

KIRKLEES COUNCIL
TRAFFIC MANAGEMENT ACT 2004
KIRKLEES COUNCIL PERMIT SCHEME ORDER 2020

KIRKLEES COUNCIL hereby makes an Order under Part 3 of the Traffic Management Act 2004 ("the Act") whereby acting as the Local Highway Authority it revokes the Permit Scheme known as "The Traffic Management (The Council of the Borough of Kirklees) Permit Scheme Order 2015" made on 9th September 2015 in exercise of the powers conferred by the Act and makes a new Order to be known as "The Kirklees Council Permit Scheme 2020".

Interpretation

In this Order –

"The Kirklees Council Permit Scheme 2020" means the Permit Scheme prepared in accordance with Section 33A of the Traffic Management Act 2004 (as amended) set out in the Schedule to this Order in terms commonly known as the 'Kirklees Council Permit Scheme' which has been approved by the Council.

"specified streets" has the meaning given by Regulation 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (as amended).

The Order made on the 29th January 2020 may be cited as 'The Kirklees Council Permit Scheme Order 2020' and comes into effect in relation to the specified streets within the Kirklees Council Permit Scheme on 4th March 2020.

Commencement of the Kirklees Council Permit Scheme

1. The Kirklees Council Permit Scheme comes into effect on 4th March 2020.

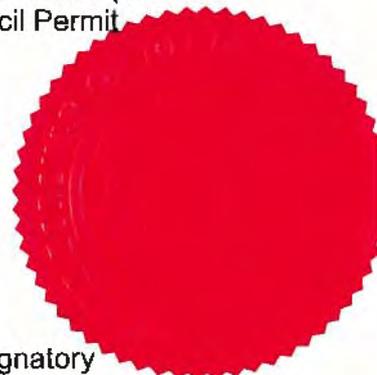
Application of Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (as amended)

2. Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (as Amended) shall apply to the specified streets within the Kirklees Council Permit Scheme.

THE CORPORATE COMMON SEAL of the
COUNCIL OF THE BOROUGH OF KIRKLEES
was hereunto affixed in the presence of



~~Director – Legal Governance and Commissioning~~/Authorised Signatory



013097

SCHEDULE

The Kirklees Council Permit Scheme March 2020

KIRKLEES COUNCIL PERMIT SCHEME

Kirklees Council Permit Scheme 2020

**Working Together to Deliver
Part 3 of the Traffic Management Act**

A Scheme for the Management of Works in the Highway

Document Summary

Document History

The Yorkshire Common Permit Scheme which was submitted to the Secretary of State in September 2011 is Version 1.0.

The Yorkshire Common Permit Scheme, revised following a re-consultation and submitted to the Secretary of State in January 2012 is Version 2.0.

The Yorkshire Common Permit Scheme revised to comply with the amended Regulations as set out in the Deregulation Act 2015 is Version 3.0.

To ensure consistency, all permit authorities operating the Yorkshire Common Permit Scheme on 1 October 2015 were using Version 3.0.

Version 5.0 is specific to Kirklees Council and is modified to apply to all streets.

Any further developments as a result of the review process will be detailed below:

Date	Version	Comment
15 September-2011	1.0	Approved for Submittal
January 2012	2.0	Revision following re-consultation
September 2015	3.0	Compliance with amended permit scheme Regulations
October 2019	4.0	Modified proposal to apply all streets
December 2019	5.0	Final modified version post consultation

Date Version Comment

15 September 2011 1.0 Approved for Submittal

1 September 2015 3.0 Legal Order completed

4 March 2020 5.0 Modified version implemented

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1 The Kirklees Council Permit Scheme

1.1 Introduction

The Yorkshire Common Permit Scheme (YCPS), operating under the powers of the Traffic Management Act 2004 (TMA), was introduced to help the Permit Authority to better manage activities on their highway network, as well as minimising disruption caused by utility company street works and the Council's own highway works.

Yorkshire Highway Authorities participated in the creation of a Common Permit Scheme for the Yorkshire Highways and Utilities Committee (YHAUC) area, containing a common set of rules that are available for adoption by all Highway Authority members of YHAUC.

The Permit Authority has stated the desired objectives, benefits and scope of the permit scheme, as referred to later in this document.

The Permit Authority shall demonstrate, at all times, parity between activity promoters, ensuring non-discrimination between permit applicants, as required by Regulation 4(c) of the Statutory Instrument 2007 No. 3372 as amended. The Permit Authority shall also act as stated in this permit scheme in the spirit of the aims of the Traffic Management Act 2004.

Activity promoters are also required to contribute to the proper execution of this permit scheme and to co-operate with the Permit Authority and other promoters to act in collaboration to minimise traffic disruption.

The Permit Authority and activity promoters will provide the appropriate resources and capability to effectively and efficiently deliver the benefits of this permit scheme.

The YCPS came into effect in six local authority areas (Barnsley, Doncaster, Kirklees, Leeds, Rotherham and Sheffield – the 'Tranche 1' authorities) on 12 June 2012. On 31 March 2015 a further three authority areas (Bradford, Calderdale and Wakefield – the 'Tranche 2' authorities) began operating the YCPS. All nine authorities were operating the YCPS under a Statutory Instrument (SI) made by the Secretary of State.

The Deregulation Act 2015, the Statutory instrument 2015 No.958 (The Traffic Management Permit Scheme (England) (Amendment) Regulations 2015) ('the Amendment Regulations') amend the statutory background for permit schemes. The Deregulation Act 2015, removed the requirement for permit schemes to be approved by the Secretary of State and given effect by Statutory Instrument. The Deregulation Act 2015 (Schedule 10) amended Part 3 of the Traffic Management Act 2004 to enable authorities (local highway authorities or strategic highway companies) to approve their own schemes and to vary or revoke existing schemes.

The Deregulation Act 2015 provided that a scheme, which previously had effect by virtue of Statutory Instrument made by the Secretary of State under s.34(4) of the Traffic Management Act 2004, was from 30 June 2015 to be treated as if it had been made by the highway authority by order under Section 33A (2) of that Act. Each local highway authority (permit authority) was required to make, vary or revoke its permit scheme by order, so as to ensure that by 1 October 2015 the scheme was in compliance with the Amendment Regulations.

The Amendment Regulations provided, amongst other things, a definition of 'order', by which permit schemes can be made, varied or revoked by a permit authority. The Amendment Regulations exempt existing permit schemes from undertaking most of the

obligations which arise for new schemes, including detailed stakeholder consultation before amendments come into effect (other than giving 4 weeks' notice of the implementation date). The mechanism for dealing with issues related to interpretation of the Regulations has not changed.

The YCPS document was reviewed to ensure compliance with the 2007 Regulations and with the Amendment Regulations, and that due regard was taken of the Statutory Guidance for Highway Authority Permit Schemes – Permit Scheme Conditions (issued March 2015), which is subject to periodic review.

The YCPS document was modified in 2019 to include 'all streets' for implementation in 2020 by Kirklees Council, it was amended to incorporate changes to the electronic management system and regulation and meets the specific objectives of Kirklees Council. The modified scheme is still based on the YCPS document, which is familiar to stakeholders in the area. This will continue to provide operational consistency locally but is applicable to Kirklees Council.

1.2 Definitions and Meanings

Except to the extent that the context requires otherwise, Appendix I sets out the definition of the terms used in this permit scheme.

1.3 Objectives

The transport vision for Kirklees Council is:

Kirklees Council Permit Scheme

All activities on highways have the potential to reduce the width of the street available to traffic, pedestrians and other users and have the potential to also inconvenience businesses and local residents.

The scale of disruption caused is relative to the type of activities being undertaken and the capacity of the street. Activities where the traffic flow is close to, or exceeds, the physical capacity of the street will have the potential to cause congestion, disruption and delays.

The objective of the permit scheme is to improve the strategic and operational management of the highway network through better planning, scheduling and management of activities. Minimising delay for any road or pavement user is expected to be a key objective of a permit scheme".

The permit scheme will enable better co-ordination of activities throughout the highway network, ensure that competing demands for space or time in the street, including traffic, can be resolved in a positive and constructive way.

The objectives and benefits of the Kirklees Council Permit Scheme are:

- Reduced disruption on the road network
- Improvements to overall network management
- A reduction in delays to the travelling public
- A reduction in costs to businesses caused by delays
- Promotion of a safer environment
- Reduced carbon emissions

The Permit Scheme objectives will be facilitated by improving performance in line with the Permit Authority's Network Management Duty in relation to the following key factors:

- Enhanced co-ordination and co-operation
- Encouragement of partnership working between the Permit Authority, all Promoters and key stakeholders
- Provision of more accurate and timely information to be communicated between all stakeholders including members of the public
- Promotion and encouragement of collaborative working
- Improvement in timing and duration of activities particularly in relation to the busiest streets within the network
- Promotion of dialogue with regard to the way activities are to be carried out
- Enhanced programming of activities and better forward planning by all Promoters

1.4 Aligned Objectives

The Kirklees Council Permit Scheme objectives aligned to the Transport Strategy 2040 are;

- To support the delivery of an efficient, safe and reliable road network for all users, that creates new opportunities for jobs and housing.
- To support the delivery of a step-change in the reliability of journey times for people and goods, and to provide high quality infrastructure for all users.
- To support growth in the economy in an inclusive way, and to meet the demand for travel in a sustainable manner.

1.5 Area

The area covered by the permit scheme is the geographical boundary covered by the Permit Authority.

1.6 Streets Covered

All streets for which Kirklees Council is the highway authority, i.e. publicly maintained by or on behalf of Kirklees Council, are included in the Kirklees Council Permit Scheme; these are the "specified streets" as set out in Regulations.

Trunk roads and motorways for which Highways England is the highway authority responsible are not included in the scheme.

Privately maintained streets are also not included in the scheme, but will be added if they are subsequently adopted by Kirklees Council and shown as such in the street gazetteer.

1.7 Activities Requiring a Permit

Permits must be obtained from the Permit Authority by promoters for all registerable activities as referred to in the Statutory Guidance for Highway Authority Permit Schemes (October 2015) and the HAUC (England) Guidance Operation of Permit Schemes (February 2017), and any additional or replacement codes of practice or statutory guidance issued by the DfT, that are to be undertaken on streets designated as requiring a permit.

Except for immediate activities, promoters must obtain a permit before starting their activities. In the case of immediate activities, promoters can commence work before applying for a permit provided that they apply to the Permit Authority for a permit within 2 hours of commencing, comply with conditions and statutory requirements for immediate works from the outset, and comply with any further conditions agreed with the Permit Authority as part of the permit subsequently granted.

The Kirklees Council Permit Scheme does not apply to anyone who is not entitled by virtue of a statutory right to carry out street works or works for road purposes who seek to carry out such work. Such a person will require a Street Works Licence under S50 of NRSWA.

One permit can only cover one activity on one street.

1.8 Registerable Activities

Registerable activities include:

- Street works - work on assets in the street by undertakers;
- Works for road purposes - maintenance and improvement works to the road itself carried out by, or on behalf of, the highway authority; and,
- Major highway works.

The term "registerable activities" corresponds to what are "specified works" under the Regulations. The following activities defined in the Regulations as specified works are registerable for all activity promoters and information related to them has to be recorded on the register:

- All activities that involve the breaking up or resurfacing of any street, (but see below for pole testing involving excavation);
- All activities that involve the opening of the carriageway or cycleway of traffic-sensitive streets at traffic-sensitive times;
- All activities that require the use of any form of temporary traffic control as defined in the Code of Practice for Safety at Street Works and Road Works;
- All activities that reduce the number of lanes available on a carriageway of three or more lanes;
- All activities that require a temporary traffic regulation Order or Notice, or the suspension of pedestrian crossing facilities;
- All activities that require a reduction in width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time. Where a promoter is using portable light signals and the heads are located on a road that is not part of the main works, but the signals are placed on a traffic sensitive street or cross boundary, it is recommended that a permit is sent to the Permit Authority for coordination purposes. No fee should apply for this permit.

1.9 Non-Registerable activities

The following activities are non-registerable:

- 1) Traffic Census Surveys

This permit scheme does not include traffic census surveys as disclosure of this information prior to a census taking place is likely to encourage a change to the normal pattern of traffic flows.

2) Pole testing

Pole testing involving excavation does not require pre-registration and therefore does not need a permit unless one or more of rules 2 – 6 above apply. However, in all circumstances the work must be registered using Section 70 (3) of NRSWA, for the purpose of reinstatement inspections within 10 days of completion.

3) Core Holes

Core holes not exceeding 150 mm in diameter do not require registration in advance, unless one or more of rules 2 – 6 above apply.

4) Bar Holes

Bar holes are used to detect and monitor gas leaks. Bar holes can also be used in the electricity industry to detect faults. These do not require registration in advance. An immediate Permit must be sent within two hours of the start of any other registerable street works to repair any fault, involving excavation or activities defined in 2 – 6 above associated with the bar holes.

5) Road markings

Road Markings that are not part of other registerable activity and unless the activity infringes any of the rules 2 – 6 above

6) Fire service vehicles

Fire service vehicles occasionally need to be parked adjacent to fire hydrants when these are being tested. These operations are exempt from the requirement to obtain a permit, provided the work is undertaken outside traffic-sensitive periods.

1.10 Street Lighting

The definition of works for road purposes may include some works carried out by undertakers, such as street lighting. It is for activity promoters to ensure that permit applications for such activities are made and that the activity is registered, as appropriate.

Fault repairs and works carried out for any other authority, such as District or Parish Councils, are not works for road purposes. They should be treated as street works and must follow the normal procedures.

2 Co-ordination and Co-operation

2.1 Introduction

Effective co-ordination is essential to minimise traffic disruption in the Permit Authority area whilst allowing activity promoters the necessary time and space to complete the activity.

The Permit Authority and activity promoters should commit appropriate skilled and sufficient, experienced human resource(s) to be used in the co-ordination process, to deal with matters and issues as they arise.

2.2 Principles of Co-ordination and Co-operation

To meet the objectives outlined in Section 1 and the TMA objective of expediting the movement of traffic, activity promoters and the Permit Authority should adhere to four key principles:

- The need to balance the potentially conflicting interests of road users and activity promoters and their customers;
- The importance of close co-operation and liaison between the Permit Authority and activity promoters;
- An acknowledgement that activity programmes and practices may have to be adjusted to ensure that the statutory objectives of the co-ordination provisions are achieved;
- The provision of timely, clear, accurate and complete information between promoters and the Permit Authority.

2.3 Co-ordinating and Managing Permit Activities

2.3.1 Planning and Executing Activities

Although the Kirklees Council Permit Scheme provides greater influence over how and when activities are carried out, the prime responsibility for planning, supervising and carrying out individual activities falls on the promoters. Promoters must consider the needs of all road users, including those with disabilities - whether they are pedestrians, equestrians, cyclists or motorists - throughout the planning and execution of activities. This principle has implications for:

- The timing of activities;
- The way in which they are carried out; and,
- The programming of activities.

2.3.2 The Process

The co-ordination process has four phases:

1. Information – The authority requires accurate and timely information on what is proposed and when it is happening;
2. Analysis – The authority needs a means of assimilating and analysing this information;
3. Consideration – The authority must consider whether any changes are required to minimise disruption before it agrees to the proposals;
4. Co-operation – All parties must co-operate with the authority to achieve the minimum disruption.

Underpinning all this process are common aspirations under which all parties agree that the measures are to the benefit of the Permit Authority, activity promoters and road users.

2.3.3 Considerations for Co-ordination

2.3.3.1 Timing

As a general principle all activity promoters should accept that the greater the disruption an activity is likely to cause, the sooner the permit application should be made. Promoters should recognise that the statutory application periods are a minimum and whenever

possible longer periods should be given. This co-operation benefits both the Permit Authority and the promoter. If modifications are required, the earlier the Permit Authority informs the promoter, the easier it will be for them to comply. If there are no objections to a promoter proceeding before the end of the full prescribed application period consent should be given if an early start is requested by the promoter.

2.3.3.2 Working Space

Promoters should take into account the space needed for the works, access for plant and vehicles and the storage of plant and/or materials when assessing the likely disruption an activity might cause.

2.3.3.3 Other

Activity promoters must discuss their proposals with other interested parties, including frontagers, and modify them, as requested, where it is appropriate and practicable.

2.4 Co-ordination Machinery

2.4.1 Principles of Co-ordination

In some cases the Permit Authority and activity promoters will be able to co-ordinate effectively on a one-to-one basis. However, for the most part, regular meetings of dedicated groups will be needed. The Permit Authority co-ordination meetings provide the principle means of doing this with involvement, as necessary, in the Yorkshire Highway Authorities and Utilities Committee (YHAUC). All promoters requiring permits for activities on the roads in the Permit Authority area are required to actively and constructively participate in the relevant co-ordination meetings.

The key principles to follow if co-ordination machinery is to work effectively are:

- The sharing of information and consultation between interested parties at the earliest opportunity;
- Making information available in a common format;
- Regular input and attendance of relevant people (those empowered to take decisions) at co-ordination meetings;
- Activity promoters and authorities sharing business development plans and replacement programmes for apparatus and highway assets with the Permit Authority;
- Communication of decisions at the earliest opportunity so that promoters' plans can be adapted, if necessary;
- Cross boundary co-ordination between neighbouring authorities, utilities, and others, especially for all planned works and planned maintenance on strategic routes.

2.4.2 Yorkshire Highway Authorities and Utilities Committee (YHAUC)

The Permit Authority is a member of YHAUC, which meets on a regular basis to discuss matters relating to:

- Policy determination within national HAUC guidelines;
- Monitoring the effectiveness of local co-ordination meetings;
- Providing policy guidance on a local basis;
- Matters of dispute – facilitating dispute resolution procedures for the permit scheme;
- Performance reviews of utilities' and authorities' works.

2.4.3 Co-ordination Meetings

The Permit Authority co-ordination meetings will be chaired by the Traffic Manager (or a nominated deputy). The meetings will be concerned primarily with direct co-ordination of activity promoters' advance programmes and dissemination of information. Co-ordination will cover all activities.

Co-ordination meetings will occur quarterly, or more frequently if the need arises, but a discussion should always take place whenever proposed major activities are likely to conflict with other activities, especially in a street or streets known to be prone to congestion. Local co-ordination meetings will cover:

- Medium-term and annual programmes for all activity promoters; these must be submitted at least 21 days before the meeting, and show a six-month rolling programme of work. This information will allow the Permit Authority to compile a co-ordinated schedule of activities;
- Planned road closures for the next quarter and rolling year ahead, to allow all activities to be planned within such closures as far as possible;
- Other significant events.

The following topics may also be covered, as appropriate:

- Local policies and strategies affecting street works, traffic management proposals (including the effect of diversionary routes), and the potential for reducing disruption from activities through common schemes/trench sharing etc;
- Proposed designations of streets subject to special controls and other constraints;
- Reviews of performance at local level, including damage prevention;
- Feedback from HAUC(UK), HAUC(England) and YHAUC;
- Street works licences;
- Any joint forward advertisement of activities where major traffic disruption is likely.

Representatives from all major interests will be invited and must attend each meeting. This includes all promoters and Highways England. The representatives must be well enough informed to discuss major projects, individual proposals and medium-term and annual programmes that are relevant to them and have delegated responsibility to take decisions.

The medium-term and annual programmes for all activity promoters are typically too large to carry out detailed individual scheme discussion at the meeting. These detailed discussions will take place with individual work promoters at separate scheme specific meetings. Relevant interested parties will be invited to these meetings such as other activity promoters, emergency services or transport authorities. Information from the meetings will be distributed to any other interested parties.

The Permit Authority will also arrange regular performance meetings to be held quarterly with the most active work promoters in the Permit Authority area. These meetings will review the work promoters' performance in relation to levels of compliance with all aspects of the permit scheme.

2.4.4 Liaison with Other Bodies

The Permit Authority will liaise with adjacent authorities if activities are likely to affect traffic flows across boundaries and/or on trunk roads. The Permit Authority will also provide information to other bodies likely to have an interest in the Permit Authority area, such as:

- The police, fire, ambulance and other emergency services;
- Public transport operators and public transport authorities;
- Other appropriate representative bodies, e.g. organisations representing disabled people, pedestrians, motorists, and cyclists;
- The appropriate planning and environmental health officers.

2.4.5 Technology

The day-to-day co-ordination of the majority of proposals can be achieved only through the use of technology, especially given the relatively short lead times for minor and standard works. This is particularly so for permit and notice management systems that use GIS.

Permit applications will include locations by means of National Grid References (NGRs). This together with the use of the nationally consistent street gazetteer means that the Permit Authority will be able to visualise the impact of different activities on their networks and the interaction between these activities.

To increase the benefit of this technology, the Permit Authority will work toward the inclusion of NGRs on other relevant documents, such as applications for builders' skips or scaffolding on the highway.

2.5 Considerations for Permit Applications

In coming to decisions on permit applications, the Permit Authority will consider all aspects of the proposed activities and other influences that may affect traffic. These include:

- The road network capacity;
- The scope for collaborative working arrangements, including trench and duct sharing between promoters;
- The optimum timing of activities from all aspects;
- The effect on traffic, in particular, the need for temporary traffic restrictions or prohibitions;
- Appropriate techniques and arrangements, particularly at difficult road junctions and pinch points;
- The working arrangements required in protected and traffic-sensitive streets, and streets with special engineering difficulties;
- The effect of skip and scaffold licences, pavement licences, any known special events and other licences or consents issued in respect of affected streets under the Highways Act 1980;
- Developments for which planning permission has been granted on streets affected by the works.

2.6 Forward Planning of Activities

2.6.1 Forward Planning Information

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

Activity promoters should give forward planning information about road or street works in their long-term programme, which may include those works in their annual operating programme, or three or five-year rolling programmes. This forward planning information could also include works identified through asset condition surveys. It could be provided at any time before an application for a Provisional Advance Authorisation is required.

It is much easier to adjust the timing of medium and long-term programmes to co-ordinate with the plans of other activity promoters than short-term programmes with detailed plans when contractual commitments may have been made. The early sharing of information will therefore benefit promoters as well as the Permit Authority. While accurate information is important, the Permit Authority accepts that the longer the lead time the greater the uncertainty about timing.

2.6.2 Recording Information

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

- Take part in early co-ordination;
- Consider joint working;
- Consider trench sharing;
- Highlight other activities which need to be co-ordinated with these activities;
- Produce reports for the permit team co-ordinators.

The entry should give as much detail as possible. The minimum information needed is the street involved, the nature of the activity and the proposed dates. This information should be reviewed and updated regularly to include details as they are finalised. Forward planning information does not remove the need to apply for a Provisional Advance Authorisation or a permit at the appropriate time.

2.6.3 Entering Information into the Register

All promoters should send forward planning information about works electronically in accordance with the current Technical Specification.

3 Permit Register

3.1 Introduction

The Permit Authority will keep a register of all streets covered by the Permit Scheme and those streets that remain noticeable through NRSWA. The register will include information

about all registerable activities including forward planning information and other events which could affect users of the street.

The register will be maintained as per Section 53 of NRSWA. This will include both permit and notice information allowing the co-ordination of activities and the supply of information to all road users.

3.2 Form of Register

The registers will be an electronic system and will use GIS. The registers will be maintained against the same digital map base to ensure consistency between all holdings of street-related data. This common geographical dataset will be vector-based, nationally consistent, maintained and seamless, with changes published on a regular update cycle.

It will include:

- Vector objects (polygons, lines and points) representing real-world geographical features and boundaries, each with well-defined lifecycles and royalty-free unique identifiers suitable for referencing;
- Road centreline geometry objects, each with royalty-free unique identifiers, which reference the road surface and form a complete and fully consistent topological network with no breaks or misalignments at administrative boundaries.

All data will follow the principles of the Digital National Framework (www.dnf.org).

The Permit Authority will provide the USRN definitions and attribution as defined in BS7666, while the geometries will be recorded by referencing the road centreline objects in the digital map base. This will promote reuse and consistency between datasets.

3.3 Content of Register

The permit register held by the Permit Authority will record the following:

- Copies of all Provisional Advance Authorisation, permit and permit variation applications submitted to the Permit Authority relating to registerable activities in any street;
- Copies of all permits and Provisional Advance Authorisations given by the authority, as well as all variations to permits and conditions, including any permits "deemed" granted.
- Copies of all revoked permits, refused Provisional Advance Authorisations and refused permits, together with the reasons for such refusals;
- Copies of all notices, consents and directions served by the Permit Authority under Section 58 or 58A of NRSWA;
- Copies of all notices served under Section 74 of NRSWA by a promoter
- Description and location of activities for which plans and Sections have been submitted under Schedule 4 of NRSWA (streets with special engineering difficulties);
- Particulars of notices given by any relevant authority under Schedule 4 of NRSWA;
- Particulars of street works licences under Section 50 of NRSWA, including details of conditions and changes of ownership and of any NRSWA notices or directions associated with those licenses;
- Information under Section 70(3) and (4) of NRSWA as to completion of reinstatements;
- Particulars of apparatus notified to the street authority under Section 80(2) of NRSWA;
- Every notice of works pursuant to Section 85(2) of NRSWA

- Details of every street for which the local highway authority are the street authority;
- Details of every street which is a prospectively maintainable highway over which a permit scheme would operate;
- Details of every street over which a permit scheme would operate, of which the local authority is aware, which is a highway but for which it is not the highway authority;
- Details of every street which is a) a protected street; b) a street with special engineering difficulties; c) a traffic-sensitive street.
- The Permit Authority will ensure that the register also includes the following items (also available within the ASD):
- The road category of each street;
- Details of every street where early notification by telephone of immediate activities is required.

3.4 Access to Registered Information

3.4.1 Access to Register

Everyone has a right to inspect the register, free of charge at all reasonable times except as noted in 3.4.2. "All reasonable times" may be taken to mean normal office hours (e.g. 09:00 to 16:30, Monday to Friday except Bank Holidays).

The Permit Authority will publish their register on their public website. This website will be available 24 hours a day, seven days a week, except for occasional down-time due to upgrades and essential maintenance. This work should where possible be carried out outside normal office working hours.

Much of the detailed information in the register as described in 3.3 is unlikely to be of interest to the public. The website will display headline information first and allow users to drill down to more detailed information with the Permit Authority being responsible for deciding how much information to make available in this way. The information will not necessarily include data that is obtainable by activity promoters or interested parties from the NSG Concessionaire's website.

Permit applications and notices contain confidential information such as names and telephone numbers of contacts in organisations and such information will remain confidential.

The Permit Authority is not responsible for the accuracy of information contained in the registers concerning those activities for which they are not the promoter.

The website will allow records to be searched by USRN or the "street descriptor" as given in the NSG. The website will not allow any changes to be made to records contained on the register.

3.4.2 Restricted Information

Restricted information is anything certified by the Government as a matter of national security, or information which could jeopardise the promoter's commercial interests, such as, details of a contract under negotiation. The promoter should indicate restricted information on the permit application or PAA. Restrictions on the release of information should as limited as possible. The case for restriction needs to be considered on an item-by-item rather than an activity-by-activity basis.

Restricted information will not be shown on the Permit Authority public website.

3.4.3 Retention of Information

Information provided by means of any notice under NRSWA should be retained on the register for at least six years after completion of the guarantee period of the works referred to in the notice. Information about other works should be retained on the register for at least six years after completion.

Any legal claims in relation to the works must be brought within six years of the date of which the event, which forms the basis of the claim, occurred. In the case of personal injuries, claims must be brought within three years of the date on which the event happened. However, in the case of a person who is below 18 years of age, the claim can be made up to three years after they reach 18. Information should be kept for those periods for that purpose; which may mean 21 years and nine months in the case of injury to an unborn child.

4 The Street Gazetteer and Additional Street Data

4.1 Introduction

The Permit Authority produces a Local Street Gazetteer (LSG) and a copy is held centrally by the NSG Concessionaire. Each of these local gazetteers contains the information about the streets in Permit Authority's geographical area.

The Permit Authority will create, maintain and publish a Level 3 LSG as defined by BS7666. It will include all streets within its geographical area, whether or not it is the street authority for any particular street.

Information held in both registers will be referenced to the USRN which relates to the Type 1 or Type 2 (designated street name or street description) street entry given for each street in the street gazetteer.

4.2 Identification of Permit Street

Systems used by activity promoters will need to define if a particular works is subject to the existing NRSWA noticing rules or this Permit Scheme.

4.3 Provisional Streets

A provisional street is a street that does not yet have an entry in the NSG. Typically, these will be new and/or private streets. The Permit Authority will register new and private streets on the NSG.

A permit application or Provisional Advance Authorisation application for a proposed activity should be submitted against a provisional street only if an activity promoter is certain that the street concerned is not in the NSG. It is then the responsibility of the Permit Authority to allocate a USRN, notify the activity promoter, and create a level 3 entry in the LSG and SG website. The promoter should then use this USRN in all further permit applications or notifications relating to the activity.

Under Section 87 of NRSWA, the Permit Authority will make a declaration that a street is likely to become a maintainable highway. The declaration will be registered as a local land charge.

4.4 Additional Street Data

4.4.1 Information for the ASD

Additional Street Data (ASD) refers to other information about streets held on the NSG Concessionaire's website alongside the NSG data.

The Permit Authority shall provide the following information for the ASD:

- (a) The street authority responsible for maintaining the street;
- (b) Whether the street is publicly maintainable, prospectively publicly maintainable, or private;
- (c) Whether the street is covered by this permit scheme or the NRSWA notification regime;
- (d) Any other authorities and activity promoters with an interest in the street;
- (e) The street reinstatement category;
- (f) Designations of protected streets;
- (g) Designations of streets with special engineering difficulty;
- (h) Designations of traffic sensitive streets;
- (i) Whether the street is subject to early notification of immediate activities;
- (j) Where possible streets on which it might be expected that conditions relating to the non-use of that street for new apparatus, but not the maintenance of existing apparatus, may be used.
- (k) Other features of the street. This may include information about vulnerable road users, structures, environmental areas, parking restrictions, priority lanes, special surfaces, standard surface and special construction needs etc.

Designations may cover only part of a street or may vary along a street. The relevant detail will be recorded in the ASD.

4.4.2 Responsibility for Creating and Updating

The Permit Authority will create and update the ASD together with the NSG.

4.4.3 Procedures for Creating and Updating ASD

The Permit Authority will forward additions or amendments to the ASD and NSG to the Concessionaire using the formats required.

5 Streets Subject to Special Controls

5.1 Introduction

The Kirklees Council Permit Scheme balances the need to reduce the bureaucracy involved in managing activities in the highway with the importance of minimising delay and inconvenience to road users whilst protecting the integrity of the street and any apparatus in it. The Kirklees Council Permit Scheme incorporates the provisions of NRSWA which provides for three categories of special streets to be designated and adds a fourth category which is specific to the Kirklees Council Permit Scheme.

The four categories of street subject to special controls are:

1. Protected streets;
2. Streets with special engineering difficulties;
3. Traffic-sensitive streets; and
4. Streets subject to early notification of immediate activities.

5.2 Protected Streets

5.2.1 Background

By virtue of Section 61 of NRSWA, all “special roads” as defined in the Highways Act 1980 (i.e. motorways) are protected streets.

5.2.2 Designation

Streets may be designated as protected only if they serve, or will serve, a specific strategic major traffic need with high and constant traffic flows. There must also be 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.

5.2.3 The Implications of Designation

Once a street has been designated as protected, the activities of all promoters will be severely restricted. No activities may be carried out in the street (except by way of renewal) without the Permit Authority’s express consent (although lateral crossings will normally be allowed). However, should a permit for such activities be issued with stringent conditions attached, the Permit Authority may consider a contribution to the promoter’s expenses in complying with those conditions. Any disputes that arise over designation of a protected street shall be settled by arbitration.

Activities by promoters in verges and central reservations which do not impinge on the carriageway will usually be acceptable. Road maintenance or repairs will in general be carried out at night, weekends or other times which have less impact upon traffic. However, working at night may cause conflict with Environmental Health Legislation which must be discussed with the Permit Authority.

Activity promoters must apply for a permit for any registerable activities in a protected street covered by the Kirklees Council Permit Scheme. However, the Permit Authority will note the protected street rules in approving and issuing permits and, in general, it is unlikely that

permits will be given for new activities. Promoters should therefore discuss their proposals for activities in a protected street with the Permit Authority before making an application.

5.2.4 Existing Streets

Given the possible financial implications for activity promoters, designation will be contemplated only when essential and the decision will be taken only after consultation and after other means of reducing delay and inconvenience have been explored.

The Permit Authority will justify the need and:

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

5.2.5 New Streets

Where a planned new street is being considered for designation, the Permit Authority will consult all potential activity promoters and others, such as transport, bridge and sewer authorities, adjacent landowners and frontagers, who might have an interest. Where requested and reasonably practicable, the Highway Authority will make provision, at the promoter's expense, for necessary areas or strips for carrying services alongside carriageways and for duct or service crossings.

5.2.6 Protected Streets

Any "Protected Streets" within the Permit Authority's administrative area will be identified in their Local Streets Gazetteer.

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 activities must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure with attendant danger to person or property.

Under Schedule 4 of NRSWA, plans and sections of proposed activities must be approved by each relevant authority with an interest in the structure concerned, i.e. the street authority, and/or the sewer, transport or bridge authority. This remains the case where streets are subject to this permit scheme.

5.3.2 Scope of Designations

The designation of streets with SED will only be used where strictly necessary. Circumstances where designation may be appropriate include those identified in Sections 5.3.2.1-10.

5.3.2.1 Bridges

The street may be designated if the bridge authority, or on behalf of others, is concerned about the potential impact of activities in the street on the strength, stability and waterproofing of a bridge, or access for maintaining it, or for any other purpose. In general, the designation will relate to the whole of the bridge structure, but will only designate the area adjacent to the bridge and not the whole length of the street.

5.3.2.2 Retaining Walls

Retaining walls will 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.

5.3.2.3 Cuttings and Embankments

Areas adjacent to cuttings and embankments will 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 similar to those for retaining walls, may be designated

5.3.2.4 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 will be designated, again distinguishing between excavations up to 1.2 metres deep and those that are deeper.

5.3.2.5 Subways and Tunnels at Shallow Depth

Areas immediately above the structure and adjacent areas will be designated.

5.3.2.6 Tramway Tracks in the Street

Areas occupied by the tracks and immediately adjacent areas will be designated.

Additional protection to the appropriate authority is also given in Section 93 of NRSWA.

5.3.2.7 Culverts

The area of the street immediately above a culvert will be designated where the structural integrity of the pipe or channel could be adversely affected by activities.

5.3.2.8 Undertakers' Apparatus

Designation may be required only in exceptional circumstances, such as electricity pylons adjacent to the carriageway, or the presence of critical operational apparatus.

5.3.2.9 Pipelines

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

5.3.2.10 Engineering Problems

Streets will be designated if they pose extraordinary engineering problems in the event of excavation, for example, a weak road, which may have been constructed using a continuously reinforced concrete slab or geo-textiles.

5.3.3 Designation on Request

The Permit Authority may be asked to designate a street as having special engineering difficulties by:

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

The Permit Authority must consider any request carefully and decide to make the designation, with or without modifications, or decide not to do so. The Permit Authority will carefully consider the arguments for and against the proposed designation and shall always act reasonably in coming to a decision.

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

5.3.4 Practical Considerations

SED designations will not be made as a matter of policy wherever a bridge or structure appears likely to be affected by activities in the street. Each case will be considered individually. Authorities and owners of structures should re-examine these designations periodically and withdraw any that are unnecessary in the light of other safeguards in NRSWA or other legislation.

5.3.5 Cellars

The Permit Authority cannot identify all cellars under footways and carriageways. Owners of cellars under the highway must notify the highway authority under Section 180 of the Highways Act 1980 if they wish to carry out works. The highway authority will, in turn, notify interested activity promoters before any activity begins.

Activity 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 frontagers when they intend to carry out:

- Excavations close to cellars; or
- Extensive excavations which will impinge upon cellars.

5.3.6 Policy Guidance

The Permit Authority shall designate sections of streets with SED, maintain a list of such designations and create the appropriate ASD record - subject to the provisos on other ASD creators in Section 4.4. However, it is important that:

- The owner of the relevant structure informs the Permit Authority of its existence so that it can be considered for designation;

- The key relationship, in terms of ensuring that adequate precautions are taken, is between a promoter proposing an activity in the street and the owner of the structure. To enable this mechanism to work effectively:
- Activity promoters, bridge authorities and other owners of relevant structures must consult and co-operate on the designation, and withdrawal of designation, of sections of streets with SED;
- On receipt of permit applications covering sections of street with SEDs, the Permit Authority will ensure that the necessary actions are in hand;
- Arrangements for handling immediate works on sections of streets with SED will be agreed between activity promoters and the owners of structures;
- There shall be early discussions between activity 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 the street authority may designate certain streets (or parts of streets) as "traffic-sensitive" if they meet the criteria set out below, or by agreement with the majority of undertakers known to have apparatus in the street concerned.

Designation highlights that activities proposed in these situations are likely to be particularly disruptive to other road users. They do not necessarily prevent occupation during traffic-sensitive times but additional requirements will be imposed on promoters.

Designation may apply to the carriageway only, to a footway or pedestrian area only, to part of a length of street, and to certain times of day, days of the week, or days of the year, depending on circumstances.

Once a designation is made it applies to all activities taking place in the street. All activity promoters should avoid carrying out activities in the carriageway of traffic sensitive streets at sensitive times unless there is no alternative.

5.4.2 The Criteria for Designation

To encourage activities outside the traffic-sensitive period, the Permit Authority will not make a designation for any period longer than is strictly necessary.

One or more of the following criteria will apply before the Permit Authority will consider the designation of a street as traffic-sensitive:

- (a) The street is one on which at any time the street authority, estimate traffic flow to be greater than 500 vehicles per hour per lane of carriageway, excluding bus or cycle lanes;
- (b) The street is a single carriageway two-way road, the carriageway of which is less than 6.5 metres wide, having a total traffic flow of not less than 600 vehicles per hour;
- (c) The street falls within a congestion charges area;
- (d) Traffic flow contains more than 25% heavy commercial vehicles;
- (e) The street carries in both directions more than eight buses per hour;

- (f) The street is designated for pre-salting by the Permit Authority as part of its programme of winter maintenance;
- (g) The street is within 100 metres of a critical signalised junction, gyratory or roundabout system;
- (h) The street, or that part of a street, that has a pedestrian flow rate at any time of at least 1300 persons per hour per metre width of footway;
- (i) The street is on a tourist route or within an area where international, national, or significant major local events take place.

5.5 Procedure for Making Designations

Before making any designation, the Permit 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 criteria that are met.

The notice will be sent to:

- Every activity promoter known to the Permit Authority to be working in its area or who has given the Permit Authority notice of its intention to commence working in its area;
- Every other local authority for the street to which the proposed designation relates;
- The chief officer of police, chief executive of fire and rescue authority, the chief; executive of the National Health Service ambulance trust and other emergency services;
- Passenger Transport Executives and other transport authorities, for instance light rail operators;
- Any other person who has submitted a written request to be given notice of a proposed designation. This may include other street authorities such as Highways England or Network Rail;
- For the designation of streets as protected, the occupiers of properties fronting the street concerned.

The occupiers of any property that fronts a street which is proposed to be designated as protected shall also be given a copy.

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

If there are outstanding objections at the end of the consultation period, the Permit Authority will give them careful consideration. In the case of a proposed designation of a street as protected, a local inquiry will be held and its report considered alongside the objections. The Permit Authority will then make the designation, with or without modifications, or decide not to do so. The Permit Authority shall carefully consider the arguments for and against the proposed designation and shall act reasonably in coming to its decision.

When a designation is made, the highway authority, shall submit the relevant ASD to the NSG Concessionaire.

5.6 Procedure for Withdrawing Designations

The Permit Authority will review its designations regularly.

Any person entitled to a notice under the designation procedure or anybody else the Permit Authority considers having sufficient interest may apply to the Permit Authority to withdraw the designation. The Permit Authority shall carefully consider the arguments for and against the proposed withdrawal of designation and shall always act reasonably in coming to its decision.

The Permit Authority can withdraw a designation at any time, subject to the following provisions:

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

Where a withdrawal is made, the Permit Authority, as highway authority, shall submit the relevant ASD to the NSG Concessionaire.

5.7 Streets Where Early Notification of Immediate Activities is Required

Certain streets are especially sensitive to disruption and of such traffic importance that immediate activities can cause significant problems even before a permit can be applied for and issued.

Giving the earliest possible information about the activity will enable the Permit Authority to initiate traffic management arrangements and provide information to motorists that will mitigate the impact of the activity.

The Permit Authority may have a manned traffic management control centre which has the facility to adjust permanent traffic signal timings and, when the technology is available, to provide immediate information to motorists via variable message signing.

The Permit Authority therefore requires activity promoters to contact them by telephone prior to carrying out any activity in any streets so designated. Promoters should check for the appropriate designation and obtain the relevant telephone number from the Permit Authority's website.

Designation of such streets will follow the same consultation process as for traffic-sensitive streets.

5.8 Other Features of the Street

5.8.1 Features

Many features of a street can affect the planning and co-ordination of activities. These may be subject to restrictions imposed by legislation other than NRSWA or TMA. To assist activity promoters, information about such features may be held as Additional Street Data in the NSG. In this way it is hoped that the ASD becomes a fundamental planning tool for permit applications. Data capture codes have been defined for the following features:

5.8.2 Environmentally Sensitive Areas

These include such areas as Sites of Special Scientific Interest, ancient monuments or tree root precautionary areas. The Special Designation Description indicates the type of sensitive area.

5.8.3 Structures (Not Designated as Being of Special Engineering Difficulty)

Activities carried out near various structures in the highway warrant extra care, even if the structures are not designated as SED. The Special Designation Description indicates the type of structure.

5.8.4 Special Surfaces

These include, but are not restricted to, such surfaces as porous asphalt, tactile, and coloured surfaces. The Special Designation Description indicates the type of surface.

5.8.5 Pipelines

Government and private sector oil or gas pipelines.

5.8.6 Priority Lanes

Priority lanes include cycle, high occupancy vehicle and bus lanes. The Special Designation Description indicates the type of priority lane.

5.8.7 Level Crossing Precautionary Areas

This Special Designation Description indicates the extent of the Precautionary Area. When activities are proposed within the Precautionary Area, extra safety measures required by the rail operator must be applied.

5.8.8 Special Construction Needs

This description indicates the extent and type of special construction and could include such sites as geo-textile mats and areas where sulphate-resistant concrete is required.

5.8.9 Parking Bays and Restrictions

This Special Designation Description indicates streets with parking meters and residents' parking bays, restricted parking and other permanent parking restrictions. This will alert activity promoters to plan any necessary action such as applying to the local authority to have parking suspended. This Special Designation Description will also be used by the Permit Authority to provide information about vulnerable road users such as the locations of assistance centres, hospitals, schools etc.

5.8.10 Pedestrian Crossings and Traffic Signals

This Special Designation Description indicates where streets have signalled controlled pedestrian crossings and permanent traffic signals.

5.8.11 Speed Limits

This Special Designation Description indicates the speed limit appropriate to the street.

5.8.12 Transport Authority Critical Apparatus

This is apparatus used or owned by a transport authority that is critical to its operations and if damaged or interrupted could disrupt or temporarily stop services.

6 How to Make a Permit Application

6.1 General Principles

6.1.1 Purpose

Any promoter requiring to carry out a registerable activity in streets designated as requiring a permit must obtain a permit from the Permit Authority. This permit will allow the promoter to:

- Carry out the specified activity;
- At the specified location;
- Between the dates shown; and
- Subject to any conditions that may be attached.

Any permit issued by the Permit Authority will include all of this information as supplied by the promoter in the application. The intention is to better control activities to minimise disruption and inconvenience. It is not to prevent the legitimate right of undertakers and others to access their equipment, nor to prevent necessary maintenance to the highway itself by highway authorities, but for these functions to be carried out in a manner which takes account of the needs of others.

6.1.2 Differences from NRSWA

The key differences are:

- A requirement to obtain permission, effectively booking a time slot, rather than informing the Permit Authority of the intention to undertake an activity;
- The start and end dates are fixed on category 0, 1, 2 and traffic sensitive streets – a permit is not valid before the given date nor once the end date is passed;
- Times at which works can be carried out are more strictly controlled; and
- Conditions affecting the way in which work is carried out can be attached to permits.

6.1.3 Types of Permit

The Kirklees Council Permit Scheme contains two types of permit:

- Provisional Advance Authorisation (PAA) – part of the permit application process but only for major activities, i.e. those which are large and/or likely to be disruptive. Effectively, this authorisation is an early provisional permit issued before the final details of an activity have been worked out. For utility street works PAAs are similar to Section 54 notices under NRSWA;
- Permits – full permits with final details - for all registerable activities included. For street works these are similar to Section 55 notices under NRSWA.

6.2 Timing of Permit Applications

The timing of applications will vary depending on the proposed activity so it is in the best interests of the promoter to contact the Permit Authority as soon as the works promoter becomes aware of the need for the works. Permits will contain conditions under which the work may take place so early discussions will ensure agreement can be reached so that the application is approved quickly. Early applications will improve the co-ordination process, enabling the Permit Authority to better control all the activities that take place on the highway and help promoters plan their works more effectively.

6.3 Permit Administration

The Permit Authority shall ensure that the scheme is administered effectively, in order to maximise the benefits of the scheme. A suitably qualified team of people shall be responsible for administering the scheme on a day to day basis. Contact details of the team dealing with permit applications and any questions associated with either the permit scheme in general or an individual permit application is shown on the Permit Authority's web site.

6.4 Methods of Making a Permit Application

Permit applications, including PAAs and variations, must be made to the Permit Authority administration team by electronic communication.

Recipients of copies of permit applications or of other material relevant to those applications, e.g. frontagers are unlikely to have access industry electronic systems. In such circumstances applications or other information will be given either by e-mail or by post.

6.5 Service of Permit Applications

The application process will start when the Permit Authority receives the application, not when it was sent.

Where, after three attempts to give an application or a notice by electronic means (duly recorded by the person serving the application or notice), the application or notice cannot be given, notification should be given by telephone or e-mail for immediate activities, with the formal electronic application or notice following as soon as reasonably practicable. Other applications or notices may be given by other electronic means (e.g. e-mail). Following recovery of service a copy of the application or notice should then be sent through the electronic management system to ensure information on the works are correctly recorded in the register.

6.6 System failures

In the case of a complete system failure the following procedures will be applicable:

Failure lasting up to 24 hour duration

Kirklees Council will accept applications for permits for immediate works only by email following prior agreement. These applications must be accompanied by a telephone call to the appropriate contact number displayed on Kirklees Council's website. Following

recovery of service a copy of the application should then be sent electronically to ensure that the information on the works is correctly recorded in the register.

Failure lasting between 24 hours and 3 days

Kirklees Council will accept applications for permits for immediate works and works of Activity Type Minor only by email following pre-agreement. These applications must be accompanied by a telephone call to the appropriate contact number displayed on Kirklees Council's website. Following recovery of service a copy of the application should then be sent electronically to ensure that the information on the works is correctly recorded in the register.

Failure lasting between 3 days and 7 days

Kirklees Council will accept applications for permits for immediate works, works of Activity Type Minor and Activity Type Standard only by email following prior agreement. These applications must be accompanied by a telephone call to the appropriate contact number displayed on Kirklees Council's website. Following recovery of service a copy of the application should then be sent electronically to ensure that the information on the works is correctly recorded in the register.

In the event of system failure, any permit variation applications or to seek further information or discussion should be made by telephone to the appropriate telephone number displayed on Kirklees Council's website. The officer concerned will issue an individual reference number. The number must be displayed on an electronic application following recovery of service to ensure correct cross referencing.

6.7 Content of Permit Applications

All applications must comply with the definitive format and content of both paper and electronic permit applications.

The description of activities and other information should be in plain English without any industry specific jargon. Where possible, promoters should use consistent standard descriptions, with added text as necessary to assist the Permit Authority to understand the nature of the activity to be undertaken.

Each application shall contain information about activities in only one street, where a street equates to a single USRN. To improve co-ordination, projects covering more than one street must cross-reference all related applications. This is particularly important when applying for Provisional Advance Authorisations. Under no circumstances will an application containing activities in more than one street be acceptable. Promoters should be aware that projects in a street of some length or a long street with several different names will require multiple applications if the activities affect more than one USRN.

6.8 Applications to Interested Parties

Parties other than the Permit Authority may wish to be informed about activities on a street. These could include a neighbouring authority which needs to know what is happening on the adjacent network in order to carry out their network management duty, and utility companies who want to know what is going on in a street where they have vulnerable plant and equipment. Such parties should make sure that their interest is entered in the ASD.

Before making a permit application, promoters should check whether any parties have registered such an interest in the street. Where the ASD indicates other interested parties, applications for permits, PAAs and variations, and any response to them, must be copied to those parties. Electronic systems meeting the current Technical Specification should deal with this automatically. However, some interested parties, Section 50 licensees for instance, may not have access to the electronic systems so they should be sent paper copies.

In addition, within the Kirklees Council Permit Scheme Sections 88, 89 and 93 of NRSWA are amended as provided for in the Permit Regulations. These sections, along with s90 and s91, deal with notifications to **bridge, transport and sewer authorities**. The amendments ensure that the same consultation takes place prior to a permit application as under the notice regime. The duties on undertakers in relation to streets with Special Engineering Difficulty also remain under the Kirklees Council Permit Scheme and the approval to plans and sections from the relevant authorities still has to be obtained. These procedures should take place before the permit application is made. The application should state that the consultation has taken place and where appropriate the necessary approvals have been obtained from the other parties.

6.8.1 Applications for activities in the vicinity of level crossings

Under the Permit Scheme, consultation requirements with **Network Rail** are the same as with the NRSWA regime.

6.8.2 Applications for activities in the vicinity of highway structures

Promoters should make themselves aware of the requirements for working adjacent to **highway structures**, set out in current guidance.

Promoters should make themselves aware of the requirements for working adjacent to structures, particularly those of Special Engineering Difficulty.

6.9 Definition of Activities and Timing of Permit Applications

The time requirements for submitting permit applications are set out in Table 1 within Section 7.2.

6.9.1 Provisional Advance Authorisation Applications

The promoter shall apply to the Permit Authority for a "Provisional Advance Authorisation" at least three months before the proposed start of major activities. This requirement replaces the Advance Notice under Section 54 of NRSWA. Each permit for a major activity must have an equivalent PAA, i.e. a PAA for each street with a different name.

A Provisional Advance Authorisation lets the promoter know that their activity is approved and enables them to provisionally reserve occupation of the highway. Therefore an application for a Provisional Advance Authorisation must always specify proposed start and end dates. However, it is accepted that it may be difficult for a promoter to be certain about the start date three months before the event, therefore in the Kirklees Council Permit Scheme the start date will be regarded as provisional and may be amended in the application for a permit where it will be subject to coordination.

The same information can be provided for a PAA application as for a permit application. All the details will not necessarily be known at the PAA stage but as a minimum, the following

information should be provided in an application to the Permit Authority for a Provisional Advance Authorisation, with sufficient detail for the Authority to understand what is planned and its impact so that the authority can coordinate works accordingly:

- Location of works;
- Proposed start and end dates, by inference, expected duration;
- An outline description;
- Times of works, including hours of day and any weekend provisions;
- The road space occupancy;
- Method of working;
- Traffic management.

These are set out in the Statutory Guidance.

6.9.2 Major Activities Applications

Definition

Major activities:

- Have been identified in an activity promoter's annual operating programme or are normally planned, or known about at least six months in advance of the proposed start date for the activity; or,
- Require a temporary traffic regulation Order (i.e. not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other activities other than immediate activities; or
- Have a duration of 11 days or more, other than immediate activities.

Application Periods

The Kirklees Council Permit Scheme requires that promoters must apply for both a Provisional Advance Authorisation at least three months in advance of the activity and a permit ten days before the activity is due to start.

6.9.3 Standard Activities Applications

Definition

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

Application Period

A permit application for standard activities must be made ten days before the proposed start date.

6.9.4 Minor Activities Applications

Definition

Minor activities are those activities, other than immediate or major activities, where the planned duration is three days or less.

Application Period

A permit application for minor activities must be made three days before the proposed start date.

6.9.5 Immediate Activities Applications

Definition

Immediate Activities are either:

- Emergency Works, which are defined in Section 52 of NRSWA, are works required to end, or prevent, circumstances, either existing or imminent, that might cause damage to people or property. This applies to both street works and works for road purposes which fall within the definition of activities. The term also includes activities not falling within that definition, but which cannot be severed from those that do - such as activities away from the emergency site that are necessary to shut off or divert a supply. Remedial works to dangerous defective reinstatements are classed as emergency works (but there will be a need to cross reference these to the permit given for the parent activity); or,
- Urgent activities, which are defined in the Regulations as activities:
 - (a) (Not being Emergency Works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required):
 - (i) To prevent or put an end to an unplanned interruption of any supply or service provided by the promoter;
 - (ii) To avoid substantial loss to the promoter in relation to an existing service; or
 - (iii) To reconnect supplies or services where the promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and
 - (b) Include works that cannot reasonably be severed from such works.

Application Period

For Immediate Activities the promoter must apply for a permit within two hours of the work starting. Permits for immediate activities can contain the same conditions as permits for other activities - subject to obvious variations, such as omitting when activities may start. The exact location may not be known when the application is made.

The Permit Authority will designate streets that are particularly vulnerable to activity related congestion on the ASD, to indicate that the Permit Authority requires early warning of immediate activities on these streets. Only those streets that are most susceptible to unplanned disruption will be designated.

Promoters carrying out immediate activities on a designated street must telephone the number specified on the Permit Authority's website immediately after the activity has been identified and before the permit application is made. This call will be logged and a unique reference number provided to the applicant which should be included in the permit application.

Burden of Proof

If the Permit Authority disputes whether an activity, or part of an activity, is immediate, the promoter must demonstrate conclusively that it is. Those elements of the activity, which

could be subject to the normal application period, cannot be included in the 'immediate' category.

Severable Works

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

Work which can be "reasonably severed" from the immediate activity must therefore be regarded as separate activities and classified accordingly.

Typically, immediate activities shall consist only of a repair to end the emergency, or restore the service, and complete the necessary reinstatement. Subsequent activities to provide a permanent solution are "severed" and subject to a separate permit application.

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

6.9.6 Remedial Works

Definition

Remedial works correct defects identified in accordance with the *Code of Practice for Inspections* and associated Regulations.

The procedure below sets out how a promoter will notify the Permit Authority of remedial works. These requirements do not affect the power of the Permit Authority to remove a danger arising from a defective reinstatement.

Application Requirements

Under Section 72 (3) of NRSWA, the Permit Authority can require remedial works to be carried out within seven days or such other periods as may be specified.

If the promoter discovers the necessity for remedial works the following action should be taken:

- If the reinstatement is dangerous, the promoter should take the necessary action and seek a permit for immediate activities from the Permit Authority; or
- For all other remedial work, the promoter should agree the scope of the activity and timings with the Permit Authority before applying for a permit.

The permit application requirements for remedial work to an interim or a permanent reinstatement are the same as those for all other types of activities. However, the promoter of these activities is not required to apply for a Provisional Advance Authorisation, even if the activities are of such magnitude as to be classed as major activities. They will need to be cross-referenced to the original activity promoter reference number.

Those remedial works to remedy dangerous defects will, of course, be categorised as immediate activities.

To assist co-ordination, the application should use the original activity reference number. If the original permit reference cannot be found, a new permit reference will be issued with the permit, highlighting that these are remedial activities.

If remedial works are required to an interim reinstatement the works promoter is encouraged to carry out the permanent reinstatement of the original works. This will obviate the need for a further site visit and resultant disruption.

6.10 Permit Start and End Dates

A permit will allow an activity to be carried out for a specific duration (in calendar days) between the start and end date on the permit. A promoter working outside those dates would not have a valid permit and potentially would be committing an offence. It should be noted that if the work should start on a Monday and finish on a Friday, the subsequent weekend cannot be used as additional days without the express approval of the Permit Authority through a permit variation.

6.10.1 Main roads (category 0, 1, 2 streets and traffic-sensitive category 3 and 4 streets)

On main roads i.e. all category 0, 1 & 2 streets and category 3 & 4 streets that are traffic-sensitive for all or part of the time, the duration of the activity will exactly match the time from the start date to the end date. For example: start date Wednesday 1st June, end date Friday 10th June, duration eight (working) days. The permit start date will be the proposed start date of the activity. If the activity cannot begin on the permit start date, the promoter should inform the Council on the previous day by telephone. There is not automatic extension of the permit in these circumstances. If the promoter thinks that they could still complete the work before the permit end date, then they could begin the activity on a subsequent day, submitting a start or works notice under Section 74 of NRSWA.

If the promoter could not complete the activity before the permit end date, they must apply for a permit variation. This would be required even if the extra days were at a weekend (in the above example the permit expires at midnight on Friday night). Kirklees Council may or may not agree to an extension, depending on the circumstances, the promoter may be subject to over-run charges.

6.10.2 Minor roads (category 3 and 4 non traffic-sensitive streets)

On minor roads, i.e. category 3 and 4 street that are not traffic-sensitive at any time, the permit will be issued with start and end dates, and a duration for the activity in working days, which will be set as a condition. The start and end dates of the permit will be proposed start and end dates of the activity. However, because both competition for space and the expected level of disruption is likely to be lower on less busy streets, there will be flexibility on the start of the activity – a “starting window” – equivalent to the validity period on a NRSWA notice, namely 5 working days for major and standard activities and 2 working days for minor activities.

If the promoter does not start on the first day of the starting window but on another day within the window, the permit start and end dates will be re-set so that the permit start date is now the actual start date and the permit end date is then fixed by the duration in working days from the actual start.

The normal working day rules apply, i.e. weekdays, although there may be conditions attached to the permit that affect the ability of a promoter to make use of weekends or Bank Holidays to work.

The permit start date cannot be later than the last day of the starting window.

Once the end date of the permit (including any adjustments as described above), the promoter must have applied for, and obtained, a variation if they wish to carry on working. Without this amendment the promoter would be working without a permit.

Section 74 of NRSWA still applies to utilities' activities and the noticing requirements of Section 74 still apply. Kirklees Council's own activities will be subject to equivalent notices. Therefore, when they began the activity the promoter would have had to submit the Section 74 Start of Works Notice (or highway activity equivalent) setting out the actual start date and estimated date for the end of the activity. The duration (reasonable period) for Section 74 purposes must be the same as the duration given in the permit.

6.11 Information Required in a Permit Application.

In deciding whether to require any conditions to be included in a permit application the Permit Authority will consider the information that has been provided in support of the application.

6.11.1 Reference Number

Each application must include a unique reference number.

6.11.2 Description of Activity

A detailed description of the activity must be provided to enable the Permit Authority to assess its likely impact - similar to that already required under NRSWA.

6.11.3 Location

Promoters must give the USRN and also an accurate location based on National Grid References (NGRs), including one NGR in the centre of the excavation for small excavations and, where there are trenches, a number of co-ordinate pairs representing a polyline, or ideally the dimensions of the space taken up by the activity in the street in the form of a polygon, where the space includes that required for working areas, safety zones and storage.

Promoters applying for permits for immediate activities should do so as soon as possible once the activity is known about and in any case, within 2 hours of the commencement of the activity on site. Even if they find that the location in which they have started digging is not where the leak (or other emergency) actually is, a permit is still required because they have broken open the street. The promoter will have to apply for a permit variation for:

- The first excavation in each further 50 metre band away from the original excavation/hole in the same street, that is, 50-100 metres, 100-150 metres etc. Separate variations would be required for bands going in opposite directions.
- If the search carries into a different street, or a new USRN (including if the street changes to a different authority), then a separate permit application is required.
- Traffic management arrangements have to be significantly changed.

6.11.4 Timing and Duration

Each application for a permit must include proposed start and end dates. For traffic-sensitive streets, details of the times of day the activity is to be carried out must also be provided, including any proposal to work at night. If the activity promoter proposes to

undertake activity on weekends or Bank Holidays to speed up the activity and reduce disruption, then they must also say so. The Permit Authority will take all this information into account when determining whether to issue a permit or to require changes to dates or conditions before granting the permit. If, for a major activity, the dates on a permit application differ from those on the preceding PAA, the promoter must explain the reason(s) for the change.

6.11.5 Illustration

Activity promoters may need to provide an illustration of the activity. An illustration will be particularly important where the activity is significant in terms of potential disruption due to the position and size of the activity. This requirement is not necessarily limited to major activities - a small excavation at a critical junction may be very disruptive.

The illustration should include details of the activity, whether it is likely to affect more than one lane of the street and, if possible, a disruption effect score. (Further detail of the disruptive effect score is given in Appendix H). Plans, digital photographs and similar will normally be required dependent upon the type of activity and the type of street. Activities on those streets or parts of a street, subject to a Special Engineering Difficulty designation will in any case require a plan and section or other specified information. Approvals for working in areas affected by SEDs must be obtained before the full permit application is made.

Illustrations can be sent to the Permit Authority as an Attachment to an application.

6.11.6 Technique to be used for Underground Activities

Details of the planned techniques, such as open cut, trench share, minimum dig technique, lining of culverts, no dig, stabilising concrete slabs or innovative solution must be provided.

Information regarding works technique can be sent to the Permit Authority as an Attachment to an application.

6.11.7 Traffic Management and Traffic Regulation Orders

Details of traffic management proposals will be required. Any requirement for action by the local authority such as the need for Traffic Regulation Orders (TROs), suspension of parking restrictions and approval for portable traffic signals must be included in the application and allowance must be made for the additional costs associated with them. Under the Kirklees Council Permit Scheme, all uses of portable traffic signals require the agreement of the Permit Authority. Individual approval will be required (as has always been the case for portable traffic signals at activities across a junction) and requests for the use of portable traffic signals must be included in the permit application for the relevant activities. However, if the advance approval notice period required for any traffic management is longer than that required for a permit, traffic management may be applied for separately. If this happens it will be necessary to indicate that this is the case on a permit application, cross-referencing the early application for traffic management by its unique application reference number.

Please note that an application for a TRO must be made separately to the Permit Application.

6.11.8 Depth

Activity promoters must provide their best estimate of the excavation depth. While this might be expressed as a range, it should nonetheless provide a meaningful indication of the nature and extent of activity involved.

6.11.9 Reinstatement Type

The application must indicate whether the activity is intended to be completed with interim or permanent reinstatement or an estimated number of phases. If it is the latter, then promoters must provide details as to where interim or permanent reinstatements will be completed within that permit.

6.11.10 Inspection Units

The application must state the provisional number of estimated inspection units appropriate to the activity, in accordance with the rules laid down in the *Inspections Code of Practice* and associated Regulations. Where there is trench sharing, only the primary promoter is required to give the inspection units.

6.11.11 Contact Person

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

6.11.12 Early Starts

An activity must not start before the expiry of the application period, except where an early start has been agreed with the Permit Authority and any other interested parties. Such permission will not be unreasonably refused.

A promoter may request an early start before or after applying for a PAA or a permit application as appropriate. Where this is agreed after the original permit application is made, the promoter shall submit a variation to the application.

6.12 Error Correction

Where the Permit Authority identifies an error in data recorded in, or submitted for recording in, the permit register, the Permit Authority will contact the activity promoter to discuss and agree the corrections to be made.

Where the promoter identifies an error, they will contact the Permit Authority to discuss and agree the corrections to be made. If an error has been identified on an application, the promoter should submit a permit variation request by the end of the next working day following the agreement of the correction. This permit variation request should include the corrected data and the name of the person in the Permit Authority who agreed that the correction should be made, and/or Agreement Reference that has been issued by the Permit Authority.

This Works Data Variation procedure should not be used without the prior agreement of both parties. Its purpose is simply to ensure that the information recorded in the register is correct and useful to the authority in carrying out its co-ordination duties. Systems are

expected to hold an audit trail of the variations, and the variation must be granted by the authority in order for it to be implemented into the current permit.

If the works originator identifies an error caused by the Permit Authority and, having first discussed and agreed the action with the authority the promoter initiates a variation, the fee for the permit variation will be waived. If the error has been caused by the promoter and a permit variation is needed, then a variation fee will be payable.

6.13 Phasing of Activities

One permit can only contain one phase of an activity. A phase of an activity is a period of continuous occupation of the street (whether or not work is taking place for the whole time) between the start and completion of the works. The dates given in a permit application and in the issued permit will denote the dates for that phase. A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding have been removed from the site.

A promoter should clarify that an activity is to be carried out in phases on the application. Each phase will require a permit and, if a major activity, also a Provisional Advance Authorisation (PAA) except for "interim to permanent" and "remedial" works which do not require a PAA even if they would otherwise be classified as Major. All subsequent phases should be submitted using the same reference as the original works phase, or failing that be cross referenced to the others.

Phased activities must relate to the same works. These could be a single or multiple-but-linked excavation, or a trench dug progressively along the street as part of a continuous operation.

6.13.1 New Customer Connections

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

6.13.2 Linked Activities

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

6.13.3 Interim to Permanent Reinstatements

If a permanent reinstatement cannot be completed on the first pass, the activity will be regarded as having two separate phases; a separate permit must be obtained for each phase. (Under the provisions of NRSWA this also means two separate works for the purposes of Section 74 of NRSWA). Each phase is from the start date in the relevant permit to the completion of either interim or permanent reinstatement and the removal of all surplus materials and equipment from site. The same activity reference must be used for all phases in their respective applications and will similarly appear on each issued permit.

6.13.4 Interrupted Activities

If an activity is interrupted because, for instance, the promoter needs some specialist plant or apparatus other than that originally planned, it is the promoter's responsibility to notify the Permit Authority. If the Permit Authority is content for the excavation to remain open whilst the missing equipment is obtained a permit variation will be required but, if the Permit Authority decides that the excavation is to be closed and returned to full traffic use, then the promoter will need to apply for a further permit to complete the activity at a later date.

If the activity is interrupted because the promoter, or his contractor, has caused third party damage, then it is the promoter's responsibility to seek the Permit Authority approval to a variation to allow the third party damage to be repaired. The activity site remains the responsibility of the original promoter until it is able to issue a Works Clear or Works Closed notice.

If an activity is interrupted at the request of the Permit Authority, the Council will discuss this with the promoter and agree to a variation to cover the situation, or if necessary issue a further permit to allow the activity to be completed later.

Whenever an activity is interrupted, the promoter must first agree a way forward with the Permit Authority before starting any of the processes above.

6.14 Collaborative Working

Collaborative working means more than just trench sharing. It includes situations when one of the activities is works for road purposes and the other street works. It also includes multi-utility working, multi-utility tunnels and compliance testing.

Kirklees Council strongly encourages promoters to consider collaborative working. It is accepted that there are often issues in such arrangements, particularly contractual complications. Nevertheless, every opportunity should be sought to minimise the disruption to users of the highway.

6.14.1 Responsibilities – primary and secondary promoters

In the event of collaborative working, one of the promoters must take on the role of primary promoter who will take overall responsibility as the agreed point of contact with the Council. The secondary promoter(s) retain the same responsibility for submitting permit applications for work to be carried out by them or on their behalf.

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

Only those permit applications submitted by the primary promoter are required to show the estimated inspection units attributable to the street works. The primary promoter must detail the other promoters involved and the scope of the collaborative working in the initial application. The primary promoter must also ensure that estimates of works duration are agreed and/or confirmed with the secondary promoter(s) when submitting notices. This is

necessary in order to comply with the overrun charging requirements in the Permit Regulations.

6.14.2 Issuing permits

To avoid any ambiguity, Kirklees Council will issue permits to all the promoters involved, not just the primary promoter. However, the fees will be adjusted to reflect the collaborative approach, provided all the applications meet the criteria set out in the Regulations. Fees can also be adjusted at the discretion of Kirklees Council. All issued permits shall record the identity of the primary promoter and all secondary promoters.

6.15 Restrictions on Further Activities

The provisions of Sections 58 and 58A of NRSWA (restrictions on activities following substantial street works or substantial road works) will operate alongside permits in the Kirklees Council Permit Scheme. The processes are slightly modified to reflect the way that the permit scheme operates, but otherwise the same principles apply, including the variable restriction periods on different streets. Details of the modified procedures and the lengths of restrictions are given in Appendix B.

7 Issue of a Permit and Conditions Attached

7.1 General Principles

7.1.1 Approved Permit

When the Permit Authority is content with an application from a promoter a permit will be issued to the activity promoter by electronic means. The permit will include reference to any associated documentation such as drawings and any conditions attached.

Documentation and drawings can be referenced to a permit application via the submission to the Permit Authority or as an Attachment.

7.1.2 Grounds for Refusal

The Permit Authority recognises that legitimate activities cannot be refused, however the Permit Authority will refuse a permit application if elements of the proposed activity are not acceptable. Grounds for refusal must relate to the types of condition listed in Regulation 10(2) of the Statutory Instrument 2007 No. 3372 as amended.

Where an application for a permit meets the relevant requirements in the Permit Scheme, the Permit Authority will grant the permit.

The following are non-exhaustive examples of matters that are likely to lead to applications being refused or subject to requests for further information or modification to address them.

- 1. Overlapping activities** – where other activities are scheduled to take place in the same street or other streets affected by the proposed activity, at the same time, the authority may refuse a permit for the period requested but propose to grant it for different times. Information about some other activities is available to the promoter through the Permit register, so in such situations the promoter must contact the authority to discuss acceptable options before applying for the Permit.
- 2. Timing and Duration** – An activity promoter must ensure when making an application for a Permit that the proposed duration of the activity takes into account

both his legitimate need to complete the activity in an efficient and economic manner and the legitimate interests of other users of the highway. The Permit Authority may query the proposed duration, for example on the grounds that:

- a. it can be completed more speedily or, that realistically, not enough time has been allowed; or,
 - b. that the specific dates and times proposed may clash with other proposed activities or events which occupy road space, in such a way as to be likely to cause an unacceptable level of disruption.
3. **Location of Activity** – A Permit must specify the location where the activity is to take place. The Permit Authority may refuse to issue a Permit due to the proposed location of the activity. This is a similar power to that under Section 56A of NRSWA i.e. were the location of a proposed activity is unacceptable to the authority because the street in which the works are proposed is already heavily congested with underground services, or has an important traffic function, yet does not warrant protected street status. Refusals on this basis would only apply:
- a. in relation to the installation of new apparatus – it cannot be used to require existing apparatus to be moved; or
 - b. where disruption would be reduced by installing the apparatus in an alternative street where it is reasonable to use the alternative street or a different location within the same street.

Where an application for a permit does not meet the relevant requirements in the Permit Scheme, the Permit Authority will contact the activity promoter as soon as possible, and within the period specified in Table 1 in Section 7.2 below, to explain precisely why the application is not satisfactory and which elements needs modification. Permit Authority responses will be sent electronically and will make use of national response codes.

Permit authority responses may take the form of either a Refusal or Permit Application Modification Request (PAMR). Where a Refusal is given the activity promoter will need to submit a new permit application. Where a PAMR is given then the activity promoter may submit a Modified Application.

Otherwise, the work may need to be re-scheduled.

7.1.3 Right of Appeal

The promoter has a right of appeal if it is unable to reach agreement with the Permit Authority over the terms of the permit or the conditions attached. In the case of immediate activities, work may have to stop until the issues are resolved. The Permit Authority will decide on a case by case basis if this is necessary. Section 10 (Dispute Resolution) has details of dispute procedures.

7.1.4 Response Times

The Permit Authority intends to reply to permit applications within the stated response times. In circumstances where the Permit Authority fails to meet this general obligation, the permit will be deemed to be granted in the terms of the application.

7.1.5 Overlapping Activities

Information about other activities is available to the promoter through the permit register, so in such situations the promoter should contact the authority to discuss acceptable options before applying for a permit.

7.1.6 Timing and Duration

Where there is a query about the timing and duration of an activity, the Permit Authority will talk to the promoter. It is, therefore, essential that the permit application provides the name and contact details of someone able to agree amendments acceptable to the permit authority. The promoter should then submit a revised application against which the authority will be able to issue a permit.

7.1.7 Location of Activity

Where location of a proposed activity is unacceptable to the authority because the street in which the works are proposed is already heavily congested with underground services, or has an important traffic function, yet does not warrant protected street status, the Permit Authority will talk to the promoter to see whether another route would satisfy all the requirements.

7.2 Issuing Permits and Response Time

The Permit Authority will issue permits electronically using the current electronic management system. If the electronic system is down or unavailable for any reason then permits can be issued by e-mail. Permits are given a unique reference, which must be displayed on the site information board. Variations to permits are denoted by the use of the same unique reference with a different suffix to denote the variation. The Project Reference must be used on applications to link associated works, enabling cross-reference between the permits.

Remedial works will require a new permit. The permit application should use the same reference as the original works; failing that, it must be cross-referenced to the permit for the original activity.

Table 1 - Application and Response Times (in working days)

Activity type	Minimum application periods ahead of proposed start date		Minimum period before permit expires for application for variation (including extension)	Response times for the Permit Authority for issuing a permit or seeking further information		Response times to applications for permit variations / modified application
	Application for Provisional Advance Authorisation	Application for permit		Application for Provisional Advance Authorisation	Application for permit	
Major	3 months	10 days	2 days or 20% of the original duration whichever is the longest	20 days	5 days	2 days
Standard	n/a	10 days		n/a	5 days	
Minor	n/a	3 days		n/a	2 days	
Immediate	n/a	2 hours after		n/a	2 days	

7.3 Conditions (National Guidelines)

A permit issued by the Permit Authority will specify in detail the activity that has been allowed. Except in the case of an Authority-imposed variation, all the promoter's information contained within the permit will be taken from the application, including the associated conditions.

Where a condition is to be specified in a permit the Permit Authority shall use the wording and numbering for that type of condition set out in the Statutory Guidance for Highway Authority Permit Schemes – Permit Scheme Conditions.

The following condition types are included in the Kirklees Council Permit Scheme and shall be utilised as required.

7.3.1 Timing and Duration of Activity

Every permit will contain a condition relating to timing and duration of the activity. Conditions may include:

- Any date(s) between the start and completion dates on which works should not take place, which may also include periods when, not only should no work take place, but that the site should also be cleared of all plant, materials and equipment, including all traffic management measures and signing, lighting and guarding;
- The times of day at which works can and cannot be carried out;
- Whether or not the duration of the works includes, allows for, or requires weekend or Bank Holiday working.

If the activity cannot be completed within the timeframe specified in a permit condition, the promoter will need to apply for a variation.

7.3.2 Road Space

The amount of space that activities in the highway occupy can have a major impact on congestion and disruption levels. There may be instances when the area required to carry out the actual work is relatively small and, in itself, has little effect on traffic. However, if associated plant and excavated material take up a greater area – possibly resulting in lane restrictions and temporary traffic control measure - the impact could be magnified considerably. The area occupied could be reduced if unnecessary plant and excavated material is removed swiftly.

The following road space conditions may, for example, be attached to the permit:

- Whether materials and plant can be stored on site;
- The width and/or length of road space that can be occupied - including allowing for signing, lighting and guarding - at any one time, during the period of the works;
- The road space that is to be available to traffic (vehicles and/or pedestrians) at certain times of day. This leaves the promoter scope to work out how best to achieve this.

7.3.3 Traffic Management Provision

The Permit Authority may require traffic management conditions, for instance:

- That the road, or relevant section, should be closed to traffic during the works under Section 14 of the Road Traffic Regulation Act;
- That shuttle working and/or portable traffic signals are to be used.

This type of condition will be discussed with the activity promoter to reach agreement and ensure that any conditions allow activities to be undertaken in accordance with existing statutory codes and guidance such as Safety at Street Works and Road Works.

It is possible that traffic management arrangements will change during the course of the activity. If so this must be explained in the application and if it is considered necessary, these changes will be included in the conditions. A condition may also be included that the promoter must notify the Permit Authority before such changes take place so that the Permit Authority can inform road users and, if necessary, implement complementary traffic management measures to minimise disruption.

7.3.4 Methodology for Carrying out Activities

The method the promoter proposes to carry out the activity can have a significant effect on the level of disruption. For example, promoters should seek to employ minimum dig technology wherever practical to minimise inconvenience to the public and reduce disruption. The Permit Authority may have requirements for conditions relating to the methodology, following discussion with the activity promoter.

7.3.5 Consultation and Publicity

Where activities have the potential to be especially disruptive to local residents, businesses and/or road users, the Permit Authority may suggest a condition requiring the promoter to provide advanced notice to nearby householders or businesses, or to drivers or pedestrians using the road.

Each site must display the unique permit reference number, once issued, on the site information board.

In the case of major activities, conditions relating to consultation or publicity will be introduced at the Provisional Advance Authorisation stage, where possible, so that the promoter has the maximum time to publicise the activity or carry out a consultation. However, where circumstances change (if, for instance, other activities in the vicinity become likely), or the proposed activity changes in nature, or where activities do not require a Provisional Advance Authorisation, timescales may be shorter.

The Permit Authority will put a disclaimer on published information provided by third parties along with the contact details of the activity promoter for interested members of the public.

7.3.6 Environmental Conditions

The Permit Authority may require environmental conditions, where appropriate. These may include, but are not limited to, restrictions on hours of work in residential areas to reduce noise, or conditions to protect wildlife. The Permit Authority will provide full information to the activity promoter, at the earliest opportunity, if such conditions are relevant to allow for them to be included in the permit application. Any environmental conditions required will be with the express consent of those responsible for such matters within the local authority area.

7.4 Conditions and Statutory Requirements for Immediate Activities

The Permit Authority can under Regulation 13 impose conditions on immediate activities for the period between starting work on site and the activity promoter receiving a permit. Such conditions are of the types specified in Regulation 10.

Portable traffic signals will be controlled manually during traffic sensitive times as stated on the local street gazetteer.

It is a requirement of the scheme that the activity promoter shall apply for a permit within 2 hours of starting or by 10.00 am the next working day.

It is a requirement of the scheme that promoters carrying out immediate activities on streets designated as requiring early notification are required to contact the Permit Authority, by telephone, immediately, notwithstanding the duty to submit a permit application within two hours. Not all category 0-2 and traffic sensitive streets have been so designated, but only

those most susceptible to unplanned disruptions. These designated streets have been indicated with an ASD record in the NSG which includes the contact telephone number(s).

These conditions and statutory requirements are posted on the Permit Authority's public website where they can be accessed by promoters. Following discussions with the promoter, the Permit Authority may require additional conditions for individual immediate activities before a permit is issued. These conditions will be recorded on the register against the reference number given to those activities.

7.5 Resubmission of Activities

In circumstances where the Permit Authority discusses its intention with the promoter to require conditions which effectively amend the details of the original application, the activity promoter shall amend and resubmit the application.

8 Variations to Permits

8.1 General Principles

Changing circumstances, for either an activity promoter or for the Permit Authority, may require permits and/or the conditions attached to them to be varied.

The promoter might request a change if new information, events, or discoveries on site mean that they need to alter their original plans. The promoter must submit an application for a permit variation and, if approved, the Permit Authority will issue a new permit incorporating the variations.

The Permit Authority may also take the initiative if, for instance, an unexpected event affects the network so that planned activities, or even those under way, have to be reconsidered. The Permit Authority will discuss with a promoter whether the promoter will submit a permit variation application or whether the Permit Authority will issue a new permit based on an Authority-imposed Variation, incorporating any changes. In either circumstance, no fee will be charged for the amendment.

A **Provisional Advance Authorisation (PAA)** cannot be varied. If a full permit has not yet been issued and the promoter needs to make changes, then the promoter must inform the Permit Authority of the proposed changes and make a revised application for a Provisional Advance Authorisation or permit. If the Permit Authority requires changes to the PAA then, after discussion with the promoter, the promoter must make a new application but in this case no fee will be charged.

8.2 Variations Initiated by the Activity Promoter

8.2.1 Reasons for a Variation – by Promoters

From time to time an activity promoter may need to apply for a justifiable variation to a permit and/or its conditions, including an extension of the agreed duration.

The purpose of the Kirklees Council Permit Scheme is not to prevent necessary activity, so an application for a justifiable variation is likely to be granted, although the Permit Authority will consider the wider network implications of the changes and other relevant factors.

8.2.2 Extensions

The Permit Authority is under no obligation to let works run beyond the permitted period. The promoter must note that any occupation of the highway beyond the end of the permit may constitute a criminal offence. However, if the authority decides that the proposed extension is reasonable and does not conflict with other planned activities then it will not unreasonably withhold permission.

Activities which exceed the allowable duration included in the permit conditions without good reason will, potentially, be subject to overrun charges under Section 74 of NRSWA. The reasonableness of any extension request will be decided in the normal way using the provisions of Section 74. In these instances, in order to clarify that Section 74 charges apply even though a valid permit is in force, whilst the end date and/or the activity duration in the permit will be extended, the reasonable period within which the works have to be completed will not.

Whilst the Permit Authority will grant the extension to minimise disruption in many cases, there may be occasions where the promoter will have to vacate the street to allow other activities to take place and submit an application for a new permit to complete their activity at a later date.

8.2.3 Fees for Promoter Initiated Variations

A fee is payable for applications for permit variations initiated by promoters (but see Section 11).

8.2.4 Applying for a Variation

A works promoter may apply to vary an existing permit at any time before it expires, as follows:

- Where the existing permit has more than 20% of its duration or more than two days to run, whichever is the longer, the promoter must apply for a variation electronically;
- In any other case the promoter should first telephone the Permit Authority to ascertain whether the authority is prepared to grant an extension, and apply - again electronically - only if the authority agrees.

The Permit Authority will respond to the variation application within two days of receipt.

If electronic systems fail, please see the Section 6.6 System Failures.

The Permit Authority may need to investigate before granting a variation, so it is strongly recommended that all requests for permit variations are made as soon as it becomes clear that the activity will overrun or otherwise change. Prior discussion by promoters with the Permit Authority is also recommended so that variation applications can be dealt with quickly.

Where changes are initiated by a promoter, in certain circumstances where changes are minimal and these have been agreed with the Permit Authority, the authority will not require an application but will issue a revised permit directly.

8.2.5 Multiple Excavations

Activities can be particularly subject to change where a promoter has to make several excavations or registerable openings in the street to locate a fault. An example is where gas has migrated along a duct to emerge from the ground some distance from the actual leak. A series of excavations or openings have to be made from where the symptoms are apparent to trace the point of the fault. In normal circumstances every new excavation would require a permit variation. The arrangements below aim to avoid a succession of variations as each hole is dug. Nonetheless it is important that the Permit Authority has details of the operation, so that it can co-ordinate and manage these and other activities in the area.

The Kirklees Council Permit Scheme includes the following arrangements for immediate activities requiring a series of fault-finding excavations or openings. As immediate works, the promoter must submit the first permit application containing the location of the initial excavation or opening within two hours of starting work

- a) For any further excavations on the same street within 50 metres of the original hole, the promoter must telephone the Permit Authority with the new location. No permit variation will be needed and no charge will apply.
- b) The promoter must apply for a permit variation for the first excavation in each further 50 metre band away from the original hole in the same street, i.e. 50-100 metres, 100-150 metres etc. Standard variation charges will be applied, although the Permit Authority may, at its discretion, waive such charges, as a general rule, or for particular cases. Separate variations would be required for bands going in opposite directions.
- c) For additional excavations within each band the promoter will telephone the Permit Authority with the new location. Again, no permit variation is needed and no charge will apply.
- d) If the search carries into a different street, or a new USRN (including if the street changes to a different authority), then the promoter must make a separate permit application, or NRSWA notice, as appropriate to the additional street's designation.

If the promoter cannot contact the Permit Authority by telephone they should record that fact and send the message electronically.

8.3 Variations Initiated by the Permit Authority

8.3.1 Reasons for a Variation by the Permit Authority

Permit schemes effectively allow promoters to book road space for activities. Once the permit is issued the promoter should have reasonable confidence that the road space will be available to them. Nevertheless, even when a permit has been issued in good faith, circumstances beyond the Permit Authority's control may necessitate a change in either the permit or its conditions.

The Permit Authority's intention is that such changes should happen only under circumstances which could not have been reasonably predicted and where their impact is significant. An example would be if extra traffic was diverted onto the road for which the permit has been issued due to another road being closed by floods, burst mains or a dangerous building, etc. If the consequent disruption cannot be mitigated in another way, it may be necessary to vary aspects of the permit, such as the time or manner of working.

8.3.2 Reaching Agreement

If the Permit Authority considers that a variation is necessary, it will first contact the promoter to discuss the best way of dealing with the situation whilst meeting the co-ordination duties and other statutory requirements on those involved. Good co-ordination and co-operation between promoters and the Permit Authority will minimise the time that the authority needs to vary permits or their conditions. That will be in all parties' interests.

These discussions may lead to an agreement on the variations required. In that case, the Permit Authority will then issue a revised permit in those terms, unless, by agreement, the promoter applies for a permit variation, from which the Council will issue the revised permit. The latter may be more appropriate if the promoter needs to reconsider elements of its plans within the parameters agreed with the Permit Authority. Any application must include an appropriate description of the variation and its implications and must, in all cases, include the proposed dates and duration of the activity.

If agreement cannot be reached, the Permit Authority may issue an Authority Imposed Variation on the terms it considers reasonable, but the promoter would have the option of invoking the dispute resolution procedure (see Section 10).

8.3.3 Fees for Authority Initiated Variations

No fee will be payable for permit variations initiated by the Permit Authority, unless, at the same time, the promoter seeks variations which are not the result of the circumstances causing the Permit Authority's action. In that case a variation fee would be payable (subject to the exemptions in Section 11) for the variation application from the promoter.

8.4 Suspension, Postponement, Revoking or Cancellation of a Permit

8.4.1 Suspending or Postponing an Activity

There is no mechanism in the TMA or Permit Regulations for formally suspending or postponing a permit, only for varying or revoking them.

If the Permit Authority intends to suspend or postpone an activity for which it has already given a permit but intends that the activity should happen at a later date, it will use the permit variation provisions, as described above, to enforce a change of dates. The promoter would then need to submit a further variation application relating to the new dates and any other requirements; in this case, the fees for the variation would be waived.

If the need for suspension is due to the promoter failing to comply with the conditions of a permit, then the Permit Authority may use the provisions in the Regulations which replace Section 66 of NRSWA.

8.4.2 Revoking a Permit

Regulation 10(4) of the Statutory Instrument 2007 No. 3372 as amended provides a power to revoke a permit where it appears to the Permit Authority that the conditions attached to a permit have been breached. The Permit Authority will use this power where it considers it appropriate. Before doing so the Permit Authority will discuss the situation with the activity promoter.

8.4.3 Cancelling a Permit

If a promoter no longer requires a permit which they have been granted, they should use the cancellation notice containing the relevant permit number. There is no fee for a permit cancellation.

An activity promoter will be committing an offence if the activity continues after cancelling a permit.

9 Conflict with Other Legislation and Legal Liability

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

The activity promoter should bring such conflicts, or potential conflicts, to the attention of the Permit Authority as soon as is practicable. The Permit Authority will be responsible for resolving the issue with the other body or bodies concerned, e.g. Environmental Health officials, and amending the permit conditions accordingly.

The Permit Authority will work with activity promoters to promote safe working practices and all parties must act reasonably and responsibly. Each situation will be considered on its merits. A promoter should raise any safety concerns about conditions attached, or proposed to be attached, to a permit with the Permit Authority. If they are not satisfied the promoter may invoke the dispute resolution procedure.

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

Part 8 of the Regulations provides for the disapplication of certain sections of NRSWA, details of which are contained in Appendix D.

10 Dispute resolution

10.1 General Principle

In the event of any dispute between the Permit Authority and an activity promoter in connection with any matters relating to the permit scheme, the parties shall make every endeavour to engage in dialogue in order to resolve the matter in dispute. In all cases the parties involved shall try to resolve their disagreements between themselves. However, it is recognised that occasionally this may not be possible.

10.2 Incidence of Dispute Resolution

Two stages of the permits process provide for dispute resolution:

- A promoter applies for a permit. The Permit Authority makes it clear that it will only issue the permit with conditions attached or with different dates than in the application. The promoter believes that one or more of these conditions are unreasonable or unrealistic. The two parties are unable to resolve their differences; or

- A promoter is unable to comply with the original permit. The promoter applies for a permit or its conditions to be varied or extended. The two parties are unable to reach agreement on any variation or whether any variation should be allowed.

10.3 Dispute Procedure

10.3.1 Local Level Review

All disputes shall initially be discussed between the parties in an attempt to find a resolution acceptable to both parties. The general obligations of the parties at this stage review include:

- Gathering evidence relating to the dispute in order to establish the basis of the dispute case and its reasonableness;
- To exchange views and the evidence;
- To organise and engage in meaningful discussion at local level. A record of the discussion should be kept and be available should the matter be referred to the next stage of the dispute procedure; and
- To canvas the view of senior managers / officers within each party's organisation as to the legitimacy of the dispute.

In the interests of maintaining good working relationships the Permit Authority considers it important that the next stage of the dispute procedure is not invoked until communication and discussion at local level has been thoroughly explored and exhausted.

10.3.2 YHAUC Dispute Review

In circumstances where the dispute has not been resolved at local level and it is considered to be a straightforward matter, then the parties may agree to refer the issue to impartial members of YHAUC, that is, members not representing those already involved in the dispute. Normally, the matter will be reviewed by the joint chairs of YHAUC.

The YHAUC conciliation review will, whenever possible, take place within five working days following written submissions of the case by each of the parties. The date and time of the dispute review shall be acceptable to the parties involved and confirmed in writing.

At the dispute review meeting each of the parties shall present their evidence to the YHAUC review panel. The YHAUC review panel will take the opportunity to offer reasonable challenge and/or seek further clarification.

The decision of the YHAUC review panel will normally be confirmed in writing to the parties involved within two weeks of the dispute review meeting.

10.3.3 HAUC (England) Review

If the Permit Authority and the promoter(s) involved in the dispute think the issues are particularly complex, HAUC (England) will be asked to set up a review panel of four members - two utilities and two street authorities. One of the four persons will be appointed as Chair of the panel by the HAUC (England) joint chairs.

Each party must make all relevant financial, technical and other information available to the review panel

The review would normally take place within ten working days from the date on which the issue is referred to HAUC (England).

10.4 Adjudication

In the event that any dispute is not resolved under the procedure outlined above, or at any time, if either party so wishes, any dispute may be referred, in whole or in part, to independent adjudication, provided that both the parties agree that the decision of the adjudicator is deemed to be final. The costs of adjudication will be borne equally, unless the adjudicator considers that one party has presented frivolous evidence, in which case the arbiter may award costs against them. Where the adjudication route is followed, the parties will apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from a suitable recognised professional body.

10.5 Arbitration

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

- Section 61 (6) - consent to placing apparatus in protected streets;
- Section 62 (5) - directions relating to protected streets;
- Section 74 (2) - charges for occupation of the highway where works are unreasonably prolonged;
- Section 74A (12) - charges determined by reference to duration of works;
- Section 84 (3) - apparatus affected by major works;
- Section 96 (3) – recovery of costs or expenses.

11 Permit Fees

11.1 Introduction

Kirklees Council has set its permit fees in accordance with the Permit Regulations and statutory guidance.

11.2 Permit Authority power to charge fees

Regulation 30 give the Permit Authority the power to charge a fee in respect of the following:

- (a) the issue of a permit;
- (b) an application for a permit, where the permit scheme requires a provisional advance authorisation to be obtained as part of that application; and
- (c) each occasion on which there is a variation of a permit of the conditions attached to a permit.

The Permit Authority's approved scale of fees incorporating the Revised Fee Structure set out in the Additional Advice Note (DfT 2013) is contained in a separate Permit Scheme Fees Table document available on the Permit Authority's website.

11.3 Fee Policy

Fees will not be payable in the following circumstances:

- I. by the Highway Authority or contractor working on their behalf in respect of its own works for road purposes, however a record of the Permit and fee will be used for reporting purposes and fee reviews;
- II. where a Permit is deemed to be granted because the Permit Authority failed to respond to an application within the time periods;
- III. if the Permit Authority has to revoke a Permit through no fault of the Promoter. Where a fee has been charged, the Permit Authority will either refund the fee paid or not charge for the subsequent Permit;
- IV. where several activity promoters are working within the same site and submit permit applications at the same time;
- V. where a promoter is using portable light signals and the heads are located on a road that is not part of the main works, but the lights are placed on a traffic sensitive street or cross boundary;
- VI. in respect of a variation of a permit or of a condition attached to a permit if the variation was initiated by the Permit Authority, e.g. via AIV;
- VII. where a Promoter completes works before the Permit Authority has had the opportunity to evaluate the permit application, e.g. Immediate works completed wholly within a weekend.

11.4 Discounted fees

Where works are undertaken wholly outside of traffic sensitive times on Traffic Sensitive Streets, a discount of 30% will be applied

11.5 Option to waive or reduce fees

The Permit Authority retains the option to waive or reduce fees at its discretion. A reduction may be applied where it is demonstrated that an activity provides significant economic benefit to the local authority or Council. For instance, supplies for a new development, or where it is demonstrated that a network investment programme is being undertaken to meet customer demand

11.6 Review of fees

The Permit Authority will review fees, and make available the outcome of the review, in accordance with Regulation 16A of the Statutory Instrument 2007 No. 3372 as amended.

As far as possible the fees and costs should be matched over a financial year. However, it is recognised that estimating the fee levels will involve incorporating the effect of various factors that will inevitably have a degree of uncertainty around them. In the event that fees and costs do not match the actual outturn for the year in question, adjustments may be made to fee levels for the subsequent years so that across a number of years fees do not exceed the allowable costs.

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The fees will not exceed the maximum charges as set by the DfT.

12 Overrun Charging Regime

12.1 Introduction

The Permit Authority intends to run a scheme for overrun charging under Section 74 of NRSWA to operate alongside the permit scheme. Details of how the Section 74 scheme will operate in conjunction with permits are set out below. The term “works” is used in this section in places where it relates to the legislative requirements under Section 74.

Activities carried out by, or on behalf of, the Highway Authority are not subject to NRSWA Section 74 overrun charges. However, under the Kirklees Council Permit Scheme, promoters of such activities will be required to follow the same procedures as promoters who are undertakers.

12.2 Charges for Unreasonably Prolonged Occupation of the Highway (NRSWA Section 74)

Section 74 of NRSWA enables the Permit Authority, as highway authority, to charge undertakers if their activities in the publicly maintainable highway are unreasonably prolonged.

The relevant Regulations apply to every maintainable highway other than:

- A footpath or bridleway;
- A highway with a pedestrian planning order in force; and
- A highway prohibited for use by vehicular traffic by a traffic order - unless that prohibition is only at particular times.

If the activities take longer than the “Prescribed Period” and also take longer than the “Reasonable Period” they become unreasonably prolonged - and the Permit Authority, as highway authority, may levy a charge for each day, or part of a day, they over-run.

If the activities are prolonged due to reasonable circumstances, such as unforeseen weather or ground conditions, the parties should agree an extended duration.

Activities carried out by an activity promoter on behalf of a Highway Authority or by the highway authority themselves are not subject to NRSWA Section 74 charges.

12.3 Exempt Activities

The following types of activities are exempt from NRSWA Section 74 charging:

- Activities in non-traffic-sensitive streets that require opening the highway, but not breaking it up;
- Replacing manhole or chamber covers - that do not involve breaking up the street;
- Replacing poles, lamps, columns or signs in the same location where that does not involve breaking up the street;
- Pole testing that does not involve breaking up the street;
- Bar holes.

If one of the exemptions applies, the promoter must record the appropriate charge exemption in the permit or permit variation application or Works Stop notice.

12.4 Prescribed Period

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

The prescribed period does not relate to the time required to carry out any particular type of activity. Therefore, the Permit Authority will not use it to judge the duration of proposed activities.

12.5 Reasonable Period

Under this permit scheme the 'Reasonable Period' is the period set by the Permit Authority as reasonable for the activity to be carried out. In most cases this will be the duration proposed by the promoter in the permit application. Agreement of the 'Reasonable Period' will be part of the process for giving a permit and the normal rules for the giving of a permit will apply. For the initial permit, the duration would be the 'Reasonable Period'.

In circumstances where no agreement can be reached as to the 'Reasonable Period', then the dispute resolution procedure in Section 10 should be followed before referring the matter to arbitration. Until a dispute is resolved, the activity may proceed, provided a permit has been issued and the promoter works within the terms of the permit, including the 'Reasonable Period' condition.

If the end date and duration of the activity have changed once the matter has been resolved, the promoter will need to submit a permit variation application incorporating the agreed terms, from which the Permit Authority will issue a permit.

12.6 Duration of Works

All permit applications must include proposed start and end dates so that the duration can be calculated. In the context of permits the estimated duration will be as derived from the Start and End date in the application for which a permit has been granted.

However, the actual duration used to assess whether the activity has overrun is measured from the actual start of the activity, including setting up the site, to the completion of the activity, including any necessary reinstatement.

Interim and permanent reinstatements are treated as separate phases in the Kirklees Council Permit Scheme and promoters must obtain separate permits for each. The period between these cannot be considered as an overrun, provided the site has been properly cleared. All spoil, excess materials, stores and signing, lighting and guarding must be removed from site before the activity can be regarded as finished.

Further activities to complete the reinstatement, for example the replacement of road markings where delay is permitted by the reinstatement specification, should be indicated by using the appropriate site status, such as 'interim reinstatement'. This includes circumstances where other materials are permanent.

12.7 Actual Start (NRSWA Sections 74(5B) and 74(5C))

Although the permit start date is also the proposed start for the activity, the actual start date may differ. For Category 3 and 4 non traffic-sensitive streets a flexible starting window is explicitly provided for – Section 6.10.2. On category 0-2 and traffic-sensitive streets, although they do not have the same flexibility, there may be occasions when activities cannot start when proposed. Therefore notification of the actual start for the activity must be given to begin the reasonable period, as well as to inform Kirklees Council of what is happening on the network. Activity must not begin before the start date of the permit; to do so would be committing an offence.

The time limits for giving the notices are set out in the Regulations made under Section 74 of NRSWA.

The Actual Start of Works Notice must be given in accordance with the requirements described in the current Technical Specification.

Once the activity has begun, an Actual Start of Works Notice for an activity on a main road (6.10.1) (i.e. streets that are category 0, 1, 2 and traffic sensitive) should be given by 10.00 am the next working day. For an immediate activity, the permit application will be taken as the Actual Start of Works Notice as it is normally sent after the activity has commenced but must be sent within 2 hours, and in this case the status should always be "In Progress".

12.8 Revised Estimate Duration

Unforeseen circumstances can delay the completion of activities. A promoter must apply for, and obtain, a variation of his permit as per Section 8. The variation request in such circumstances should provide a full justification for the extension request and be made at the earliest opportunity.

The new duration, if it is changed, will be incorporated in the new permit that follows a variation. There could be circumstances where duration and reasonable period are not the same following a permit variation, as indicated by a Duration Challenge being issued by the authority, even though the extension to the permit has been granted.

12.9 Works Clear (NRSWA Section 74(5C))

Works Clear is the term used to indicate an interim reinstatement. The Works Stop Notice must be given no later than the end of the working day following the one on which the activity was cleared. Where the activity is completed in different phases such as interim and permanent reinstatement, there must be separate permits for each phase. In no circumstances should permits be sought for more than one phase.

All spoil, excess materials, stores and all signing, lighting and guarding must be removed from site before the activity can be regarded as completed for Works Clear. A new permit must be obtained for any subsequent phases, such as to complete the permanent reinstatement.

12.10 Works Closed (NRSWA Section 74 (5C))

Works Closed is the term used to indicate a permanent reinstatement. The Works Stop Notice must be given by the end of the next working day following the day on which the activity was closed.

All spoil, excess materials, stores and all signing, lighting and guarding must be removed from site before the activity can be regarded as completed for Works Closed.

If temporary road markings have been used, then the activity is not complete until the permanent markings are applied and the activity duration must also cover this period.

12.11 Informal Warning

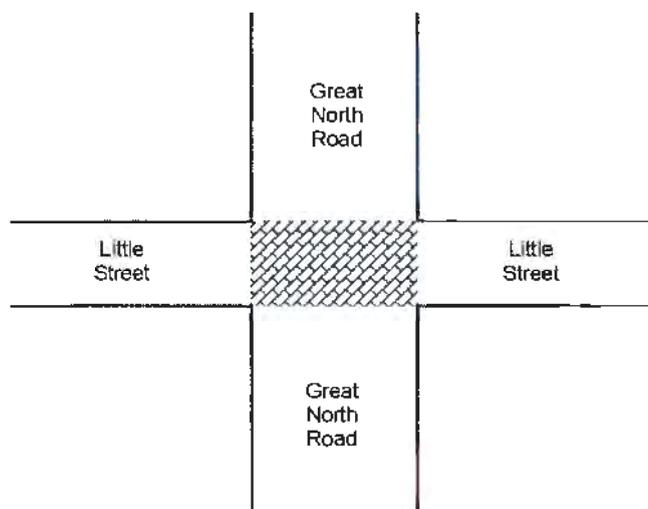
The Permit Authority will send an informal warning to the activity promoter when they become aware that an activity has begun to attract overrun charges.

12.12 Charging Regime

Charges vary according to the type of activity, the road category and whether the street is traffic-sensitive. The charges will be applied in accordance with the current Regulations relating to 'Charges for unreasonably prolonged occupation of the highway'

Note: the Permit Authority reserves its absolute right to either reduce the amount or waive payment of a charge.

Road category is an indication of the importance of the street, 0 being the highest. The road category, as given in the ASD, will be treated as definitive. If the Permit Authority has not entered road categories on the NSG, they will all be treated as category 4 for the purposes of overrun charges.



When working or planning to work in any area, which could be regarded as belonging to more than one street, where the location has to be defined – for example in any application

for a permit, PAA or variation – the location should be referenced to the street with the highest road category. This is of particular significance when working at a junction. For example, in the foregoing plan, Little Street is a category 4 road and Great North Road is a category 2 road. If a promoter proposes an activity in the central area, marked in a herringbone pattern, the application should be made against Great North Road.

The Permit Authority and promoters should take care to ensure that the facts used for proposing or disputing charges are accurate, along with the activity type and road category. Where there is evidence that the dates given in the NRSWA Section 74 notification were incorrect the charges should be based on the evidence. If incorrect information has been provided the Permit Authority may give an FPN to the promoter if it is considered that an offence has been committed.

The same rules apply when applied in conjunction with the Kirklees Council Permit Scheme as would apply under NRSWA noticing. Examples of what does, and does not, constitute a failure in NRSWA Section 74 terms include:

- Works which are inspected and shown to have been completed shall be recorded as a passed inspection;
- If the inspection reveals that works were not completed, despite the notice claiming that they were, then this shall be recorded as a failed inspection. The incorrect notice means that both NRSWA Section 74 overrun charging and legal proceedings could be activated;
- If a Works Stop notice is not received, this shall be recorded as a failed inspection. Failure to submit a correct notice on time is an offence;
- If works overrun and no closure notice is sent, despite the proposed end date having passed, then this shall be recorded as a failed inspection. NRSWA Section 74 overrun charges apply;
- Where works are cancelled using the permit cancellation procedure (see Section 8.4.3), the Permit Authority may inspect the site to assure itself that this cancellation is correct and that no work is proceeding, or has proceeded, at the site. If this is the case it shall be recorded as a passed inspection; if not it shall be recorded as a failed inspection: This failure would be an offence and may also be subject to overrun charges.

12.13 Remedial Works

Remedial works to rectify defective reinstatements will be dealt with as a new activity with its own permit, following the full procedures accordingly.

Any overrun on remedial works will be charged at the rate appropriate to the activity category of the first phase of the works.

12.14 Keeping Accounts

Charges made under Section 74 of NRSWA and permit fees will be kept in separate accounts.

13 Permit offences

13.1 Introduction

Part 5 of the Regulations create offences in relation to the operation of the permit scheme and the actions which may be taken in relation to those offences by the Permit Authority.

The Permit Authority intends to act reasonably in applying sanctions.

13.2 Offences

The Permit Regulations create two offences which apply to statutory undertakers. In the context of the Kirklees Council Permit Scheme these are:

1. Carrying out activities on the street or highway without a permit – except immediate activities – see below – maximum fine level 5;
2. Carrying out activities on the street or highway in a way that contravenes the conditions attached to the permit, or conditions attached to an immediate activity before a permit issued for those activities – maximum fine level 4.

Within this scheme the permit offences shall only apply to undertakers and not to the highway authority.

13.3 Working without Permit

13.3.1 The Permit Register

Once a permit has been issued it will be placed on the permit register. Therefore, the Permit Authority will be aware of the existence of all valid permits. The following specific circumstances should also be noted:

- Any dispute over conditions;
- When the Permit Authority fails to respond to an application within the prescribed timescales, in which case a permit will be deemed in the terms of the application;
- An activity promoter would be committing an offence if it continued to work after cancelling a permit.

13.3.2 Timeframe

A permit will cover a specified activity at a specified location at specified times. All elements of the activity must be completed within the dates on the permit – this includes not only the opening of the street, but all the ancillary work as well, such as stockpiling materials, setting up and disbanding traffic management and clearing the site.

If a variation is necessary the promoter must apply in sufficient time (see Table 1 in Section 7.2)

13.3.3 Immediate Activities – Permits

A promoter can begin immediate activities without a permit but must apply for one within 2 hours of starting work (to avoid an offence). The promoter can then continue working within the terms of any conditions that apply, for example, regarding working hours.

13.4 Recording Conditions

The conditions attached to a permit will be recorded in the Permit Authority permit register. If a permit is varied a new permit will be issued and any new conditions will be included and recorded. Therefore the status and substance of the conditions will be clear at any point in time. The Permit Authority will seek to ensure that conditions are precise so that both the Permit Authority and the promoter can easily check performance on site against the approved conditions.

Conditions and statutory requirements will apply to immediate activities for the period before a permit is issued. These conditions and statutory requirements will be posted on the Permit Authority's website where they can be accessed by promoters. Following discussions with the promoter, the Permit Authority may require additional conditions for individual immediate activities before a permit is issued. These conditions will be recorded on the register against the reference number given to those activities.

13.5 Sanctions

13.5.1 Remedial Action

Part 5 of the Statutory Instrument 2007 No. 3372 as amended empowers the Permit Authority to issue a notice requiring remedial action within a set timeframe if the promoter is working without a permit or is in breach of any condition. This replaces the power under Section 66 of NRSWA. The remedial action can include removing the activity, remedying the breach of condition or discontinuing any obstruction. The steps that the Permit Authority requires the promoter to take and the timeframe set out in the notice should be reasonable. Where a promoter does not take the remedial action within the timeframe stated in the notice, the Permit Authority may take such steps as it considers appropriate to achieve the outcome in the notice, and, may recover any costs from the undertaker for which the work is being undertaken.

13.5.2 General Points

Decisions on the prosecution of alleged offences are for the Permit Authority to consider and each offence will be individually dealt with. Prosecution will not necessarily be the preferred option and wherever possible problems will be resolved informally. Should the informal approach not be considered appropriate by the Permit Authority then other options will be utilised, depending on the seriousness and persistence of any offence. In these cases the Permit Authority will follow the following process in how sanctions will be employed:

1. If a non-compliance occurs, a notice will be issued by the Permit Authority under Regulation 18(1) of the Statutory Instrument 2007 No. 3372 as amended proposing the remedial action to be taken and the defined timeframe;
2. If action is not taken within the timeframe or subsequently agreed timeframe the Permit Authority, under Regulation 18(3) of the Statutory Instrument 2007 No. 3372 as amended may take action to remedy the original non-compliance, at the cost of the undertaker;

3. The Permit Authority will raise a fixed penalty notice (FPN) in the first instance but may choose to prosecute the offence through the Courts in accordance with Regulations 19 and 20 of the Statutory Instrument 2007 No. 3372 as amended.

13.5.3 Informal Approach

This is the first and preferred option; it will be used at the sole discretion of the Permit Authority and will involve discussions with the promoter to attempt to resolve the problem or issue of non-compliance.

13.5.4 Fixed Penalty Notices

The second option is for the Permit Authority to give a Fixed Penalty Notice.

13.5.5 Prosecution

Finally, the Permit Authority may prosecute the offence through the Courts. Normally the decision as to whether an offence will be dealt with by FPN or through the Courts will be taken at the outset. However, the Regulations provide for prosecution in circumstances where a FPN has been given but the Permit Authority subsequently forms the view that it would be more appropriate to prosecute the offender through the Courts. An example would be a persistent offender. In these circumstances, the Permit Authority will withdraw the FPN. However, if the FPN has already been paid then no further action will be taken.

13.5.6 Other NRSWA Offences

Any offences relating to other sections of NRSWA, which run in parallel to this permit scheme will continue to apply. These include offences relating to reinstatements, overrunning and failure to send appropriate notices.

14 Fixed Penalty Notices (FPNs)

14.1 Introduction

This chapter provides information about the Fixed Penalty Notice (FPN) scheme for permit schemes introduced by the Statutory Instrument 2007 No. 3372 as amended.

These Regulations provide for certain offences under Part 3 of the TMA to become fixed penalty offences. This means that they can be dealt with by FPNs, although prosecution through the Magistrates' Courts remains an option for the Permit Authority.

FPNs apply only to statutory undertakers and not to highway authorities, however, the Permit Authority will monitor highway authority activities to ensure equal treatment across promoters.

14.2 Principle Aim

FPNs are included in the scheme to enable the Permit Authority to better manage and control activities in the street, contributing to an aim of the TMA to minimise disruption from street works. However, good planning and co-ordination between the Permit Authority and activity promoters is paramount. Accurate and timely information about proposed activities from promoters, together with quality data, will improve the Permit Authority co-ordination function and reduce the need for FPNs.

14.3 Time periods

All time periods, unless otherwise stated, are in working days

14.3.1 Giving an FPN

An FPN will not be given more than 91 calendar days after the commission of the offence, beginning with the day on which the offence is committed. This is the maximum period allowed, but the Permit Authority will issue, if deemed appropriate, an FPN as soon as possible.

14.3.2 Payment

If the undertaker pays either the full penalty within 36 calendar days or the discounted amount within 29 calendar days, then no further proceedings can be taken against that undertaker for that offence.

14.3.3 Non-payment

If the undertaker does not pay the penalty within 36 calendar days then the Permit Authority may bring proceedings in the Magistrates' Court for the original offence.

14.4 The Fixed Penalty Notice

Only one FPN will be given per offence.

The Fixed Penalty Notice will be given in the form prescribed in the Regulations. The notice is divided into two parts:

- Part A includes information about the authority and the offence;
- Part B includes information about the payment of the penalty. It also includes a table listing the relevant offence codes for use in Part A.

Part A and Part B, together with guidance on completion of the form, are included in Appendix E.

The penalty is:

- £500 for working without a permit if paid within 36 calendar days beginning with the day on which the notice is given, discounted to £300 if payment is made within 29 days beginning with the day on which the notice is given. The Permit Authority may extend this period at its discretion in any particular case;
- £120 for working in breach of a condition if paid within 36 calendar days beginning with the day on which the notice is given, discounted to £80 if payment is made within 29 calendar days beginning with the day on which the notice is given;
- If the last day of the discounted period does not fall on a working day, the period for discounted payment is extended until the end of the next working day.

14.5 Method of Giving an FPN

The Permit Authority will use electronic FPNs where possible because they can be processed more easily, but other methods are available if necessary.

14.5.1 Electronic FPNs

Undertakers must give the Permit Authority an electronic address, such as email address, fax number or method linked to the electronic system, if they want to receive FPNs electronically. The Permit Authority will use this address.

The Permit Authority will ensure that the FPN meets the three conditions set out in Regulations 5 (3) of Statutory Instrument 2007 No. 1952 namely:

- Capable of being accessed by the person mentioned in that paragraph;
- Legible in all material respects; and
- In a form sufficiently permanent to be used for subsequent reference;

For this purpose "legible in all material respects" means that the information contained in the fixed penalty notice is available to that person to no lesser extent than it would be if given by means of a fixed penalty notice in printed form.

When the Permit Authority gives the fixed penalty notice by electronic means, then the notice is deemed to be given at the time when the transmitting apparatus records satisfactory completion of the transmission, unless the contrary is proved.

14.5.2 Non-electronic FPNs

In all other circumstances, including system failures, or if the Permit Authority has tried to use the electronic management system but cannot do so the Permit Authority may give the FPN by sending it by any other agreed means.

14.6 Withdrawing a Fixed Penalty Notice

If the Permit Authority considers that an FPN ought not to have been given it will withdraw the FPN using a 'Notice Withdrawing Fixed Penalty Notice'.

14.7 Guidance for Undertakers

14.7.1 Basic Principles

An FPN offers an undertaker the opportunity of discharging any liability to conviction for the specified offence by payment of a fixed penalty.

An FPN will be given by the Permit Authority to the undertaker promoting the works and not to any contractor carrying them out. Some undertakers may arrange for noticing and other procedures under Part 3 of the TMA to be carried out by an agent. If the undertaker wants the agent to deal with FPNs then it must inform the authority accordingly. Even so, the undertaker remains responsible for managing its statutory duties and obligations under NRSWA and the TMA.

14.7.2 Payment of a Fixed Penalty Notice

The Permit Authority allows the following methods by which the FPN penalty may be paid:

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- Electronic payment using the bankers automated clearing services ('BACS'); or
- By cheque by post

14.8 Representations

To enable an early resolution of any dispute about the justification for giving an FPN, it is strongly recommended that the promoter makes any representation against the giving of an FPN as soon as is reasonably practicable.

Before making an official representation, the undertaker is advised to informally contact the authorised officer at the Permit Authority who gave the FPN. If this contact fails to resolve the issue, the undertaker must make a written representation to the officer specified on the FPN as responsible for considering representations. This formal representation should be made in writing, either electronically or on paper, to provide an audit trail.

The Permit Authority will ensure that a fair and open system is in place for considering representations. The Permit Authority will appoint a nominated official, independent of the permit team to consider all such representations.

The Permit Authority may extend the full payment period while representations are being considered. It is NOT able to extend the discounted payment period.

14.9 Application of Money by the Permit Authority

The Permit Authority will deduct from the fixed penalties received under Section 37 (6) of the TMA, the reasonable costs of operating the FPN scheme under which they are paid. The authority shall apply the net proceeds to promoting and encouraging safe, integrated, efficient and economic transport facilities and services, to, from and within its area.

The Permit Authority will demonstrate that the costs of running the FPN scheme are reasonable and that the net proceeds after deducting these costs are being correctly applied. Those enquiring should note that accounts are generated annually.

It is not the aim of the Permit Authority in utilising the FPN sanctions, to generate an additional source of income for the authority.

15 Related Matters

15.1 Road Closures and Traffic Restrictions

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

There are two procedures:

- (a) Where urgent action is needed the Permit Authority as Traffic Authority may issue a **'temporary Notice'** imposing a short-term closure or restriction. Prior notice is not necessary.

The Notice is limited to 21 days if there is a danger to the public or risk of serious damage to the road, independent of street works - a leaking gas main, for example. It can be extended by one further notice.

The Notice is limited to five days if there is no risk of danger or damage.

- (b) In less urgent cases the traffic authority may make a '**Temporary Order**', which may remain in force for up to 18 months. This is limited to six months for footpaths, bridleways, cycle tracks and byways open to all traffic.

A temporary Notice and a Temporary Order may provide that restrictions have effect only when traffic signs are lawfully in place. This will help limit traffic disruption where activities progress along a length of road.

In extraordinary circumstances, the Road Traffic Regulation Act 1984 Section 49(4A), allows the police to suspend designated street parking places temporarily to prevent or mitigate traffic disruption, or danger to traffic. This could prove useful to promoters carrying out emergency works.

15.1.1 Procedure

Temporary Notices

This procedure will only apply to immediate activities.

The promoter will inform the Permit Authority, as Traffic Authority, as soon as practicable if a closure or traffic restriction is needed. The Permit Authority will consult with the police and all relevant parties, and confirm, as soon as possible, whether or not a Notice will be made.

The Permit Authority must state in the Notice:

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

The Permit Authority must also notify the emergency services and any other Traffic Authority with roads that may be affected. This should be done on, or before, the day the Notice is issued.

Temporary Orders

The Permit Authority must publish notice of intention to make a Temporary Order at least seven days in advance. If the Order is expected to last for more than 18 months because activities are to be executed on or near the road, it is advisable to make application for a Permanent Traffic Regulation Order. Any such permanent Orders should then be revoked as soon as the activity is completed.

The Permit Authority must also notify the emergency services and any other Traffic Authority with roads that may be affected. This should be done on, or before, the day the Order is made. These bodies should be consulted, as well as notified, if the closures are expected to last for more than 18 months.

A Temporary Traffic Order is generally needed for planned activities in the street (except where the Order follows a closure Notice). If an Order is needed, the promoter should notify the Permit Authority as Traffic Authority at least **three months** in advance. This period will allow the Permit Authority time to consult, and to obtain approvals and advertise the Order. Activities that require a Temporary Traffic Order are automatically classed as 'major' and

require at least three months notice for applying for a Provisional Advance Authorisation and a Temporary Traffic Order.

The promoter must submit all the information needed to justify an Order with the application for the Order.

Continuation of Closures and Restrictions

A five-day temporary traffic closure or restriction Notice cannot be extended. A 21-day temporary Notice can be extended by one further Notice giving up to 21 days more. Both five-day and 21-day Notices may be followed immediately by a temporary Order. This may be made without the seven days prior notice normally needed for such Orders.

If the original estimate of the duration of the activity changes, a request for a permit variation will be necessary (see Section 8).

There will be cases where works will unavoidably overrun the temporary Notice period. Where this possibility is apparent from the beginning, promoters must inform the Permit Authority. The Permit Authority will take the necessary follow-up action, without delay, to enable the activity to continue uninterrupted. If the overrun becomes apparent only after the activity has started, the promoter should immediately inform the authority that either a further Notice or an Order will be required. This action may be needed before the request for a permit variation is made.

It might not be possible to make a follow-up Order before a five-day Notice expires. The activity may have to be suspended, and the site temporarily restored to traffic until the correct procedures have been followed. The Permit Authority will try to minimise both the number of cases where this happens, and, where it is unavoidable, the period of suspension involved. This problem is unlikely to arise in the case of a 21-day Temporary Order.

Subject to the time limit for Temporary Orders, see above, a closure or restriction imposed by a Temporary Order may be continued by a further Order. If this is required, the promoter should notify the Permit Authority immediately, giving, wherever possible, at least one month's notice.

15.1.2 Policy Guidance

When a Notice has been published or Order has been made, the promoter must comply with the requirements of the Permit Authority as Traffic Authority and the police for the closure of the road.

15.1.3 Charges

Section 76 of NRSWA allows for Traffic Authorities to recover the costs of issuing temporary Notices or making Temporary Traffic Regulation Orders (TTROs). Upon receipt of an application for a TTRO, the Permit Authority can provide utilities with the estimated cost. Invoices will be itemised, for example:

- a) Cost of Order;
- b) Advertising in local papers, as required under Regulations;
- c) Administration.

15.2 Maintenance of Undertakers' Apparatus

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

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

Thus, the Permit Authority and all promoters have a shared interest in the proper maintenance of apparatus in the street.

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

15.2.1 Practical Considerations

Although NRSWA gives street authorities certain default powers to inspect and carry out emergency works, neither street authorities nor undertakers expect the need to arise. However, should it happen, then (without impeding any immediate emergency action) the matter will be referred to the agreed dispute resolution procedure.

The Permit Authority, as street authority, will immediately notify the undertaker if surface apparatus is found to be defective or the cause of significant surface irregularity, or where an unexplained subsidence or other disturbance of the road surface occurs. This will be done via the electronic management system. The Permit Authority may arrange a site meeting by agreement with the undertaker. If an undertaker accepts responsibility for previously unattributable street works, it must issue relevant notices, or apply for a permit, as appropriate; using its own works reference, rather than that generated by the Permit Authority, as street authority.

If the problem is agreed to be the undertaker's responsibility, it must take immediate action to investigate and initiate any necessary remedial works, in accordance with the following principles:

- a) Dangerous defects – requires an immediate response;
- b) Non-Dangerous – requires a response within the timescales agreed with the street authority.

Dangerous Situations

Apparatus that requires an immediate response or remedial works or to avoid injury or damage to persons or property shall be considered dangerously defective.

Examples include:

- Missing covers and/or frames;
- Sunken or raised covers and/or frames (generally greater than 25mm depth/trip).

Notwithstanding the above, the Permit Authority, as street authority, may execute any emergency works needed in consequence of the undertaker failing to maintain his apparatus.

Non-Dangerous – requires a response within the timescales agreed with the street authority:

Non-Dangerous defective apparatus is apparatus which requires attention to comply with specifications or remove nuisance; or has the potential to escalate to “Dangerous” in the near future.

Examples may include:

- Cracked covers and/or frames;
- Sunken or raised covers and/ or frames (generally less than 25mm depth/trip);
- Rocking covers and/or frames;
- Worn/polished covers in carriageways and cycleways, on bends, or on the approaches to “Stop” lines; “Give-Way” lines; traffic lights; pedestrian crossing lights; zebra crossings; and, railway/tramway level crossings. These covers could also be dangerous depending on the circumstances at the site.

Note: The decision on whether an occurrence is Dangerous or Non-dangerous will, by necessity, have to be made on site. It should not be challenged unreasonably. Hence, it is important that the classifications are strictly applied.

An undertaker may reduce the time for response, to meet operational needs for example, but shall not exceed the recommended timescales.

It is important that only the responsible undertaker, or a specialist contractor working on its behalf, investigates suspected damaged or defective apparatus, excluding manhole covers and frames. The Permit Authority, as street authority, will carry out investigations or remedial works (using appropriately trained and experienced persons) only in an emergency, or where the undertaker is unable or unwilling to use their own operatives or specialist contractor.

Notification will be made using the electronic management system.

If the Permit Authority, as street authority, has opened the street or exposed the undertaker’s apparatus in an emergency, or in the circumstances described above, the undertaker will assist the authority by:

- Jointly inspecting the problem to determine necessary remedial works; or
- Confirming approval for the authority to proceed.

The Permit Authority and the undertaker will agree the time within which it is reasonable for the undertaker to act before the authority commences remedial works. The reasonably incurred costs may be charged to the undertaker.

15.3 Working near Rail Tracks and Tramways

Works promoters planning works near to, adjacent or across the lines of street-running tramways must contact the transport authority responsible for that tramway as early in their planning cycle as possible. The promoter’s requirements can be incorporated into the contract documents.

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15.4 Vehicles Parking at Street and Road works

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

15.4.1 Vehicle within Activity Site

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

15.4.2 Vehicle Outside Activity Site

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

15.4.3 Implications

When assessing the impact of activities, the parking of any vehicles associated with the activity must be taken into account.

This is a particular problem for activities which, but for the presence of a works vehicle, would take place entirely within the footway. If a vehicle is kept adjacent to the activity, in a place which vehicles could not normally use, then it must be a necessary part of the activity site. It must be signed and guarded appropriately. The activity is then not wholly confined to the footway but encroaches onto the carriageway. Applications for permits must reflect this.

15.4.4 Parking Restrictions and Parking Bays

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

15.5 Storage of Materials

Activity promoters and the Permit Authority must take care to place materials so that they do not cause an obstruction to road users. This matter is one of the factors that the Permit Authority will take into account when making decisions on permits. This matter is especially important if materials are stored away from the activity site, but still within the highway boundaries. The storage facility must have its own permit, with conditions, if it is separate from the activity site.

15.6 Apparatus Belonging to Others

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

15.7 Assessing the Impact of Activities

All activities in the highway have a disruptive effect on traffic. An assessment of that effect is part of the process of applying for a permit. The activity promoter should discuss with the Permit Authority what sort of assessment is required.

15.7.1 Disruption Effect Score

The Disruption Effect Score is based on a measure of congestion resulting from a restriction on the highway. It is derived from a number of simple factors that should be easily established for any given activity. The nature of traffic flow and the relationship between flow, capacity, and delay are highly complex and subject to a variety of factors. However, three specific factors can be used to provide an indication of disruption: the total width of a road; the extent to which the activities reduce the available width; and the traffic flow. Details of the calculations are given in Appendix H.

15.7.2 Impact Assessments

Assessment of the impact of activities on general traffic, buses and pedestrians may be included, together with the disruption effect score, in the information included in a permit application. The assessment is a broad indicator of the likely disruptive effect of the proposed activity.

15.7.3 Use of Impact Assessments

The impact assessment can be used within the co-ordination process to prioritise activities according to their potential for causing disruption. The assessment can also be used to provide public information on the disruptive effects of activities.

15.8 Environmental Issues

Activity promoters are strongly advised to liaise with the Permit Authority arboriculture consultants and other environmental officials along with any necessary parish council officials when drawing up their proposals. This should ensure that wherever possible, and at reasonable cost, their requirements can be met.

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

16 Parity and Performance Monitoring

16.1 Background

A requirement for permit schemes is to ensure that authorities apply a consistent approach to all activities and activity promoters, demonstrating parity of treatment. Another requirement is to demonstrate the success of the permit scheme in meeting its objectives.

16.2 Parity of Treatment

The Kirklees Council Permit Scheme will demonstrate parity of treatment for all activity promoters, particularly between undertakers and its own activities as highway authority. The

issue of equal treatment is emphasised in the “Guidance on the Network Management Duty” introduced under the TMA.

Equality will be measured through Key Performance Indicators (KPIs). Permit Authorities will produce an annual set of KPIs that identify the treatment of individual promoters. These results will be published.

The Permit Scheme will use aspects of the KPIs provided for in the ‘Statutory Guidance for Permits’ as appropriate to the objectives of the scheme.

The KPIs will be provided and discussed at the quarterly co-ordination meetings and other regular meetings held with promoters. The Permit Authority will make KPI data available to Government and other regulatory bodies as required.

16.3 Performance Monitoring

Permit Authorities will seek to evaluate the Permit Scheme so as to measure whether the objectives are being met. A formal evaluation of performance against the scheme objectives will take place, and the outcome of each evaluation made available, in accordance with Regulation 16A of Statutory Instrument 2007 No. 3372 as amended.

The Permit Authority will also work with all promoters to develop relevant additional measures as the Permit Scheme develops over time in order to deliver Scheme objectives and benefits. The Permit Authority will also take into account any future guidance on evaluation, such as nationally agreed Key Performance Indicators.

17 Transitional Arrangements

The basic rules of transition will apply to all activities which will apply to the Kirklees Council Permit Scheme.

- a) The Permit Scheme will apply to all activities where the administrative processes, such as an application for a Permit or Provisional Advance Authorisation, start after the commencement date of the Permit Scheme stated in the Order.
- b) Activities which are planned to start on site more than one month after the changeover date, (for standard, minor and immediate activities), or three months after the changeover date, (for major activities), shall operate under the Permit Scheme. This means that even if the relevant Section 54, 55 or 57 NRSWA notice has been sent before the changeover, the Promoter will have to apply for a Permit. If the Promoter has not substantially begun the activity (or phase of activity) one month after the changeover date (for standard, minor and immediate activities) or three months after the changeover date (for major activities), then the Promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a Permit.
- c) Any Phase which started under the Notices regime will continue under that regime until completed.

Given the advanced notice of the changeover there should be few activities where these rules will create difficulties. Activities co-ordinated in the run-up to the imposition of a restriction under Section 58 or 58A of NRSWA might be such a situation. In those few cases the Permit Authority will discuss the situation with the promoters concerned to work out a practical way of dealing with the activities.

18 Changes to the Kirklees Council Permit Scheme

Where changes are required to the Permit Scheme, the Permit Authority will comply with the relevant Regulations in force at the time of the proposed change

In accordance with Regulation 5 of Statutory Instrument 2007 No, 3372 as amended prior to making any changes the Permit Authority will consult with the persons specified in Regulation 3(1), although this new consultation period may be of a lesser duration, depending on the nature and significance of the proposed change(s).

19 Revocation of the Kirklees Council Permit Scheme

If Kirklees Council wishes to cease to run a permit scheme, they will first consult with the persons specified in Regulation 3(1) of Statutory Instrument 2007 No. 3372 as amended so far as their streets are concerned, and will comply with the relevant Regulations in force at the time of the proposed change.

20 Appendices

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Appendix B Restrictions on Further Activities

1 Introduction

The Permit Authority intends to address perceptions that road and street works take place without any consideration to co-ordination of activities and to minimising disruption by incorporating in this permit scheme provisions made within NRSWA. These provisions allow authorities to restrict works in all or part of a street in order to avoid streets being dug up repeatedly by different bodies with no apparent co-ordination, or within months of resurfacing.

The restrictions can be imposed following:

- Substantial Road Works (Section 58 of NRSWA; and
- Substantial Street Works (Section 58A of NRSWA)

The Permit Authority reserves the right not to exercise its powers under Section 58 or 58(A) of NRSWA.

These powers also apply to streets covered by permit schemes. The process for managing other activities, which promoters decide that they need to carry out before the restriction comes into effect, is modified from NRSWA noticing to reflect the fact that, under a permit scheme, activities are controlled through permits. Restrictions apply only to the length of the street on which such substantial road or street works have been carried out. Under the Kirklees Council Permit Scheme, the restrictions apply to all activities covered by the scheme.

There are three elements to the provisions for each of the restrictions:

- Substantial highway works or substantial street works which trigger the restrictions;
- Processes and actions before the substantial works take place to make sure that as much activity as is likely to arise over the period of restriction can be carried out before it comes into force;
- Processes and actions during the restriction to accommodate emergencies or other activities that, exceptionally, can take place in that period.

It is expected that the use of the forward planning information process will assist in managing situations when restrictions are required. In addition, the Permit Authority will provide activity promoters with an indication of a potential restriction at co-ordination meetings when discussing activity programmes.

Restrictions which have been imposed on streets or parts of streets under NRSWA noticing prior to the Permit Authority operating the permit scheme will continue to apply following the changeover.

2 Substantial Works – Definition

2.1 Substantial Road Works

Substantial Road Works are works for road purposes affecting any of the carriageway, footway, footpaths, cycle tracks or bridleways and includes resurfacing, reconstruction, widening or alteration of the level of the street and specialist non-skid surface dressing.

In order to be classified as Substantial Road Works the activity must extend at least 30 metres continuously and:

- Reduce the width of a footpath, footway, bridleway or cycle track by more than two-thirds; or
- Prohibit the use of the carriageway by vehicles; or
- Reduce the width of the carriageway by more than one-third.

2.2 Substantial Street Works

Substantial street works means major activities which are street works that:

- Have been identified in an organisation's annual operating programme or, if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the activity; or
- Other than immediate activities, have a duration of 11 days or more.

3 Creating a Restriction

On receipt of an application for Provisional Advance Authorisation, the Permit Authority wishing to impose a restriction following Substantial Street Works or Substantial Road Works will:

(a) Identify other activities it already knows about that should also be completed before the restriction comes into force;

(b) Publish a notice of its intention to create a restriction on its website. Where the restriction is following substantial street works or substantial road works, the Permit Authority will give at least 3 months notice, prior to works commencing. The notice will describe the proposed activity and give the proposed start date; state the duration of the proposed restriction and the part of the highway that it will affect; and require any other promoters proposing activities who have not already applied for a permit, to do so within the 3 month (or more) period which will be specified in the notice;

(c) Copy the notice to:

- Any highway authority affected;
- Any sewer, transport or bridge authority with an interest in the street;
- Anyone who has given advance information of intended works;
- Anyone with apparatus in the street;
- Anyone who has registered an interest in that street;
- The occupiers of any premises which have a frontage onto the street in question.

(d) Place a copy of the notice on the register:

Copies of notices will be given electronically, or by post, where appropriate.

Following the 3 month notice period no other activity promoter may begin any activities (other than exempted activities or those to which an authority has given consent) in that part of the street until all the activities referred to in the last paragraph have been completed.

Activity promoters of both utility street works and the Permit Authority's own highway works must respond within 20 days under Regulation 9(3) with details of any works in their schedules of works, or of which they may be aware, at any time until the proposed end of the restriction period. In the case of NRSWA Section 58 processes, the failure of a promoter to make an application in response to the notice can be taken into account by the Permit Authority in deciding whether to issue a permit, i.e. if the promoter could have applied, but does not do so, they run the risk of not obtaining a permit, if they apply later.

At the end of this period, the Permit Authority will know of the proposals of the first activity promoter, of any activity promoter who has made a permit application in response to the Permit Authority's notice, and of any other activity promoter who has co-incidentally applied for a permit or Provisional Advance Authorisation of its intention to work in that part of the highway.

To co-ordinate those activities, the Permit Authority will now issue permits stating when each of those activities may begin.

No other activity promoter may now begin any activity (other than exempted activities or activities to which the Permit Authority has given consent) until the restriction has expired.

After the end of the notice period and before all the activities have been completed, the Permit Authority will give a direction imposing the restriction. It will copy the direction to all parties to whom it gave its original notice and place a copy on the LSG using the next available ASD update.

If the substantial activity (substantial works as defined above) which triggered the restriction was substantial road works and these have not started within six months of the proposed date, or within six months of the completion of any other activities, such as utility street works, that were carried out as a result of the notice, the notice ceases to be valid. A restriction will not be created, as the process would need to be repeated.

Once the substantial activity is completed, the Permit Authority will give a further notice to the parties mentioned above stating that the activity has been completed and that the restriction is in force. This action will be prompted by the works closed notice for the substantial activity. Once the restriction is in force, no activities may be undertaken in the street, except as detailed in 'Activities During a Restriction' below.

4 Duration of Restrictions

Durations of restrictions depend upon the type of activity carried out and the impact it has on the travelling public and the local neighbourhood. Longer restrictions will apply where streets, or parts of streets, have been newly constructed, reconstructed or resurfaced. The table below sets out the maximum durations of restrictions that the Permit Authority will apply for the different categories of streets and activities. Unless there are special factors in a particular case the Permit Authority will expect to apply the longest restrictions for the street concerned.

Duration of restrictions		
Streets (including cycleway, footway etc)		
		Reinstatement category 0, 1, 2 or traffic sensitive
1	Reconstructed	5 years
2	Resurfaced included level change	3 years
3	Other substantial road or street works	1 year
4	Combination of 1 or 2 plus 3	Higher of figures

Definitions used:

- *Reconstruction* is the removal of some or all of the various layers that make up a road pavement and their replacement, and is used to strengthen the road pavement.
- *Resurfacing* is the removal of the running surface and its replacement to restore surface integrity and skid resistance.
- *Other substantial road or street works* refers to the effects of substantial street works and substantial road works, such as drainage provision, which leave similar reinstatements to those after undertakers' works.

5 Activities During a Restriction

Activities may be carried out during a restriction if they either fall within the categories of exempt activities or have the consent of the Permit Authority.

5.1 Exempt Activities and Reduced Restrictions

Activities which are exempt or subject to reduced restrictions are:

- Minor activities that do not involve breaking up or excavating in the highway;
- Immediate activities;
- Customer connections (except within 19 days of the date of the substantial works);
- 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 Act 1974;
- Works carried out under Regulation 16(3)(b) of the Gas Safety (Installation and Use) Regulations 1998;
- Works carried out to comply with approved programme permitted under Regulation 13A of the Gas Pipelines Safety Regulations 1996 (SI1996/825, as amended by SI2003/2563) that could not have been identified before the restriction began;
- Activities required to expose equipment covers and manhole covers buried during the substantial street or road works.

The normal application rules appropriate to the activity concerned must be followed.

5.2 Customer Connections

If an undertaker receives a request for a new customer connection after the period for response to a NRSWA 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 an embargo on carrying out those works shall apply for 19 working days immediately following the completion of the substantial street or road works.

Before applying for the appropriate permit, the undertaker must contact the Permit Authority to discuss its proposals and the extent of the works in the street. The application must contain the information discussed, the fact that it is a customer connection, and the name of the Permit Authority officer who has confirmed the proposal.

It is expected that the minimum works will be carried out to provide the connection but it must be recognised that in some circumstances, extra work may be required to minimise disturbance to the restricted surfaces.

5.3 Exemption by Consent

There may be circumstances where activities that are not covered by the exemptions are required to be carried out during a period of restriction. The Permit Authority will consider each application on its own merits. If the promoter had been informed of the pending restriction when it was first notified but not applied to carry out its activities at the time, then the Regulations allow that decision to be taken into account by the Permit Authority in deciding whether or not to grant a permit during a restriction. Under the Kirklees Council Permit Scheme, there will be a presumption against granting a permit in such circumstances unless there are overwhelming counter arguments.

5.4 Permit Applications During Restrictions

The permit application that an activity promoter must give for an activity that he wishes to carry out during the period of a restriction imposed under Section 58 or Section 58A of NRSWA depends upon whether:

- a) The activity comes within the scope of any of the specific exemptions;
- b) The Permit Authority's consent is required.

In (a), the ordinary rules appropriate to the activity concerned must be followed.

In (b), an application for consent should be made, specifying, in addition to the normal activity information, the grounds upon which consent is sought. Once consent is granted, an application for a permit must be made in the usual way. The Permit Authority will then deal with this, again in the usual way. If the Permit Authority refuses consent, then the promoter may appeal if it considers this to be unreasonable.

The Permit Authority expects that activity promoters will do their utmost to give details of their plans for activities in affected streets as early as possible, and to complete their activities before any specified starting date or as specified in the permit. Notwithstanding this, if an activity overruns, or has to be carried out after the specified dates, the activity

promoter will discuss with the Permit Authority such activities to agree how they can be accommodated before completion of the substantial activity.

6 Policy Guidance

A restriction under Section 58 or Section 58A of NRSWA cannot be made if substantial activities have started, on the basis of an issued permit, without a notice under Section 58 or Section 58A having been given. However, even if activity promoters are not aware of a restriction, they are strongly recommended to approach the Permit Authority to establish whether a restriction is in force, if a street in which they propose to carry out works, has been newly constructed, recently reconstructed or resurfaced. Activity promoters should not assume that they can automatically break open that street but should check with the Permit Authority. It may be that a particular activity promoter was not sent the relevant notice under Section 58 or Section 58A of NRSWA and there may be a restriction in force.

If having received an application for a permit or PAA, the Permit Authority realises that there is a restriction in place, they will advise the activity promoter of this fact as soon as possible.

7 Dispute Resolution

Disagreements that cannot be resolved between the activity promoter and the Permit Authority will be resolved by means of the dispute resolution procedures. Details of these procedures can be found in Section 10 of this document.

8 Revocation of Restrictions

Restrictions may be revoked by the Permit Authority at any time. The Permit Authority will do this by sending a Cancellation notice to the promoter(s) concerned, with the same reference number as the original Restriction, informing them that the original restrictions are now revoked. In revoking restrictions, the Permit Authority will give the same consideration to the situation as when issuing the original restrictions and include the reasons for the revocation.

Appendix C Permit Authority contact details

Contact details for the Kirklees Council Permit Scheme are provided on each Permit Authority's public website.

Appendix D Disapplication of NRSWA

1 General

Part 8 of the Statutory Instrument 2007 No. 3372 as amended provides for the disapplication of certain sections of NRSWA which govern the notices system, on the basis that applications for permits serve the same purpose of providing information to the Permit Authority. Part 8 also provides for the modification of other sections of NRSWA, principally to replace references to the disapplied sections with references appropriate to permit schemes.

Regulation 9 of the Statutory Instrument 2007 No. 3372 as amended allows that, during the operation of the Kirklees Council Permit Scheme, except where an exception is explicitly provided for, any promoter of "specified works" (which should equate to registerable works or activities), who wishes to carry out such an activity in the street, must first obtain a permit from the Permit Authority. The permit allows the promoter to:

- Carry out the specified activity;
- At the specified location; and
- Between the dates shown and for the duration shown.

Subject to any conditions that may be attached

Regulation 9(2) of the Statutory Instrument 2007 No. 3372 as amended allows exceptions to be defined, so that certain activities can take place without requiring a permit. In order not to prevent activities that are necessary for emergency or urgent reasons, authorities should provide for the initial stage of immediate activities to be exempted from requiring a permit, but promoters will need to apply for a permit within 2 hours.

1.1 Disapplied Sections of NRSWA

The Permit Regulations disapply or modify certain sections of NRSWA. Within the permit area the duties of activity promoters and the Permit Authority under the following sections of NRSWA are replaced by equivalent duties imposed under Part 3 of TMA and the Regulations.

Disapplied sections of NRSWA

RSWA section		Permit Regulations – Revised Arrangements
S53	The street works register	Permit Regulations prescribe similar provisions for permit register
S54	Advance notice of certain works	Replaced by applications for PAA
S55	Notice of starting date	Replaced by applications for permits
S56	Power to direct timing of street works	Replaced by permit conditions and variations, including those initiated by the Permit Authority

S57	Notice of emergency works	of	Replaced by applications for immediate activities
S66	Avoidance of unnecessary delay or obstruction	of or	Replaced by equivalent provisions for the Permit Authority to require promoters in breach of requirements to take remedial action and failing that for the Permit Authority to take action. 24-hour compliance period to be replaced with a requirement for promoters to comply with a reasonable specified period determined by the circumstances

1.2 Modifications to NRSWA

The Permit Regulations modify the following sections of NRSWA to accommodate the issuing of permits rather than the exchange of notices.

Table Modification to NRSWA

NRSWA section		Permit Regulations – Revised Arrangements
S58	Restriction on works following substantial road works	The Permit Authority's ability to issue permits with start and end dates replaces directions to start work covered in S58 (5) to (78). The Regulations provide the equivalent of S58A powers by allowing the Permit Authority to take into account whether promoters responded to the S58 notice by submitting an application for their planned activities.
S58A	Restriction on works following substantial street works	Schedule 3A is modified to work in conjunction with permits.
S64	Traffic-sensitive streets	Permit Regulations provide that permit applications are notified of proposals to designate streets as traffic-sensitive streets.
S69	Works likely to affect other apparatus in the street	Permit Regulations create an equivalent requirement on highway authority promoters
S74	Charges for occupation of the highway where works are unreasonably prolonged	Permit Regulations make provision to operate in parallel with permits.
S88	Bridge, bridge authorities and related matters	Modified to work in conjunction with permits.

S89	Public sewers, sewer authorities and related matters	Modified to work in conjunction with permits.
S90	Provisions as to reinstatement of sewers, drains and tunnels	Modified to work in conjunction with permits.
S93	Works affecting level crossings or tramways	Modified to work in conjunction with permits.

Changes to Section 58 (restrictions on works following substantial road works) and Section 74 (charge for occupation of the highway where works unreasonably prolonged) apply only to undertakers' activities. The Kirklees Council Permit Scheme makes arrangements so that similar procedures are followed for highway activities in relation to timing and duration, in order to facilitate the operation of the permit scheme and, as far as possible, parity of treatment for all promoters.

Appendix E - Fixed Penalty Notice Form – Part A and Part B

* (*Insert Permit Authority name)	FIXED PENALTY NOTICE [NAME OF PERMIT SCHEME ORDER] THE TRAFFIC MANAGEMENT PERMIT SCHEME (ENGLAND) REGULATIONS 2007	FIXED PENALTY NOTICE Number:
PART A		
Contact Tel No.	Permit Reference No *	
TO:	DATE OF THIS NOTICE: dd mmm yy	
ADDRESS:		
OFFENCE CODE (See Part B) (NB: Only one offence code per fixed penalty notice) :		
LOCATION:		
DATE OF OFFENCE		
DETAILS OF OFFENCE :		
<p>1. I am giving you this notice, in accordance with Part 5 of the Traffic Management Permit Scheme (England) Regulations 2007, to offer you the opportunity of discharging any liability to conviction for this fixed penalty offence by payment of a penalty</p> <p>2. This means that no legal proceedings will be commenced for the offence if, subject to paragraph 3, the penalty of [£500] [£120] is paid (See Part B for instructions on methods of payment) within the period of 36 days beginning with the day on which this notice was given. (NB: The permit authority may extend this period in any particular case if they consider it appropriate to do so (See regulation 24(3))).</p> <p>3. Instead of paying the amount referred to in paragraph 2, liability to conviction for the offence may also be discharged if the discounted amount of [£300] [£80] is paid within the period of 29 days beginning with the day on which this notice was given (NB: If the last day of this period does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day (See regulation 25(3))).</p> <p>4. If the discounted amount is not paid within the period set out in paragraph 3, as extended where relevant, liability to conviction for the offence may only be discharged thereafter by payment of the penalty of [£500] [£120] within the period set out in paragraph 2, as extended where considered appropriate. If you then fail to pay the penalty within that period, legal proceedings for the offence may be commenced against you.</p> <p>5. Any representations that you wish to make in relation to this notice may be addressed to _____ at _____ identifying the fixed penalty notice number stated above.</p>		
NAME OF AUTHORISED OFFICER (in block capitals):		
DATE :		

PART B		
*	INSTRUCTIONS ON METHODS OF PAYMENT	FIXED PENALTY NOTICE Number
(* Insert Permit Authority name)		
ELECTRONICALLY – by the Bankers Automated Clearing Services (BACS). Payment should be made to _____, Sort Code _____, Account Number _____. Payment must be supported by the timely submission of a list of the fixed penalty notice numbers covered by the payment and the amount being paid in relation to each number.		
“ON LINE” – please visit our web site at _____		
BY POST - by making your cheque payable to _____ and sending it to _____. Payment must be accompanied by a list of the fixed penalty notice numbers covered by the payment and the amount being paid in relation to each number. A receipt will be sent on request.		
IN PERSON – to _____ at _____ between [9.00am and 4.30pm] on any day on which the office is open for business. Any cheque should be made payable to _____. Payment may be made by debit or credit card if the card is one that is accepted by the Permit Authority in accordance with its standard procedures. Payment must be accompanied by a list of the fixed penalty notice numbers covered by the payment and the amount being paid in relation to each number. A receipt will be provided on request.		
BY TELEPHONE – by contacting _____ at _____ on _____ between [9.00am and 4.30pm] on any day on which the office is open for business. Payment may only be made by using a debit or credit card that is accepted by the Permit Authority in accordance with its standard procedures. You must state the fixed penalty notice number of each notice in respect of which payment is being made and the amount being paid in relation to each number. A receipt will be sent on request.		

OFFENCE CODES AND DESCRIPTION		
(By reference to the Traffic Management Permit Scheme (England) Regulations 2007)		
CODE	OFFENCE	BRIEF DESCRIPTION
PS01	An offence under Regulation 19(1)	Undertaking specified works on a specified street without a permit where an applicable Permit Scheme requires one
PS02	An offence under Regulation 20(1)	Breaching a permit condition.

Appendix F Notice Withdrawing Fixed Penalty Notice, form

FORM OF NOTICE WITHDRAWING A FIXED PENALTY NOTICE

* (* Insert Permit Authority name)	NOTICE WITHDRAWING FIXED PENALTY NOTICE [NAME OF PERMIT SCHEME ORDER] REGULATION 27 OF THE TRAFFIC MANAGEMENT PERMIT SCHEME (ENGLAND) REGULATIONS 2007	FIXED PENALTY NOTICE Number:
TAKE NOTICE that the fixed penalty notice numbered as above is hereby WITHDRAWN.		
NAME OF AUTHORISED OFFICER (<i>in block capitals</i>):		
DATE :		

Appendix G Works at or Near Level Crossings

1 Purpose

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

References within this Appendix to **National Authority** refer to the Secretary of State for Transport.

2 Scope

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

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

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

It does **NOT** apply to:

- (a) Railways not owned by Network Rail. However, the advice is equally applicable to other railway authorities. It is strongly recommended that these principles be incorporated into appropriate arrangements for works at level crossings on railways not owned by Network Rail;
- (b) Non-public road level crossings e.g. farm access where all relevant legislation should be taken into account when processing these works. For example:
 - Undertakers may have particular powers under their enabling legislation and wayleave or easement agreements may apply in a particular case
 - Undertakers must ascertain what requirements apply before discussing their proposed works with Network Rail;
- (c) Street/road running tramways.

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

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

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

3 Legislation

For works at a level crossing, those undertaking the works must comply with the reasonable requirements of Network Rail made under Sections 93 and 152, as appropriate, of the New Roads & Street Works Act 1991. All parties concerned must comply with the reasonable requirements of Network Rail made under the Health and Safety at Work, etc Act 1974 (HASWA) and its associated Regulations, in particular the Construction (Design and Management) Regulations 2007 (CDM) and Management of Health and Safety at Work Regulations 1999).

4 Special Features of Level Crossing Work

4.1 Works at or near level crossings

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

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

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

4.2 Safety of road users, railway passengers and employees

Risk assessments must be carried out both before and during street works at or near to level crossings in order to minimise the risk. Safe systems of work must be in place and maintained during the street works. Risk Assessments are further described in Section 7. Traffic that stops or moves slowly over a level crossing causes potential danger to road and rail users alike. Particular attention must be paid to situations where street works may be a considerable distance away from the crossing, as they may cause traffic tail backs over the crossing.

4.3 Other safety issues

When work is being carried out in the vicinity of overhead traction cables, electrified third rails and feeder or continuity cables, great care must be taken to avoid danger from electrocution. This is considered further in Section 8.

Electronic pipe and cable location equipment can potentially interfere with railway signalling apparatus and must not therefore be used within railway land without express permission

from Network Rail, who will advise on the circumstances and type of equipment which apply at each level crossing that can be used at a particular location.

4.4 Network Rail's responsibility

Network Rail will decide, on the basis of the information received from those proposing to execute street works, whether the street works are likely to affect train operations and advise of the arrangements made. Network Rail's Special Requirements are further described in Section 8.

For street works at a level crossing, those undertaking the street works must comply with the reasonable requirements of Network Rail made under Sections 93 and 152 of the Act. In view of the requirements of the Rail Regulator, timing directions given under Sections 93 and 152 may entail considerable delays to the project, and therefore it is recommended that consultation with Network Rail take place at the earliest possible opportunity. All parties concerned must comply with the reasonable requirements of Network Rail made under the Health and Safety at Work etc, Act 1974 (HASWA) and its associated Regulations (in particular the Construction (Design and Management) Regulations 2007(CDM). The whole of Network Rail's rail network infrastructure is a continuous site for the purposes of CDM. When work is being planned to take place on or in the immediate vicinity of a level crossing, and in order for permission to be given for any street works to commence, Network Rail will require details of the street works and the competence of those employed to carry out the street works, and will advise contact details. Network Rail must assess the possible effects of street works on the permanent way (the railway track, sleeper, ballast or other foundation material) or adjacent Network Rail land, the level crossing surface, overhead catenary supports, signalling equipment and underground railway apparatus etc. and advise on the adoption of any additional measures required.

5 Designation

In order to assist street works promoters in fulfilling the obligations set out herein, it is recommended that the location of level crossings, and where applicable an associated Precautionary Area, where special controls will apply, should be identified and publicised using the National Street Gazetteer or the Scottish Road Works Register, as appropriate. This information is to be provided in the form of a Special Designation File added, as appropriate, to the National Street Gazetteer by Network Rail in accordance with the procedures laid down by the National Street Gazetteer concessionaire.

Highway/Road Authorities should co-operate with Network Rail in following the designation procedure set out below, in order to identify each level crossing and to establish an initial footprint of streets/roads that will comprise the Precautionary Area. Undertakers and other street works promoters should recognise that both NRSWA and HASWA require them to consider the implications of their street works and identify the effects on traffic in the vicinity of level crossings. They should therefore co-operate in the initial establishment of the Precautionary Area and its development over time.

5.1 Identification of the Precautionary Area

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

automatically controlled. Network Rail using the street authorities' local knowledge and in co-operation with them and local undertakers, will examine each crossing to identify those streets/roads associated with it that are likely to cause traffic tailbacks to the level crossing arising from street works carried out in the highway. The exercise should identify each street/road falling wholly or partly within 200 metres of each crossing when following a route leading from the crossing.

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

5.2 Monitoring the Precautionary Area

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

6 Consultation

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

6.1 Co-ordination Meetings

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

6.2 Advance Consultation with Network Rail

Any planned street works which will take place at or near to a level crossing, or street works which are likely to affect the crossing because of traffic tailbacks (usually referred to by Network Rail as "blocking back"), must be advised to Network Rail's Outside Party Engineer for that location as early in the planning process as possible, but no later than one month in advance. The form shown in Annex A must be used for this purpose.

Upon receipt of advance advice of proposed street works Network Rail should will endeavour to respond, within 10 working days, to acknowledge receipt of the advice and arrange to meet with the promoter to agree the special requirements to be included in the Health and Safety Plan for the street works. This meeting may take place at a Co-ordination Meeting or separately, depending on the nature and complexity of the proposed street works.

Confirmation of the agreed arrangements are to be given to Network Rail in writing one month before the street works are intended to start. Network Rail should then give its approval of the Street arrangements to the works promoter, within 10 days of receipt of the confirmation. In the case of street authorities' works for road purposes this will be the only

notification required to be given to Network Rail. In the case of undertakers and others, statutory Notices under the Act will also be required. Promoters of works should also note that where the level crossing has been designated on behalf of by Network Rail under the Act as a street/road with Special Engineering Difficulty, a plan and section drawing showing details of their proposed works undertakers and others may be required to accompany the advance advice described above, with a plan and section drawing showing details of their proposed street works.

6.3 Undertakers' Statutory Notices under the Act

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

6.4 Minimum Notice Periods

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

6.5 Immediate Works

Where it is necessary to carry out immediate works at or near to a level crossing it is vital that the street authority and local Network Rail office is contacted immediately and work is not commenced until the promoter has been assured that all necessary safety precautions are in place.

6.6 Street works licences/road works permissions

Those without a statutory right to carry out street/road works must be authorised by the street/road authority (i.e. the highway/road authority or street/road managers) by means of a licence/permission before works may commence. In addition, the holder of the licence/permit may have to comply with the requirements of other relevant authorities or owners of apparatus affected by the work. In some cases it may be necessary to settle a plan and section. It is recommended that specific reference to this guidance should be made within licences for works in the vicinity of railway level crossings.

Network Rail, as the street/road manager at the level crossing, will similarly ensure that the requirements of this guidance are followed when licences or permissions are issued

6.7 Unqualified staff within the railway boundary

If it is necessary to use promoter's personnel to execute works within the track area they must not be allowed to enter until Network Rail nominated personnel have arranged appropriate protection and confirmed that it is safe to do so (see Section 8).

7 Risk Assessments and Traffic Control

7.1 Codes of practice and other advice

The Code of Practice *Safety at Street Works and Road Works* issued under Sections 65 and 124 of the Act is based on the Traffic Signs Manual (Chapter 8) and is a statutory requirement for undertakers' street/road works. It specifies the basic requirements for signing, lighting and guarding and traffic control at street/road works. Chapter 8 of the *Traffic Signs Manual 2006* also gives specific advice on traffic control at railway level crossings.

7.2 Risk Assessments

Risk Assessments are a requirement of the Construction, Design and Management Regulations 1994 and Health and Safety at Work Regulations 1999 and it is particularly important that they are carried out at railway Network Rail level crossings. Arrangements made as a result of Risk Assessments should be continuously monitored so that appropriate remedial measures can be taken quickly if required. Risk assessments should take into account the distance of the crossing from the proposed street works and the volume of traffic using the road. Particular attention must be given to the possibility of traffic congestion tailing back over a level crossing at any time during the duration of the street works, for example during an all-red traffic light period imposed to allow difficult operations to take place at the work site. There have been instances where this situation has also arisen from street works that have been a considerable distance from the level crossing and this possibility should always be borne in mind during street works.

7.3 Traffic Control Measures at or near Network Rail Railway Level Crossings

Traffic control at or near level crossings are to be in accordance with the guidance set out in Chapter 8 of the *Traffic Signs Manual 2006*:

- Part 1 Design: D5.15;
- Part 2 Operations: O3.24.

8 Network Rail's Special Requirements for All Works Affecting the Permanent Way

Network Rail's Special Requirements must be followed in all cases where street works are to take place at a level crossing and should be included in any contract let in connection with the street works. The current version of this document may be obtained from Network Rail, who will also be able to give advice during the planning of street works. There is no provision in the Act for the recovery of costs for special arrangements such as those described below and costs incurred by each party will therefore lie where they fall.

8.1 Level Crossing Attendant

A level crossing attendant will ensure the crossing is cleared before lowering barriers and authorising a train to move.

8.2 Temporary Speed Restrictions

In some instances it may be necessary to impose a temporary speed restriction on trains. Temporary speed restrictions take time to arrange, so discussions with Network Rail should take place as early as possible, before any formal notice is given for the street works. Where a temporary speed restriction may already have been arranged for other purposes, the highway/road authority, undertaker or other person should consider rearranging the timing of its street/road works so as to be able to make use of it, thereby minimising disruption to rail traffic.

8.3 Trenchless Construction

Where trenchless construction is to be employed beneath the railway track, Network Rail must approve the method. A temporary speed restriction may be imposed on trains and Network Rail may require to oversee street works in progress. Pipe bursting techniques will require special consideration by Network Rail, due to possible effects on the permanent way.

8.4 Street/road works on railway land that do not affect the structure of the permanent way

These are street works that do not affect the track or its surrounding land, such as street works at a manhole, erection of poles and wires, pressure testing pipes which do not pass under the track or excavations several metres away from the track.

8.5 Street Works outside the confines of a level crossing, using existing ducts which pass beneath the railway.

These works may proceed without special early notification to Network Rail. However, risk assessments and traffic control as described in Section 7 must be followed.

8.6 Use of mechanical excavators and cranes near the railway

Network Rail will advise of any necessary precautionary measures whenever cranes, mechanical excavators, vehicles or other construction plant is to be operated close to railway traffic. The purpose is both to protect trains from accidental contact with the plant and to protect operators from the likelihood of death or serious injury arising from contact with live traction equipment and trains on the railway. Network Rail may require the submission of plant operating diagrams and/or method statements, prepared by the plant operator and approved by the undertaker, highway authority or other person carrying out the work, to enable it to decide the magnitude of any potential problems. These diagrams and method statements should take into account the possible results of machine failure, structural failure or uncontrolled operation of the plant.

8.7 Electrification continuity cables

In areas where the railway is electrified using the third rail system particular care must be taken to ensure that continuity cables, which connect the ends of the live rail to maintain electrical continuity, are not damaged whilst excavations are being undertaken. In most cases these will be laid parallel to the rails at, or just below, the adjacent ground level.

9 Reinstatement of the Road at Level Crossings

Where the highway/road authority resurfaces a road or carries out alterations on the approach to a level crossing, alterations should not be made to any signs or road markings which are a requirement of the Level Crossing Order, including carriageway and footway width and centre of carriageway markings on the approach to the crossing. If alterations are required sufficient notice is required to permit Network Rail to request and obtain a revised Level Crossing Order.

10 New Works near Level Crossings

When undertakers are proposing to install new supplies, routes should wherever possible avoid traversing level crossings. Where avoidance is not possible, trenchless methods of installation should be considered.

11 HM Railway Inspectorate's Requirements

Specific attention is drawn to HM Railway Inspectorate Guidance Note, 'Railway Level Crossings' dated 1 May 2003 and the necessity to comply with the advice contained therein.

Annex G1

ADVICE OF INTENDED WORKS AT OR NEAR A RAILWAY LEVEL CROSSING

To: (Name)

(Company)

(Address)

Tel No:

Fax No:

Date:

From: (Name)

(Company)

(Address)

Tel No:

Fax No:

Sender's Ref No:

PRELIMINARY ADVICE

Works are proposed at/near the level crossing at:

_____ (street/road name,
railway line)

Details of the works are given in the attached description/ plan and section*.

Intended start date of works

Likely duration of works.....

*delete as appropriate

ACKNOWLEDGEMENT OF RECEIPT OF ADVICE (by Network Rail)

Details of your proposed works, Ref No: , has been received.

The person dealing with the proposal is:

(Postal Address)

Tel No:

Fax No:

E-Mail:

The proposal has been given the Network Rail Ref No:

*The works are not yet approved. We will be in contact again by (date) to arrange a meeting.

*Please re-submit your proposal, it must incorporate Network Rail's Special Requirements, a copy of which is attached.

*The works may proceed in accordance with the Arrangements set out in your proposal. This Form and a copy of the Arrangements have been forwarded to the Highway/Road Authority for their information.

Signed for Network Rail Date

*delete as appropriate

Annex G2

LONDON NORTH EASTERN

Outside Party Engineer [KL611]

NETWORK RAIL

2A George Stephenson House

Toft Green

York, YO1 6JT

Tel: 01904 389800

Email:

opelondonnortheastern@networkrail.co.uk

Out of Hours and Emergencies:

Duty Contracts Manager – 01904 525880

Derby Control – 01332 297202

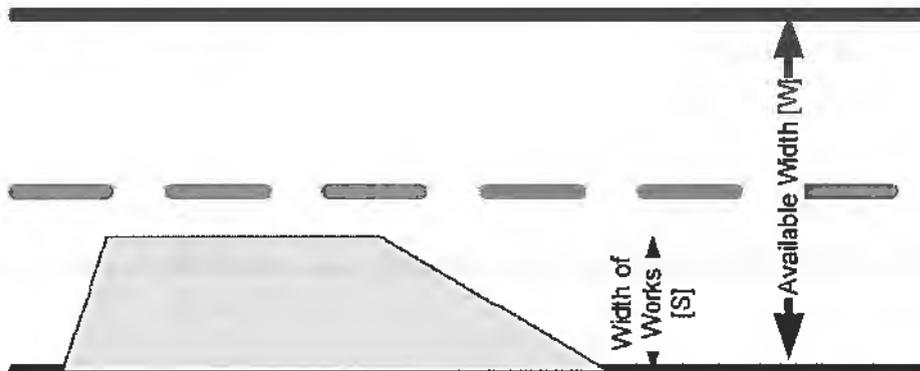
Note: These details may be subject to change over time and may be checked against current information displayed at www.networkrail.co.uk

Appendix H Disruption Effect Score

1 Input Factors

The disruption effect score is based on the reduction in capacity resulting from an activity on the highway. The reduction in capacity may be calculated using an algorithm that requires the entry of a number of simple factors. These factors are as follows:

Factor	Description
[P]	The daily traffic flow, measured as an average am/pm peak hour flow in PCUs per hour, so that it takes account of HGV percentages. Source: Highway authority
[W]	The total width in metres of the carriageway (or the width of both carriageways for a dual carriageway road). Source: Ordnance Survey mapping using GIS tools
[S]	The width in metres of the activity occupying the carriageway, or in the case of activities on the footway, this would be the width in metres of the carriageway occupied by attendant vehicles and associated traffic management, as well as the width needed for any incursion of pedestrians, cyclists and horse riders into the carriageway. Source: Established as part of the activity planning process



2 Calculation of Disruption Effect Score

The following algorithm is used to calculate the Disruption Effect Score:

$$\text{Disruption Effect Score} = [(P \times 100) / (1600 \times (W - S) / 3.65)]$$

3 Use of Disruption Effect Score

The disruption effect score has a number of specific uses including:

- i) Derivation of the Traffic Impact Assessment;
- ii) Objective based prioritisation of activities for co-ordination; and
- iii) Performance indicators.

4 Impact Assessment

The impact assessment is a broad indicator of the potential disruption that could arise from an activity on the highway.

5 Impact on General Traffic

The impact assessment for general traffic is derived directly from the daily disruption effect score for the activities, as follows:

Disruption Effect Score	Impact
Greater than or equal to 75	Severe
Greater than or equal to 50 and less than 75	Moderate
Greater than or equal to 25 and less than 50	Slight
Less than 25	None

6 Impact on Buses

The impact assessment for bus traffic is assessed for defined bus routes only and is derived as follows:

Disruption Effect Score / Factor	Impact
Greater than or equal to 75	Severe
Dedicated bus lane closed	Severe
Greater than or equal to 50 and less than 75	Moderate
Dedicated bus lane diverted	Moderate
Greater than or equal to 25 and less than 50	Slight
Less than 25	None

7 Impact on Pedestrians

The impact assessment for pedestrian traffic is derived as follows:

Factor	Impact				
	Footway Hierarchy Category				
	1a	1	2	3	4
Closure	Severe	Severe	Severe	Severe	Moderate
Complete Diversion	Severe	Severe	Severe	Moderate	Slight
Partial Diversion	Severe	Severe	Moderate	Moderate	Slight
Narrowing >50%	Severe	Severe	Slight	Slight	None
Narrowing <50%	Severe	Moderate	Slight	None	None

A 'complete diversion' of a footway is where a new route for pedestrians has been established for example where there is a requirement to cross the road to use the opposite footway.

A 'partial diversion' of a footway is where the route for pedestrians is diverted around the activity's site but remains on the same side of the road.

In addition, the impact of any activities on footways associated with urban transport facilities will be considered as 'severe'. For the purposes of this section these are any activities on footways that are within 100 metres of an entrance to a bus or railway station.

Appendix I Glossary

Section and paragraph references (e.g.2.2. and 2.2.1) are references to the Code of Practice for Permits

Term and Explanation

Above ground works - Any works (not being overhead works) which do not involve the breaking up or opening of the street or tunnelling or boring under it

Additional Advice Note – means the ‘Traffic Management Act 2004 (part 3 – permit schemes) Additional Advice Note – developing and operating future permit schemes’

Additional street data ("ASD") - As it says in Section 4.3. Additional Street Data ("ASD") refers to other information about streets held on the NSG concessionaire's website alongside the NSG

Adjudication - Section 14.5

Apparatus - As defined in Section 105(1) of NRSWA "apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus"

Appeal - Section 14.3

Arbitration - As defined in Section 99 of NRSWA, "any matter which under this Part is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers"

Bank holiday - As defined in Section 98(3) of NRSWA, "bank holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated"

Bar hole - As stated in 9.1, a bar hole is used to detect and monitor gas leaks.

Breaking up (the street) - Any disturbance to the surface of the street (other than opening the street)

Bridge - As it says in Section 88(1)(a) of NRSWA, "references to a bridge include so much of any street as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the street"

Bridge authority - As defined in Section 88(1)(b) of NRSWA, "bridge authority means the authority, body or person in whom a bridge is vested"

Bridleway - As defined in Section 329 of the HA 1980, "bridleway means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway"

BS7666 - British Standard number 7666 relating to gazetteers

Calendar Day – all days in a month including weekends and bank holidays

Carriageway - As defined in Section 329 of HA 1980, "carriageway means a way constituting or comprised in a highway, being a way (other than a cycle 117 track) over which the public have a right of way for the passage of vehicles"

Central register - As stated in 3.3, a central register is a register covering two or more street authority areas that is maintained by one single authority, the 'register authority'. For example, a central register could include all authorities in a metropolitan area

Code of Practice for Permits – means the 'Traffic Management Act 2004 Code of Practice for Permits

Contravention - As defined in Section 329 of HA 1980, "contravention in relation to a condition, restriction or requirement, includes failure to comply with that condition, restriction or requirement, and "contravene" is to be construed accordingly"

Council - As defined in Section 329 of HA 1980, "council means a county council, the Great London Council or a local authority"

Critical gyratory or roundabout system - A gyratory or roundabout system where, in the absence of street works or works for road purposes, no less than 5 per cent of peak hour vehicles on average are delayed by more than 20 seconds

Critical signalised junction - A traffic signal junction at which, in the absence of street works or works for road purposes and at times when the exit is not blocked, no less than 5 per cent of peak hour vehicles on average fail to clear the junction on the first green signal

Culvert - A structure in the form of a large pipe or pipes, box or enclosed channel generally used for conveying water under a road

Cycle track - As defined in Section 329 of the HA 1980, "cycle track means a way constituting or comprised in a highway, being a way over which the public have the following, but not other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot"

Deregulation Act 2015 – Amends the Traffic Management Act 2004 to enable authorities (local highway authorities or strategic highway companies) to approve their own schemes and to vary or revoke existing schemes.

DfT - Department for Transport

Disability - As defined in Section 105(5) of NRSWA, "Section 28 of the Chronically Sick and Disabled Persons Act 1970 (power to define "disability" and other expressions) applies in relation to the provisions of this Part as to the provisions of that Act"

Distribution Network Operator (DNO) - Operator of an electricity distribution network

e-government - The Government objective to deliver efficiency savings while improving the delivery of public services by joining up electronic government services around the needs of customers

Emergency works - As defined in Section 52 of NRSWA, "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"

Electronic system - refers to the current electronic management system and Regulations.

Excavation - "Breaking up" (as defined above)

Extensible Markup Language (XML) - A self-describing data format providing (amongst other things) a method of transferring data between systems. Note that the UK Government eGIF standard mandates XML for this purpose.

File transfer protocol (FTP) - A method of transferring data between computers defined by RFC959 (RFCs - Request for Comments) are the standard documents that define the operation of the internet)

Fixed Penalty Notice - As defined in schedule 4B to NRSWA, "fixed penalty notice means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty"

Footpath - As defined in Section 329 of the HA 1980, "footpath means a highway over which the public have a right of way on foot only, not being a footway" Footway As defined in Section 329 of the HA 1980, "footway means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only"

Frontager - A person or body occupying premises abutting the street

Geographical information system (GIS) - A computer system for capturing, storing, checking, integrating, manipulating, analysing and displaying data related to positions on the Earth's surface

Guidance – The Statutory Guidance for Highway Authority Permit Schemes – Permit Scheme Conditions dated March 2015 issued by the Secretary of State

HA 1980 - The Highways Act 1980

HAUC(England) - The Highway Authorities and Utilities Committee for England

HAUC (UK) – The Highway Authorities and Utilities Committee UK

Heavy commercial vehicle - As defined in Section 138 of the Road Traffic Regulation Act 1984, "heavy commercial vehicle means any goods vehicle which has an operating weight exceeding 7.5 tonnes".

Highway - As defined in Section 328 of the HA 1980, "highway means the whole or part of a highway other than a ferry or waterway"

Highway authority - As defined in Sections 1 and 329 of the HA 1980

Highway works - "works for road purposes" or "major highway works"

Immediate activities - As stated in Section 6.8.5, immediate activities are either emergency works as defined in Section 52 of NRSWA or urgent works as defined in *The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007*

In - As defined in Section 105(1) of NRSWA, "in, in a context referring to works, apparatus or other property in a street or other place includes a reference to works, apparatus or other property under, over, along or upon it"

Land - As defined in Section 329 of HA 1980, "land includes land covered by water and any interest or right in, over or under land"

Local authority - As defined in Section 270(1) of the Local Government Act 1972(a) and includes the Common Council of the City of London.

Local highway authority - As defined in Section 329 of HA 1980, "local highway authority means a highway authority other than the Minister"

Local planning authority - Local planning authority has the same meaning as in the Town and Country Planning Act 1990"

Local register - As stated in 3.3, a local register is a register that is maintained by a single street authority for their own geographic area and will include information on all streets other than those streets that are the responsibility of another street authority

Local street gazetteer - A subset of the NSG containing details of all streets in a local highway authority area, being a self-contained entity created and maintained by the local highway authority covering all streets in their geographic area regardless of maintenance responsibility

Maintainable highway - As defined in Section 329 of HA 1980, a "highway maintainable at the public expense means a highway which by virtue of Section 36 above or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense"

Maintenance - As defined in Section 329 of HA 1980, "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly"

Major activities - As stated in Section 9.2.1, major activities are activities which have been identified in a promoter's annual operating programme, or if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the activity; or activities, other than immediate activities, where (i) the authority has indicated to the promoter, or (ii) the promoter considers, that an order under Section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction on roads) is required; or activities, other than immediate activities, which have a planned duration of 11 days or more".

Major bridge works - As defined in Section 88(2) of NRSWA, "major bridge works means works for the replacement, reconstruction or substantial alteration of a bridge"

Major highway works - As defined in Section 86(3) of NRSWA, "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) 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"

Major transport - As defined in Section 91(2) of NRSWA, "major transport works means works substantial works required for the purposes of a transport undertaking and executed in property held or used for the purposes of the undertaking"

Minor activities - As stated in Section 9.2.3, minor activities are those activities other than immediate activities where the planned duration is 3 days or less.

National Land and Property Gazetteer (NLPG) - Gazetteer providing a national reference of land and property related data

Nationally consistent street gazetteer (NSG) - A database defined as "an index of streets and their geographical locations created and maintained by the local highway authorities" based on the BS7666 standard

Network management duty - As stated in Part 2 of TMA

Notice management system - As stated in Section 3.1, notice management systems receive electronic street works notices and are used by street authorities to manage them together with other relevant information.

NRSWA - New Roads and Street Works Act 1991

NSG Concessionaire - The body appointed to manage the NSG on behalf of the local highway authorities

OD – operational district

ODD - operational district data

Opening (the street) - Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any "breaking up" of the street

Order – A document signed by a person authorised by the Permit Authority to give effect to, vary or revoke a permit scheme.

Ordnance Survey Grid - A spatial location based on the geospatially referenced national grid owned by the Ordnance Survey

OSGR - Ordnance Survey Grid Reference

Passenger Transport Authority – One of seven authorities (Greater Manchester, Merseyside, South Yorkshire, Strathclyde, Tyne & Wear, West Midlands and West Yorkshire) made up of representatives from local authorities in the area, responsible for public transport in their area

Passenger Transport Executive - The executive arm of a Passenger Transport Authority

Pedestrian Planning Order - This refers to an order made under Section 249(2) or (2A) of the Town and Country Planning Act 1990(6)

Permit - The approval of a Permit Authority for an activity promoter to carry out activity in the highway subject to conditions

Permit application - See Chapter 6. The application that is made by a promoter to the authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (Section 55 of NRSWA) given under the Co-ordination regime.

PAMR – Permit application modification request

Permit Authority - The relevant highway authority etc. which has prepared a scheme under Section 33(1) or (2) of the Traffic Management Act 2004.

Permit Management System - A computer based system to record permit applications and consents

Permit Scheme - A scheme which has been prepared under Section 33(1) or (2) of the Traffic Management Act 2004.

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Prescribed - As defined in Section 104 of NRSWA, "prescribed means prescribed by the Secretary of State by Regulations, which may (unless the context otherwise requires) make different provision for different cases"

Protected Street - As stated in Section 5.2.2, any street that serves a specific strategic major traffic need and therefore needs to be protected from unnecessary excavation and works and providing there is a reasonable alternative route in which undertakers can place the equipment that would otherwise lawfully have been placed in the protected street.

Provisional Advance Authorisation - The early approval of activities in the highway, equivalent to the advance notice given under s 54 of NRSWA. See 6.8.1.

Provisional Street - As stated in Section 4.2.3. a provisional street is a street that does not yet have an entry in the NSG. Typically these will be newly created and/ or private streets

Public sewer - Public sewer has the same meaning as in the Water Industry Act 1991

Railway - As defined in Section 105(1) of NRSWA, "railway includes a light railway other than one in the nature of a tramway"

Reasonable period - As defined in Section 74(2), "a reasonable period means such period as is agreed by the authority and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question"

Reasonable times - As stated in Section 3.6.1, reasonable times may be taken to mean normal office hours (08:00 to 16:30, Monday to Friday except Bank Holidays)

REC - Regional Electricity Company

Registerable - As stated in 9.1, registerable activities correspond to specified works in the Regulations.

Reinstatement - As defined in Section 105(1) of NRSWA, "reinstatement includes making good"

Relevant authority - As defined in Section 49(6) of NRSWA, "references in this Part to the relevant authorities in relation to any works in a street are to the street authority and also (a) where the works include the breaking up or opening of a public sewer in the street, the sewer authority; (b) where the street is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, that authority; and (c) where in any other case the street is carried or crossed by a bridge, the bridge authority"

Remedial work - As stated in Section 9.3, remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and Regulations

Road - "highway"

Road category - This means one of the road categories specified in paragraph 1.3.1 of Chapter S.1 of the code of practice entitled "Specification for the Reinstatement of Openings in Highways" dated June 2002 and approved by the Secretary of State for Transport on 30th June 2002, as revised or re-issued from time to time

Road works - Works for road purposes

Schema (XML) - Schemas express shared vocabularies and allow machines to carry out rules made by people. They provide means for defining the structure, content and semantics of XML documents.

Sewer - as defined in the Water Industry Act 1991 " includes all sewers and drains (not being drains within the meaning given by this subsection) which are used for the drainage of buildings and yards appurtenant to buildings".

Sewer authority - As defined in Section 89(1)(b) of NRSWA, "sewer authority, in relation to a public sewer, means the sewerage undertaker within the meaning of that Act in whom the sewer is vested"

Site of Special Scientific Interest (SSSI) – are sites protected by law to conserve their wildlife or geology.

Special Engineering Difficulties (SED) - As stated in 5.3.1, by virtue of Section 63 of NRSWA, the term special engineering difficulties relates to streets or, more commonly, parts of streets associated with structures, or streets of extraordinary construction where street works must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure with attendant danger to person or property.

Standard activities - As stated in 9.2.2, standard activities are those activities, other than immediate activities, that have a planned duration of between 4 and 10 days inclusive

Statutory Guidance for Permits (March 2008) – means the 'Traffic Management Act 2004 Statutory Guidance for Permits'

Statutory right - As defined in Section 105(1) of NRSWA, "statutory right means a right (whether expressed as a right, a power or otherwise) conferred by an enactment (whenever passed or made), other than a right exercisable by virtue of a street works licence"

Street - As defined in Section 48(1) of NRSWA, "street means the whole or any part of any of the following, irrespective of whether it is a thoroughfare (a) any highway, road, lane, footway, alley or passage; (b) any square or court; (c) any land laid out as a way whether it is for the time being formed as a way or not"

Street authority - As defined in Section 49(1) of NRSWA, "the street authority in relation to a street means, subject to the following provisions (a) if the street is a maintainable highway, the highway authority, and (b) if the street is not a maintainable highway, the street managers"

Street managers - As defined in Section 49(4) of NRSWA, "the expression "street managers", used in relation to a street which is not a maintainable highway, means the authority, body or person liable to the public to maintain or repair the street or, if there is none, any authority, body or person having the management or control of the street"

Street works - As defined in Section 48(3) of NRSWA, "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"

Street works licence - As stated in Section 50(1) of NRSWA, "the street authority may grant a licence (a "street works licence") permitting a person (a) to place, or to retain, apparatus in the street, and (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to 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)

TMA - The Traffic Management Act 2004

Traffic - As defined in Section 105(1) of NRSWA, "traffic includes pedestrians and animals"

Traffic authority - As defined in Section 121A of the Road Traffic Regulation Act 1984: "(1)(a) The Secretary of State is the traffic authority for every highway in England for which he is the highway authority within the meaning of the Highways Act 1980 (1A) Transport for London is the traffic authority for every GLA road. (2) In Greater London, the council of the London borough or the Common Council of the City of London are the traffic authority for all roads in the borough or, as the case may be, in the City that are not GLA roads and for which the Secretary of State is not the traffic authority. (3) In England and Wales outside Greater London, the council of the county or metropolitan district or unitary are the traffic authority for all roads in the county or, as the case may be, the district for which the Secretary of State is not the traffic authority.

Traffic control - Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works"

Traffic flow - The number of vehicles using the particular street at specified times of the day and year, measured in accordance with DfT guidelines

Traffic order - This means an order made under Section 1, 6 or 9 of the Road Traffic Regulation Act 1984

Traffic sensitive street - This means a street designated by a street authority as traffic sensitive pursuant to Section 64 of NRSWA and in a case where a limited designation is made pursuant to Section 64(3) any reference to works in a traffic sensitive street shall be construed as a reference to works to be executed at the times and dates specified in such designation

Traffic sensitive time – in relation to a traffic-sensitive street, means:

- The times or dates specified in the case of limited designation; and
- Any time in any other case.

Traffic sign - As defined in Section 105(1) of NRSWA, "traffic sign has the same meaning as in the Road Traffic Regulation Act 1984"

Tramway - As defined in Section 105(1) of NRSWA, "tramway means a system, mainly or exclusively for the carriage of passengers, using vehicles guided, or powered by energy transmitted, by rails or other fixed apparatus installed exclusively or mainly in a street"

Transport authority - As defined in Section 91(1)(a) of NRSWA, "transport authority means the authority, body or person having the control or management of a transport undertaking"

Transport undertaking - As defined in Section 91(1)(b) of NRSWA, "transport undertaking means a railway, tramway, dock, harbour, pier, canal or inland navigation undertaking of which the activities, or some of the activities, are carried on under statutory authority"

Trunk road - As defined in Section 329 of the HA 1980, "trunk road means a highway, or a proposed highway, which is a trunk road by virtue of Section 10(1) or Section 19 above or by virtue of an order or direction under Section 10 above or under any other enactment"

Type 1 (or 2, or 3) gazetteer - As defined in the British Standard BS7666

Undertaker - As defined in Section 48(4) of NRSWA, "undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be"

Unique street reference number (USRN) - As defined in the British Standard BS7666

Urgent activities - As stated in Section 9.2.4, urgent activities are (a) activities (not being emergency activities) whose execution at the time they are executed is required (or which the person responsible for the activity believes on reasonable grounds to be required) (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker; (ii) to avoid substantial loss to the undertaker in relation to an existing service; or (iii) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and (b) Includes activity that cannot reasonably be severed from such activities

Working day - As defined in Section 98(2) of NRSWA, "for the purposes of this Part a working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and a notice given after 4.30 p.m. on a working day shall be treated as given on the next working day"

Works - Street works or works for road purposes

Works clear - As indicated in Section 16.9, works clear is used to mean the completion of works and clearance of the site following interim reinstatement. This is indicated by the submission of a Works Stop notice and an associated Registration notice including interim reinstatements.

Works closed - As indicated in Section 16.10, works closed is used to mean the completion of works and clearance of the site following permanent reinstatement. This is indicated by the submission of a Works Stop notice and an associated Registration notice containing only permanent reinstatements.

Works for road purposes - As defined in Section 86(2) of NRSWA, "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 adaptation of a footway for use as a crossing for vehicles"

XML – see Extensible Markup Language

“YHAUC” means the Yorkshire regional group of the Highway authorities and Utilities Committee.

“Y&HTMG” means the Yorkshire and Humberside regional group of the Traffic Managers.