 (improvement),

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

(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,

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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 general power of improvement**

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

(fg) 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.

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**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 7.2.3 and not “street works” in 7.2.3. This follows a High Court ruling in 2003 (P.N. Daly & United Utilities

Electricity plc V Wigan Metropolitan Borough Council) that sets out the principle that these are not street works (powers relating to lighting of highways are contained in Part 5 (improvement) of the Highways Act 1980, hence are "works for road purposes" under section 86(2) of NRSWA). 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.

Loss of supplies to streetlights 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 diversionary works carried out by a statutory undertaker on behalf of an authority should be permitted in Street Manager as activity type ‘diversionary works’.

**7.3 Works requiring a permit**

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 works that would require a permit. Only works that are covered by these definitions are relevant to this code of practice.

**7.3.1 Works that must be carried out under a permit**

Once satisfied that the criteria in 7.2 have been met, and following checks to ensure the works are to be done in a “street” (as defined in section 48 NRSWA), the list below should be consulted to confirm whether the works must be carried out under a permit. Permits are

required for all promoters carrying out these works, and a permit fee can be (but does not have to be) charged for statutory undertakers. Specified works

• involve the breaking up or resurfacing any street (including tunnelling and boring under the street) (see below for pole testing and coring involving excavation)

• involve opening the carriageway or cycleway of traffic-sensitive streets at traffic-sensitive times

• reduce the lanes available on a carriageway of three or more lanes

• require a temporary traffic regulation order or notice, or the suspension of pedestrian

facilities

• 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 undertakers' works, and regulation 4(5) of the 2007 noticing regulations - item 5 in the table included in the regulations. These are also

referred to as ‘specified works’ in the 2007 permit regulations (see regulation 6).

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Please see also the statutory guidance for highway authority permit schemes and the national conditions.

Some specified works will need temporary traffic control and will be covered by conditions NCT08a, NCT08b, NCT09a, NCT09b, NCT09c, and NCT09d as appropriate.

Under the Road Traffic Regulation Act 1984 and the street and road works safety code,

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 works.

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.

**7.3.2 Supplementary information on ancillary activities**

Regulation 9(3A) of the 2007 permit regulations requires permit schemes to specify that applicants provide such supplementary information as is known by the applicant as part of the permit application, when it is initially made. This supplementary information should cover activities the applicant is aware of and which are ancillary to the works to which the permit application relates, and which it would be helpful for the authority to be aware of for network management and coordination purposes. Examples of the types of activities, either in the street to which the application relates or in an adjacent street that should be included as supplementary information on a permit application are

• placement of portable traffic signals or other traffic control

• placement of site welfare facilities

• placement of site compound or material storage

• placement of spoil compound for the works

Supplementary information is defined in regulation 9(12) of the 2007 permit regulations. A fee

cannot be charged for providing this information.

National condition (NCT03 activities ancillary to those permitted - supplementary information

will apply if there are changes to ancillary activities (that is, related to the works permitted) that

become known about within the duration of the permit. In these cases, the authority must be notified of changes via Street Manager.

**7.3.3 Works that it is recommended are carried out under a permit**

The activities below relate to those works by all promoters, both utility and highway authority,

which should be notified to the authority to help them co-ordinate works and activities and

support the authority's network management duty under the TMA. Given that these are recommended permits/notifications, they should be raised as 'optional permits' in Street Manager and are not subject to a permit fee

• installation of traffic count apparatus involving breaking the surface of the highway

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• pole testing involving excavation – does not require a permit in advance, unless one or

more of rules in 7.3.1 apply

• core holes – not exceeding 150 mm in diameter do not require a permit in advance, unless one or more of rules in 7.3.1 apply

• applying 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

Where a reinstatement is carried out, it must be registered with 10 working days of completion.

**7.3.4 Activities/works that do not need a permit and the authority does not need to be**

**informed about**

These activities, if carried out on their own and not in connection with one of the other activities listed above, typically will not have an impact on the network and therefore do not require coordination. They will typically be short term and mobile works and may involve guarding.

However, sites requiring un-attended guarding, that is, personnel not within the vicinity of the works will require an 'optional permit' sent for information (see 7.3.3). In relation to the opening

of covers, 'unattended' means that operatives have completed the works' activity for the day

and have left site and need to return at a later date. “Unattended” does not mean where an operative is not physically present at the opened cover.

This list is not exhaustive and further examples may be given in additional advice issued by

HAUC.

• meter reading

• gully cleansing

• cable surveys

• sign cleaning

• soft landscape

• traffic signal maintenance

• street lighting maintenance

**7.3.5 Bar holes**

Bar holes can be used to detect and monitor leakage from utility assets. Those which require

no further street works (for example, such as a reported gas leak with no gas detected) should be registered (that is, a reinstatement registration notice) within ten working days of the final checks and the reinstatement being completed. For registration purposes, the cumulative number of bar holes count as a single excavation and reinstatement.

An immediate (for example, emergency) permit must be sent within two hours of the start of any other street works (that is, 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

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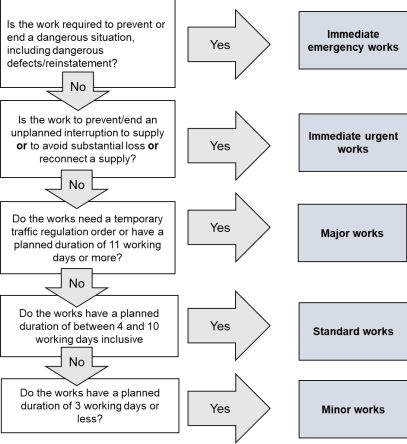
reinstatements. All bar holes must be reinstated and registered when works on site are complete.

**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 the 2007 noticing regulations, with emergency works defined in section 52 of NRSWA.

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

**What type of permit/notice do I need?**

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**7.4.1 Major works**

Major works are

• works which require a temporary traffic regulation order (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. Any planned works can be preceded by a forward planning information notice (see 2.2.2) as well as being shared at co-ordination meetings (2.2.3).

**7.4.2 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.

**7.4.3 Minor works**

Minor works are those activities, other than immediate, standard or major activities, where the planned duration is 3 working days or less.

**7.4.4 Emergency - immediate works**

Emergency works are specifically defined in section 52 of NRSWA 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 means works where immediate action is needed to prevent danger to people or property. This assessment of danger is made by those responsible for the works.

**7.4.5 Urgent - Immediate works**

Urgent works mean 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)

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• to prevent or put an end to an unplanned interruption of any supply or service provided by an undertaker

• to avoid substantial loss to an undertaker in relation to an existing service or

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

• includes works which cannot reasonably be severed from such works

In simple terms, urgent works means works where immediate action is needed to prevent a loss or restore any supply or service provided by them. It is not unreasonable to include leaks

from pipes or other apparatus in this category where the repair is required without delay. This assessment is made by those responsible for the works.

To note, immediate permits should not be requested for planned works or works that are known about. Instead, the appropriate planned permit with an early start should be requested.

**7.4.6 Remedial works**

Remedial works to rectify a non-compliant reinstatement should be classified based on the rules above and an appropriate permit should be applied for. Where an immediate (emergency or urgent) permit is selected, based on the criteria above, the works description should provide enough information to justify this works category.

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Chapter 8 - General principles

**8.1 Introduction**

This chapter sets out some principles behind applying for permits, as well as the various notifications that are required to enable works to be properly managed under the NRSWA and the TMA.

Statutory guidance on permit schemes includes more details on permit schemes.

The business rules that apply to Street Manager set out more information about use of the service.

Chapter 7 of this code explains which works require a permit and should be referred to, as the

requirements apply to all works, regardless of the promoter.

The purpose of supplying relevant information, notifications and registrations via Street

Manager includes

• enabling works to be legally carried out on the public highway

• enabling the HA to fulfil its network management duty by co-ordinating works • enabling works to be planned and coordinated effectively by promoters to reduce the impact of their works on congestion and the travelling public

• complying with the requirement for keeping an accurate register

• enabling emergency works permits, which can prompt the emergency procedures of other organisations

• triggering and supporting the street works inspection regime

• forming the basis of records for reinstatement guarantee purposes

• recording who has worked at a particular location

• facilitating charging and penalty regimes

• providing up to date and accurate information on planned and live works to the public 62

**8.2 Common rules**

The following common rules apply to all works that require a permit

**8.2.1 General points**

Ensure compliance with GDPR and data privacy requirements when providing information.

Ensure compliance with Street Manager's terms and conditions.

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. This requirement must be complied with.

Each permit application will relate to a single ‘phase’ of works. Works can have more than one phase that will each require an individual permit. Examples of phases of work include initial installation or repair of apparatus, works to make an interim reinstatement permanent, works

to make interim road markings permanent on an otherwise permanent reinstatement, and remedial works.

Where works are not going to take place, an appropriate cancellation should be sent to aid co ordination of works in the highway.

**8.2.3 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 section 98 of NRSWA s98 and should be

used to calculate notification periods, categorisation of works, and charges under section 74 of NRSWA.

The minimum notice period includes the day on which the notification is given, but does not

include the proposed start date (see section 98 NRSWA and 8(1), 9(1) and 9(2) of the 2007 noticing regulations).

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.

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 notification periods. Any notification received after 16:30 on a working day is considered to have been given on the next working

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day, with the exception of actual start and works stop (see chapter 10 for details of the timescales for start and stop notices).

The time of 16:30 is only significant with regard to calculating notification periods and does not

mark the “end” of the day for any other purpose.

Applications for a permit for immediate works must be sent within 2 hours of starting works on a working day (that is, Monday to Friday). Works start notices required under the 2009 charging regulations must be sent within two hours of starting works on any day (that is between 08:00-16:30 on any day including weekends - see chapter 10).

A permit application should be submitted within two hours and, in Street Manager, this is accepted as the works start notice and the status of the works will be changed to 'in progress'. There is therefore no need to submit both a permit application and a works start notice for immediate works on a working day.

At weekends, the regulatory requirement to submit a works start notice applies and so this

must be sent in line with the regulations. In practice, this means the permit application should also be sent within the same timescale (that is within two hours if between 8.00-4.30) so that the works start notice can be attached to the permit. A works start notice cannot be sent in isolation in Street Manager and needs to be attached to a permit. It should be noted that there

is no change to the separate legal requirement to submit a permit for immediate works within

two hours on a working day. Street Manager is available for use 24 hours a day, 7 days a

week.

**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, including this code.

Here is an overview of the key notifications

| **Works status and minimum notice period** | **Permit notification type and regulation reference** |
| --- | --- |
| Forward Planning Information  More than 3 months in advance | Forward planning information notice |

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| Major works  3 months in advance | Provisional advance authorisation (PAA)  Regulations 2 and 11, 2007 permit regulations |
| --- | --- |
| Major works  10 days in advance (following from 3 month PAA) | Permit application  Regulations 2 and 9, 2007 noticing regulations |
| Standard works  10 days in advance | Permit application  Regulations 2 and 9, 2007 noticing regulations |
| Minor works  3 days in advance | Permit application  Regulations 2 and 9, 2007 noticing regulations |
| Immediate: urgent and emergency  Within 2 hours of works having begun (see timeframes for actual start of works below) | Permit application  Regulations 2 and 9, 2007 noticing regulations |
| Actual start of works  In the case of works starting with the period beginning with 12am and ending with 7:59am, 10am on the same day  In the case of works starting within the period beginning with 8am and ending with 4:30pm, two hours after the start of the works    In the case of works starting within the period beginning with 4:31pm and ending with 11:59pm, 10am on the next day | Section 74(5C)  Regulation 6(1), 2009 charging    regulations as amended |
| Works closed  In the case of a highway returned fully to public use within the period beginning with 12am and ending with 7:59am, 10am on the    same day  In the case of a highway returned fully to public use within the period beginning with | Section 74(5C)  Regulation 6(5), 2009 charging    regulations as amended |

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| 8am and ending with 4:31pm, two hours after that full return  In the case of a highway returned full to public use within the period beginning with 4:31pm and ending with 11:59pm, 10am on the next day |  |
| --- | --- |
| Revised duration of works  Whilst works in progress | Review, variation and revocations of    permits  Regulation 15, 2007 permit regulations |
| Variation to permit  In advance or whilst works in progress | Review, variation and revocations of    permits  Regulation 15, 2007 permit regulations |
| Registration of reinstatement    Within 10 days of completion of reinstatement | Section 70(3) and (4A) NRSWA  Regulations 17 and 18, 2007 noticing regulations |

**8.4 Process in the event of Street Manager being unavailable**

In the event of Street Manager being unavailable for use, alternative communication methods must be used in order to ensure statutory notifications and the timing of key notifications are met. All parties should ensure that a suitable email account is available for this purpose and

that this is address is communicated. Further information can be found here.

Guidance regarding the information required for each notification and the processes to be followed are detailed separately from this Code to enable guidance to keep 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.

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Chapter 9 - Guidance on when a validity window applies

**9.1 Introduction**

This chapter explains what the validity window is and how it works in practice.

The validity window should not be confused with the prescribed period or the reasonable period which are both detailed in chapter 10.

**9.2 Explaining the validity window**

The validity window is a term used in the permit scheme national conditions. NCT01a covers permits on streets with a road category of 0, 1 or 2 (as defined in the current

SROH) at all times. It also applies to permits on streets with a road category 3 or 4 in cases

when the promoter wants to work at traffic sensitive times.

For NCT01a, the only flexibility is with respect to the start of the works. The end date is fixed. NCT01b covers permits on streets not covered by NCT01a - for example, category 3 and 4

roads at non-traffic sensitive times.

NCT01a will apply where works are taking place anywhere in the public highway of a category 0, 1, 2 road, or category 3 or 4 road at a traffic sensitive time. NCT01b would apply if the

works take place in the public highway of a category 3 or 4 road at non-traffic sensitive times,

or any other streets of a category not covered by NCT01a (see below).

The validity window applies in NCT01b with the purpose of allowing flexibility around the start and end of works to help with operational matters, such as parked cars, resource issues or customer requests that can be resolved by starting and ending a day or so later than planned.

There is a separate process for where the permit needs to start in advance of the proposed start date. This is explained in the early start process in appendix B of this document.

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**9.3 Guidance on the start date under NCT01a – planned works** For consistency in permit schemes, the following principles apply where NCT01a is used. In category 0, 1, 2 roads and 3 or 4 roads where the promoter wants to work at traffic-sensitive

times, the proposed start and end dates of the permit should match the start and end dates of

the planned activity or works.

Promoters should plan works to start on the proposed start date on this type of street. However, there may be unexpected operational reasons that mean the start date is justifiably

delayed.

If the works start after the planned start date, the end date does not change, meaning the

duration (both the permit duration and the reasonable period (see 10.6 below about

agreement to both of these)) are now reduced. If the promoter wants to change the end date, they will need to submit a permit duration variation. As this work is in the busiest streets, it will

be at the discretion of the authority as to whether the variation can be agreed.

If the start of the works is to be significantly delayed, then the promoter should contact the authority to discuss the appropriate course of action based on the specific circumstances.

**9.4 Guidance on using the validity window under NCT01b –**

**planned works**

For consistency in permit schemes, the following principles apply where NCT01b is used.

In category 3 or 4 roads during non-traffic-sensitive times, or any other streets of a category not covered by NCT01a (for example, high duty, high amenity and other footways), the proposed start and end dates of the permit should allow for flexibility in the start and end dates of the activity, but not the overall duration of the activity.

This means the proposed start date of the permit should be the planned start date of the activity. The permit end date should be calculated to include both the expected duration of the activity and to allow the activity to start on last day of the validity window.

In effect, the duration starts within a defined validity window and that remains the same with the end date sliding along accordingly.

This could mean a three-day minor permit, allowing for the full 2 days start window, has an end date that is five working days from the start date. It is essential to be clear that the allowable duration of the permit remains at three days, and the duration (permit duration and reasonable period) are counted from when the actual start notification is submitted.

Once granted, the permit is not valid before the planned start date and, while the end date incorporates the additional time for a validity window, any changes to the duration must be managed through the promoter submitting a duration variation.

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If the start of the works is to be significantly delayed beyond the flexible validity window, then the promoter should contact the authority to discuss the appropriate course of action based on the specific circumstances.

|  | **Validity window for NCT01b (in working days) Flexibility in start date for NCT01a** | |
| --- | --- | --- |
| **Provisional advance authorisation (PAA)** | **Permit application** |
| Major | 15 | 5 |
| Standard | N/A | 5 |
| Minor | N/A | 2 |
| Immediate -  urgent | N/A | N/A |
| Immediate -  emergency | N/A | N/A |

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Chapter 10 - Charging schemes

**10.1 Introduction**

Authorities have a network management duty under section 16 of the TMA to secure the expeditious movement of traffic on their network and on networks for which another traffic authority is responsible. Additional powers to support authorities' network management duty provide for two charging schemes in NRSWA

• section 74A: charge determined by reference to duration of works (lane rental) • section 74: charge for occupation of the highway where works unreasonably prolonged (overrun charges)

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 undertakers, for the benefit of the public.

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

Section 74A requires undertakers 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 make provision about section 74A charges. Separate, non-statutory guidance about lane rental is available here.

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 (that is, take longer than previously agreed) and, specifically, to charge statutory undertakers where they are “executing street works in a maintainable highway”. Chapter 7 of

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this code sets out the definition of “street works”. Section 74 charges are also known as

overrun charges.

Works become ‘unreasonably prolonged’ if the works take longer than the “prescribed period” and either the duration of the permit or the “reasonable period”, described later in this chapter. 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 below.

The 2009 charging regulations as amended apply to every publicly maintainable street, except

• a footpath or bridleway

• a highway with a pedestrian planning order in force

• a highway where vehicular traffic is prohibited by a traffic regulation order (see the Road

Traffic Regulation Act 1984) unless that prohibition is restricted to particular times

It is important to note that the exemptions above do not just relate to charges under section 74, but to 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 the information provided to 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 an applicable highway that are exempt from section 74 charges. These are set out

in the 2009 charging regulations.

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

• in a street which is neither a traffic-sensitive street nor a protected street (as defined in sections 61 and 62 of NRSWA)

• in the footway of a traffic-sensitive street at a traffic-sensitive time

• in the footway of a protected street at any time

• in a traffic sensitive street, other than at a traffic-sensitive 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)

• works for road purposes (see glossary)

• diversionary works (that is, works needing to be carried out 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))

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• any warning signs legitimately left in place for a period following completion of the works (for example, to warn of a slippery road surface)

• ancillary activities carried out or notified to the authority as part of the permit application or

under NCT03 (see the permit scheme national conditions)

• works which paragraph 7.3.3. of this code recommends be carried out under a 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 in regulation 7 of the 2007 noticing regulations 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 work covered by a permit will have a prescribed period of two working days. Each phase of works has a new permit and the prescribed period is reset each time.

**10.6 Reasonable period**

Reasonable period end dates (under NRSWA) and permit end dates (under TMA 2004) run in

parallel, until a duration challenge to the reasonable period is made by the authority. At this point they become two separate entities.

A “reasonable period” is a period which should be agreed via the permit, between the undertaker 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 can be effected by granting a permit application if, as is strongly

recommended, authorities provide confirmation to undertakers through Street Manager, when

granting the permit, that the authority agrees that the "reasonable period" under section

74(1)(b) NRSWA is the same as the period of time specified in the permit as the period during which specified works may be carried out in a specified street.

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 therefore (so

long as the confirmation referred to in the previous paragraph and set out in more detail in paragraphs 9.13-9.19 of the permit scheme guidance has been given when granting the

permit), the reasonable and permit period will be the same. If there is a change to the permit duration after the original application is granted, the reasonable period should also be changed in Street Manager to the same permit duration as part of the change request, if the authority agrees. There may be circumstances where the authority only agrees to extend the permit period and not the reasonable period. This is done by issuing a ‘grant with duration

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challenge’ in response to the change request. The authority should provide an explanation to justify this decision as section 74 charges may apply for the extended occupation.

An undertaker is able to use a ‘duration challenge non-acceptance’ process in Street Manager to further explain or justify why the requested duration is required. The authority can agree to

amend the reasonable period end date during this process.

Following any ‘duration challenge non-acceptance’ process in Street Manager, there is no requirement for a change request to be sent to amend the permit end date to match the reasonable period end date. Undertakers should ensure that all involved with the work are aware of the reasonable period end date.

Further detail regarding permit durations and the reasonable period is set out in appendix B – HAUC(England).

Chapter 9 of the permit scheme statutory guidance includes more information. .

**10.7 Duration of works**

All permit applications should include proposed start and end dates so that the estimated duration can be calculated for section 74 purposes. The authority and the undertaker should use the estimated duration as the basis for agreeing 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 10.8). It is important to seek agreement 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 SROH, 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 (that is, 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 section 74 charges.

It is not appropriate or reasonable to duration challenge all works. It is not possible to duration challenge a works to less than two working days (that is, the prescribed period) for charging purposes. However, in exceptional circumstances, it may be necessary for an authority to reduce the duration of the permit below this period. Where such works are already in progress,

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the authority should telephone the promoter to discuss the options available to expedite the works including agreement for extensions to permits in the area to allow workforce resources to focus on the works that need to be completed in a shorter than usual timeframe.

**10.8 Notification timescales for actual start and works closed**

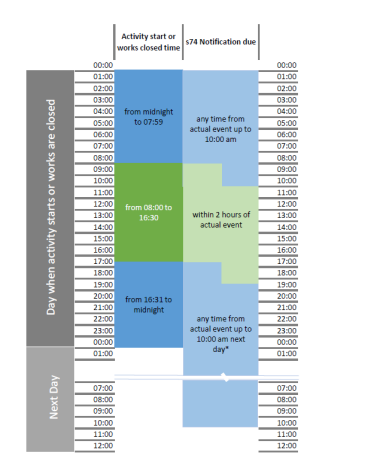
This section explains the timescales for issuing notifications to update the status of works.

These notifications must be given via Street Manager. A diagram is provided below to illustrate

the requirements for both notifications explained in this section. These requirements apply

equally to all promoters (that is, undertakers and authorities’ own works).

FPNs can be issued to undertakers for late submission of these notices (see Chapter 11) on working days. FPNs cannot be issued for late submission of these notices at weekends.

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**10.8.1 Actual starts**

Under regulation 6 of the 2009 charging regulations, the undertaker must notify the authority

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 00:00am through to 7:59am | Start notice received by 10:00am on the same day |
| --- | --- |
| Works start within the period 8:00am through to 4:30pm | Start notice received within 2 hours  This means two consecutive hours, for example, work starts at 3:25pm = start notice received by 5:25pm on the same day |
| Works start within the period 4:31pm through to 11:59pm | Start notice received by 10:00am on the next day |

**10.8.2 Works closed**

Under regulation 6 of the 2009 charging regulations, the promoter must 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; and

• returned the highway fully to public use

From the point at which the highway is fully returned to public use, the timescales for

notification being received by the authority are

| Within the period 00:00am through to 7:59am | Works stop notice received by 10:00am on the same day |
| --- | --- |
| Within the period 8:00am through to 4:30pm | Works Stop notice received within 2 hours  This means two consecutive hours, for example, site cleared at 4:10pm = works stop notice received by 6:10pm same day |

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| Within the period 4:31pm through to 11:59pm | Works stop notice received by 10:00am on the next day |
| --- | --- |

**10.9 Formal warning**

An overrun warning (or intent to charge an overrun) must be given within 2 working days via

Street Manager (regulation 11 of the 2009 charging regulations, as amended), where the authority finds that works are still in progress or that items are left on site following receipt of a works stop notice. A formal overrun warning must be issued within 2 working days for the

section 74 charging process to progress.

Not later than three months after receipt of a works closed notice, the authority also must give

the statutory undertaker an account (or invoice) setting out the charges payable.

**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

The reinstatement road category is an indication of the importance of the street – 0 being the highest and 4 the lowest. Information about determining a road’s category can be found in the

SROH.

The road category, as given in the additional street data, should be treated as definitive. If road categories have not been entered in 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.

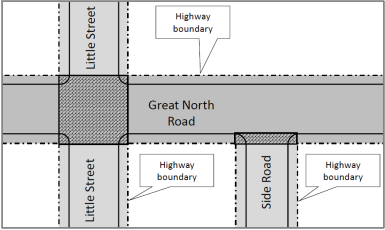
For works in an area that could be regarded as belonging to more than one street, charges should apply to the street with the highest road category. This is of particular significance for

works at a junction.

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

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

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**10.10.1 Maximum daily charges**

The applicable charges are set out in tables 10.1 and 10.2 below (and in regulation 4 of the

2009 charging regulations). These are maximum charges, as the authority has an explicit power in the regulations to reduce or waive charges as it sees fit and should exercise these powers of discretion reasonably.

Undertakers 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 undertakers 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. 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. 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 of the level of disruption and resultant impact on the highway network is taken into account when considering the reasonableness of charges applied.

| **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 |

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| 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

• the 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 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 specification in the SROH, 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 78

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 agreed reasonable periods have ended and

• the reinstatement (either interim or permanent) has been completed and notified • but the site has not been fully returned to public use and prevents normal use of the highway (for example, 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 2009 charging regulations provide for a mitigated charge of £100 to be charged in certain

circumstances. This will be the case where the works are notified as complete, but the authority finds not more than five items of signing, lighting or guarding remaining on the highway and informs the promoter of this (see regulation 9(7) to (9) of the 2009 charging regulations). If the undertaker 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 undertaker 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 undertaker of the remaining items.

Authorities and undertakers 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 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 and 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

• a promoter has mostly completed the reinstatement and has cleared the site, but has failed to complete some aspect of the reinstatement, for example, 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

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• 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 liable for section 74 charges only if

• (a) an overrun warning (intent to charge) has been issued within 2 working days, beginning

with the date on which the authority became aware that the works were exceeding the longer of the prescribed period or a reasonable period\*

and

• (b) the authority sends 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 via Street Manager. The issuing of an account does not prevent further negotiation about the level of charge before the invoice is issued

\* Note that requirement (a) does not apply in a situation where the authority only becomes

aware that the works are exceeding the prescribed period or a reasonable period more than two months after receipt of a works closed notice (see regulation 9(12) of the 2009 charging regulations). This means, in practice, that, if the authority identifies an overrun two months

after they have received the works closed notice, they do not need to send an intent to charge notice. They must still send an account of the charge within three months of receiving the

works closed notice.

Both authorities and promoters should take care to ensure that the facts used for proposing or disputing charges are accurate and evidence-based, together 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 authorities and promoters discuss overrun charges before the account is issued.

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