



# The Lancashire Permit Scheme for Road & Street Activities

## **Permit Scheme Document**

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*Glossary*      *The Standard Glossary provided in Appendix A of the Code of Practice for Permits 2008 applies to this Document*

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# **1 Introduction**

## **1.1 Background**

Part 3 of the Traffic Management Act (TMA) 2004 introduced permit schemes as a new way in which activities in the public highway could be managed and to improve authorities' ability to minimise disruption from road and street works.

## **1.2 Relationship to NRSWA**

Permit schemes provide an alternative to the notification system of the New Roads and Street Works Act (NRSWA) 1991, whereby instead of informing a street authority about its intention to carry out works in its area, a statutory undertaker has to book time on the highway by obtaining a permit from the permit authority. Under a permit scheme, the highway authority's activities undertaken by itself, its partners or agents are also treated in exactly the same way as a statutory undertaker. A street authority may choose to implement a permit scheme on all or some of the roads under its control.

## **1.3 The Permit Scheme**

This Permit Scheme, to be known as the Lancashire Permit Scheme, and hereafter referred to as the Permit Scheme, is based on Part 3 of the TMA and the Traffic Management Permit Schemes (England) Regulations 2007, (the Regulations) and has been prepared with regard to the Statutory Guidance issued by the Secretary of State to assist street authorities wishing to become permit authorities and in accordance with the requirements set out in the Regulations. Activity promoters should make themselves aware of the content of these documents and also "The Code of Practice for Permits" alongside which the Permit Scheme will be operated.

All current NRSWA and TMA legislation, codes of practice etc, and any future amendments to that legislation, apply to the Permit Scheme.

## **1.4 Objective of the Permit Scheme**

The Permit Scheme has been prepared in accordance with achieving the overriding statutory objectives and duties under the TMA 2004 and NRSWA 1991. It is an important aspect of the duties and policies for the permit authority to manage activities in the street, so as to minimise the impact of those activities, while allowing essential activities to take place. The specific objectives of the Permit Scheme are as follows:

1. Reduce occupation of the highway to benefit all road users
2. Obtain greater control of all activities on the public highway
3. Minimise/avoid/manage delays to all road users
4. Enhance co-ordination of all activities on the highway
5. Achieve an improvement in air quality
6. Enhance safety of all road users at road and street activities
7. Reduce potential incidents/accidents at road activities
8. Improve public perception of managing road activities
9. Enhance reliability of journey times

10. Enhance journey experience
11. Reduce long-term damage to the highway asset
12. Encourage collaborative activities between all activity promoters
13. Enhance reliability of activities taking place at a particular time, especially on the strategic road network
14. Promote best practices across the North West
15. Promote common activity practices across the region to ensure ease of operation for activity promoters
16. Enhanced cross-boundary co-operation
17. Demonstrate parity for all activity promoters
18. Reduce instances of customer complaints regarding road and street activities
19. Reduce the impact of noise on residents by having greater control of timing of activities.

## **1.5 The Permit Authority**

The Permit Scheme is operated by Lancashire County Council, hereinafter referred to as the Permit Authority.

## **1.6 Activities**

The generic term “activities” has been used rather than “works” to reflect the fact that the scheme may eventually cover more than road and street works in subsequent regulations. These are the specified activities as set out in the Regulations.

## **1.7 Equivalent Definitions**

As the Permit Scheme will initially operate alongside the NRSWA notice system, the same or equivalent definitions and requirements are used as in the NRSWA notice system, namely:

- Registerable activities/works
- Categories of activities/works, Major Standard, Minor and Immediate Urgent activity permit applications are the equivalent of a Section 55 notice, but Immediate Emergency activities may be the equivalent of Section 57.
- Street gazetteers, including street referencing by means of a Unique Street Reference Number (USRN) and Associated Street Data (ASD)
- Street reinstatement categories as defined in the NRSWA Reinstatement Specification
- The distinction between main roads and minor roads where such distinctions are relevant
- Streets designated as Protected Streets, streets having Special Engineering Difficulties (SED), or Traffic Sensitive Streets.

## **1.8 Changes to NRSWA Legislation**

Where it is implemented on the specified streets (see 4 below) and in accordance with the Regulations, the Permit Scheme will result in the non-application and modification of the following sections of the NRSWA:

- Sections of NRSWA not applied: s.53; s.54; s.55; s.56; s.57; s.66
- Sections of NRSWA modified: s.58; s.58A; S.64; s.69; s.73A; s.74; s.88; s.89; s.90; s.93; Schedule 105; Schedule 3A
- Regulations modified: The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 SI 2007/1951 In the interests of parity, the modified legislation will also apply to works for road purposes.

## **2 Specified Activities**

### **2.1 Activities Requiring a Permit**

The Permit Scheme controls the following activities undertaken on the public highway and as defined as Registerable Activities in Chapter 9 of The Code of Practice for Permits:

- Street works as in Part 3 of NRSWA, except for works by licensees under section 50 of NRSWA;
- Works for road purposes as defined by section 86 of NRSWA;
- Other activities that may be introduced under future regulations.

### **2.2 Activities for Road Purposes**

The requirements of the Permit Scheme apply equally to both highway and statutory undertakers' activities with the one exception that fees will not be charged for permits issued for the highway authority's own activities for road purposes. Activity promoters of activities for road purposes must ensure that they have followed the equivalent processes for activities and declare that they have fulfilled these requirements in their applications.

### **2.3 Activities Not Requiring a Permit before they start**

Immediate activities do require a permit, although as such activities are concerned with emergency or urgent situations, an activity promoter can start the activity before applying for a permit. (See section 7.5).

### **2.4 Activities for which No Permit is required**

Activities executed in a street pursuant to a street works licence issued under section 50 of the NRSWA are not included in the Permit Scheme.

## **3 Specified Area**

### **3.1 Area Covered by the Permit Scheme**

The Permit Scheme is a Single Scheme for Lancashire County Council. The scheme will operate across the whole of the area encompassed by the authority's boundary.

## **4 Specified Streets**

### **4.1 Definition of the Term “Street”**

For the purposes of the Permit Scheme, the term “street” refers to that length of road associated with a single USRN. Where a single street on the ground has more than one USRN, separate permits will be required for each USRN to which an activity relates.

### **4.2 Streets Covered by the Permit Scheme**

The Permit Scheme will apply to ALL streets for which Lancashire is the street/permit authority. The street gazetteer will be updated with the relevant information indicating it to be a permitted street well in advance of the implementation date. The street gazetteer will be available to all work promoters via the National Street Gazetteer (NSG) concessionaire’s website.

### **4.3 Identification of Streets**

All streets that are subject to the Permit Scheme will be identified via the Associated Street Data (ASD) record held on the National Street Gazetteer (NSG) concessionaire’s website alongside the NSG data, where the Operational District responsible for maintaining the street is defined as operating a permit scheme.

### **4.4 Motorways and Trunk Roads**

Motorways and trunk roads within Lancashire’s boundary are excluded from the Permit Scheme.

### **4.5 Non-Maintainable Highways**

Streets that are not maintainable highways, other than those that are expected to become a maintainable highway, are not included in the Permit Scheme.

### **4.6 Streets to be Adopted as Maintainable Highways**

Where a street is expected to become a maintainable highway, controls on specified activities under the Permit Scheme will only apply after the street has become a maintainable highway.

## **5 Permits General**

### **5.1 Requirement to Obtain a Permit**

Any activity promoter of specified activities who wishes to carry out such an activity on a specified street must first obtain a permit from the permit authority. The permit will allow the activity promoter to:

1. carry out the specified activity;
2. at the specified location;
3. between the dates shown (and subject to validity periods where relevant);
4. subject to any conditions the authority may require to be included.

## 5.2 Exempt Activities

The following activities do not require a permit:

- Works carried out in pursuance of a street works licence issued under section 50 of NRSWA.
- Traffic census surveys.
- The maintenance of fire hydrants by fire service vehicles provided the activity is undertaken outside traffic sensitive periods, unless these activities involve traffic control.

## 5.3 One Application Per Street

Each application for a permit will be limited to one street (see section 4.1 for definition of street) and for one activity only, multiple activities MUST NOT be grouped under one permit.

## 5.4 Activities Covering Several Streets

Where the specified activity involves a number of specified streets, a separate permit will be required for each street. Permit applications for specified activities covering more than one specified street shall be cross-referenced to all related applications. Fees for specified activities which involve several permits will be discounted (refer to section 14.4) if the applications are submitted together and cross referenced. For consistency with NRSWA, a street will correspond to a USRN.

## 5.5 Phasing of Activities

Phasing of Activities is as defined in the current code of practise for coordination and the EToN Technical Specification.

Activities in any street may involve one or more phases carried out at one or more sites. Separate Permits are required for each activity phase and all permits must use the same activity reference.

## 5.6 Interrupted Activities

If activities are interrupted because, for instance, the activity promoter finds that they need some specialised plant or apparatus, other than that originally planned for; it is the activity promoters responsibility to notify the permit authority of a revised estimated end date.

If undertakers are interrupted because the activity promoter or his contractor, has caused third party damage, then it is the activity promoters responsibility to notify the permit authority of a revised estimated end date, taking into account the likely duration of the repair works.

The works remain the responsibility of the original activity 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, they should discuss this and

agree to a permit variation to cover the situation, or if necessary a further permit to allow the activity to be completed later.

Whenever an activity is interrupted, the activity promoter should first agree a way forward with the permit authority before starting any of the processes above.

## **5.7 Collaborative Working**

The permit authority encourages collaborative working between activity promoters. To make such schemes work activity promoters must speak to the permit authority as early as possible.

Collaborative working can cover a range of scenarios. However within this scheme document it refers to, where two or more activity promoters agree to undertake their activities at the same time, at the same location, under the same traffic management to reduce disruption.

Each activity promoter will require a permit to undertake their individual activity.

Collaborative working may qualify for a discount to the permit fee in line with the discounts in appendix: C.

Where collaborative working involves sharing a trench, one activity promoter must take on the role of the primary promoter with the overall responsibility for the activities and will be the point of contact with the permit authority.

While the secondary activity promoter(s) will be required to make a permit application for the activity for which they are responsible, only the permit application made by the primary activity promoter will need to show the number of estimated inspection units.

The primary activity promoter's permit application must give details of the other activity promoter(s) involved and the extent of the collaborative working. The primary activity promoter must also ensure that the estimates of the activity duration are agreed and confirmed with the secondary activity promoter(s) when submitting the application. While the permit authority will issue permits to all of the activity promoters involved, not just the primary activity promoter, the fees will be discounted (see appendix: C) to reflect the collaborative approach, subject to all criteria being met.

## **5.8 Permit Validity**

Permits will only be valid from the start date to the end date of the permit on category 0 to 2 or traffic sensitive streets, and between adjusted dates based on the validity period in the start date for category 3 and 4 streets. The start and end dates will be calendar days, not withstanding reference elsewhere to working days, and may include weekends and bank holidays where agreed by the permit authority, even if these are non working days.

## **5.9 Charges for Overrunning Street Works/Activities**

Charges for overrunning street works/activities, under section 74 of NRSWA, will be made alongside the Permit Scheme. These regulations incorporate the process of setting and modifying the duration of the activity through the permit application, approval and variation processes, with the option to treat all or parts of a duration extension as overrun.

## **5.10 Start and End Dates**

A permit will allow an activity to be carried out during the period between the start and end date on the permit. An activity promoter carrying out an activity outside these dates would not have a valid permit and potentially would be committing an offence. It should be noted that if the permit scheme states that the activity should start on a Monday and finish on a Friday, the weekend cannot be used as additional days without the express approval of the permit authority through a permit variation (extension).

### **Category 0-2 and Traffic Sensitive Streets**

In category 0-2 and traffic sensitive streets, the duration of the activity will exactly match the time from the start date to the end date, for example: start date Wednesday 1 June, end date Friday 10 June, duration eight (working) days (no work undertaken at the weekend unless explicitly stated in the permit). 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 permit authority on the previous day by telephone to keep the authority informed. There is no automatic extension of the permit in these circumstances. If the promoter thinks that it could still complete the activity before the permit end date, then they could begin the activity on a subsequent day, submitting an actual start of activity notice under section 74 of NRSWA.

If the activity promoter could not complete the activity before the permit end date, they must apply for a permit variation (extension). This would be required even if the extra days were on a weekend (in the above case, the permit expires at the agreed application time on the Friday). A permit authority may or may not agree to a permit variation (extension), depending on the circumstances, and the activity promoter may be subject to overrun charges.

### **Category 3 and 4 Non-Traffic Sensitive Streets**

In category 3 and 4 streets that are not traffic sensitive, the permit will be issued with a start and end date. 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 as per the validity period on a NRSWA notice

The validity periods are:

- 5 days for major and standard activities
- 2 days for minor activities

When the activity commences, the activity promoter would have to submit the actual start of the activity notice, setting out the actual start of the activity, and the duration must be the same as that given in the permit. The permit end date will be automatically adjusted to allow the agreed duration if the activity starts on any day up to the last day of the validity period.

The duration applies to continuous working days and, once the activity starts, the activity promoter has only the successive working day duration in which to complete the activity (no work undertaken at the weekend unless explicitly stated in the permit).

**Note:** Once the minimum period before the permit expires for an application for a permit variation is reached (2 days or 20% of the original duration, whichever is the longest), the activity promoter should apply for a permit variation (extension) if they wish to continue the activity after the current permit end date. If they continue undertaking the activity without an agreement of a permit variation, they will be committing an offence of working without a permit.

### **5.11 Actual Start (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 in regulations for permissible activities. 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. Activity must not begin before the date given in the permit, unless an early start has been agreed; to do so would be committing an offence under s.74(7B).

Once the activity has begun, a Notice of Actual Start of an activity must be given by 10.00am the next working day on category 0, 1, 2 and traffic-sensitive streets and by the end of the next working day in the case of category 3 and 4 non traffic-sensitive streets. In the case of immediate activity the permit application will be taken as the actual start date notice as it is made after the activity has commenced, and the status should always be "In Progress". Notice of Actual Start must be given in accordance with the requirements described in the Technical Specification for EToN. The identity of the main contractor or, if appropriate the Direct Labour Organisation ("DLO") must be provided on the actual start notice. This should always be the organisation with whom the undertaker has the contract, and not any subcontractor who may be actually carrying out the activity.

### **5.12 Works Clear (Section 74(5C))**

A works clear notice is used following interim reinstatement. The Notice of Works Clear 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 will be a need for 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 a works clear notice. A new permit will be required for any subsequent phases such as to complete the permanent reinstatement.

### **Works Closed (Section 74 (5C))**

A works closed notice is used following permanent reinstatement. The Notice of Works Closed 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 a Works Closed Notice. If temporary road markings have been used, then the activity is not complete until the permanent markings are applied and the activity duration should also cover this period.

### **5.13 Early Start**

The permit authority will consider an activity promoter's request for an early start before or after applying for a Provisional Advance Authorisation or a permit application. Where this is agreed after the original permit application has been made, the activity promoter shall submit a permit variation application. Early start requests should not be unreasonably refused.

### **5.14 Working Without a Permit**

It is an offence for an activity promoter or a person contracted to act on its behalf to undertake specified activities in a specified street without a permit, except where the Permit Scheme provides that this requirement does not apply. Where it is believed that such an offence is being committed, the permit authority may impose a Fixed Penalty Notice (FPN) or pursue legal action via a prosecution and require the party concerned to remove the activity and return the street to its full use.

### **5.15 Application Requirements**

Each application for a permit must include the information indicated in section 8.

## **6 Permits – Types**

### **6.1 Types Covered by the Permit Scheme**

There are two types of permit covered by the Permit Scheme as set out below.

### **6.2 Provisional Advance Authorisation (PAA)**

PAA's, are a means of enabling significant activities to be identified, co-ordinated and programmed in advance by allowing activities to be provisionally planned in by the activity promoters, pending the permit authority's subsequent decision on whether, and with what conditions, to grant a permit for the activities.

An activity promoter who wishes to undertake Major Activities (see section 7.2) on a specified street shall apply for a PAA at least 3 months in advance of those activities starting on the highway, or as agreed with the permit authority. Subsequent applications for permits for Major Activities that have not been preceded by a PAA will not be accepted by the permit authority.

Each application for a PAA will be limited to one street.

An application for a PAA must include a full description of the activity and specify start and end dates, although the start date may be considered as provisional and can be amended in the application for a final permit with full justification of the amendment of the start and end

dates.

A fee will be charged for a PAA in addition to the fee which is charged for the issue of the major permit.

The granting of a PAA does not prevent the permit authority from subsequently refusing to grant a major permit to which the PAA relates, if circumstances should change.

### **6.3 Permits**

These are full permits with final details for all registerable activities. The timing of permit applications to the permit authority will depend on the proposed activity (see sections 7 and 10.9).

## **7 Permits – Classes**

### **7.1 Classes Covered by the Permit Scheme**

There are four classes of permit covered by the Permit Scheme as set out below.

### **7.2 Permit for Major Activities**

Major Activities are those which:

- 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 proposed date of the activity;
- other than immediate activities, 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, having a duration of 11 working days or more. Major Activity Permits are required for the most significant activities on the highway and will require the activity promoter to obtain a Provisional Advance Authorisation as part of the application process for a Major Activity Permit. (See section 6.2).

An application for a Major Activity Permit shall be submitted to the permit authority in accordance with the timescales given in section 10.9 and must include a description of the proposed activity together with the proposed start and end dates of the activity. Where these differ from those given in the PAA application, the applicant must justify the reasons for any variation.

### **7.3. Permit for Standard Activities**

Standard Activities are those activities, other than immediate or major activities, that have a planned duration of between 4 and 10 working days inclusive. Activities lasting less than 10 working days of which require a traffic regulation order, such as a temporary road closure, will be classified as Major Activities and will be subject to the requirements in section 7.2.

An application for a Standard Activity Permit shall be submitted to the permit authority in accordance with the timescales given in section 10.9 and must include a description of the proposed activity together with the proposed start and end dates of the activity.

#### **7.4 Permit for Minor Activities**

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

An application for a Minor Activity Permit shall be submitted to the permit authority in accordance with the timescales given in section 10.9 and must include a description of the proposed activity together with the proposed start and end dates of the activity.

#### **7.5 Permit for Immediate Activities**

Immediate Activities are those which:

- Are emergency activities as defined in section 52 of NRSWA.
- urgent activities 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) includes works that cannot reasonably be severed from such works.

Given the nature of immediate activities, the activity may commence without a permit, however activity promoters must apply to the permit authority within 2 hours of the activity starting. Immediate activities will be subject to conditions set out in the national standardised conditions document.

The authority requests an early warning of immediate activities on streets it has designated on the ASD as vulnerable to traffic disruption. In these cases, the activity promoter should ring the authority's specified number as soon as activities become necessary or, at the latest, as soon as they begin.

## **8 Mandatory Requirements in a Permit Application**

### **8.1 Permit Authority Requirements**

To enable the permit authority to determine the granting of a permit and any conditions that it may wish to attach to the permit, activity promoters must supply the following information. In the case of Provisional Advance Authorisation Applications, the activity promoter should provide the most accurate information available at the time of making the application.

### **8.2 Contact Person**

All permit applications must include the 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 through EToN.

### **8.3 USRN**

Each application must relate to a single street only (see sections 4.1, 5.4 and 5.5). Where a single street on the ground has more than one USRN, separate permit applications will be required for each USRN to which an activity relates.

### **8.4 Description of Activity**

A sufficiently detailed description of the activity must be provided to allow the Permit Authority to assess the impact of the activity.

### **8.5 Location**

The activity promoter must provide location details reasonably accurately based on National Grid References (NGR). In the case of small excavations, an NGR should be given for the centre of the excavation; for larger works, a polygon representing the works footprint is required. In addition, dimensions should be given of the space that will be taken up by the activity in the street, including space for the storage of plant/materials, activity space, safety zone, provision for pedestrians and traffic management. These dimensions can be provided in the form of text in the location field.

### **8.6 Timing and Duration**

Each permit application must include the proposed start and end dates of the activity. The application must also include the times of the day when the activity is to be carried out and the applicant must also indicate if it is intended for the activity to continue over weekends and bank holidays and if night activities are required. For traffic sensitive streets, details of the times of day the activity is to be carried out must also be provided. This information can be provided on the application in the conditions.

## **8.7 Illustration**

Provisional Advance Authorisation applications, Major permit applications and any other activities that pose disruption as directed by permit authority must be accompanied by an illustration(s) of the activity and should include details of the activity, and the extent of highway occupancy. The illustration may comprise plans, sections, digital photographs and similar material. Illustrations must also be submitted with the application for minor activities located on a designated traffic sensitive street and streets of engineering difficulty.

## **8.8 Techniques to be used for Underground Activities**

Details of the planned techniques, including open cut, trench share, minimum dig technique or no dig must be provided. This information must be supplied by using the appropriate Excavation Type Code in EToN.

## **8.9 Traffic Management and Traffic Regulation Orders**

The activity promoter must supply full details of the traffic management proposals to be used whilst undertaking the activity.

Temporary Traffic Regulation Orders (TTROs) need to be applied for following the separate application process in advance of the PAA and a copy of the application must be attached. The permit application must have the granted TTRO attached.

Where portable light signals are required, approval must be sought through the existing process and evidenced through the temporary traffic signal application through EToN.

In the case of the suspension of a parking bay being required, the activity promoter should make an application to the Parking Manager.

Applicants should be aware that all of the above may involve additional costs and activity promoters should familiarise themselves with the timescales and procedures relating to all of the above.

## **8.10 Public Transport**

If the proposed activities are likely to have an effect on public transport operators the promoters should have liaised with the operators to consider what measures could be taken to mitigate any adverse impact on public transport. The promoter should include information of such discussions and actions with their application.

Where bus stops need to be closed or relocated then the existing application process should be followed and evidence attached to the permit application.

## **8.11 Reinstatement Type**

The application should wherever possible indicate whether the activity is intended to be completed with interim or permanent reinstatement or a mixture of both. If it is the latter, then details must be provided as to where interim or permanent reinstatements will be completed within that permit.

## **8.12 Inspection Units**

The activity promoter is required to indicate the provisional number of estimated inspection units appropriate to the activity in accordance with the rules laid down in the relevant code of Practice for Inspections (activity promoters should be mindful of section 5.7 where collaborative activities take place).

# **9 Permit Conditions**

Lancashire County Council will adopt solely the nationally agreed conditions text developed and approved by HAUC (England) as our standard conditions, including referencing. We recognise that these conditions may be subject to change and may develop over time. Any future changes to the conditions text ratified through HAUC (England) formal approval process will automatically be incorporated into this scheme. Any changes will have been consulted on and agreed by the sector and we will not undertake further consultation on those agreed changes, but will inform stakeholders of their implementation date for use within our permit scheme.

## **9.1 Breaching of Conditions**

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to warn them of its intention and allow the situation to be discussed.

Where it appears to the permit authority that a condition has been breached and that the activity promoter or a person contracted to act on its behalf has therefore committed an offence, it will take action as described in section 15.4.

## **9.2 Avoidance of Conflict with Other Legislation**

The permit authority will endeavour to ensure that any conditions applied to a permit do not conflict with the activity promoter's obligations under separate legislation. The activity promoter should bring such conflicts to the attention of the permit authority, who will then be responsible for resolving the issue with the other body and amending the permit conditions accordingly. If the activity promoter has safety concerns about conditions set by the permit authority, it should raise these concerns with the permit authority and, if necessary, challenge the permit condition.

# **10. Permit Applications**

## **10.1 Timing of Applications**

The timing of applications for permits and PAAs and the permit authority's response varies according to the proposed activity. The minimum times are given in the table in section 10.9 and activity promoters should give as much notice as possible, so as to facilitate the co-ordination process.

The application process will begin when the permit authority receives the applications, as defined in the EToN Specifications, not when the permit was sent.

## **10.2 Submitting an Application**

Permit and PAA applications should be made electronically. In the event of a system failure, activity promoters shall adopt the EToN Technical Specification procedure.

## **10.3 Compliance with EToN**

All applications must comply with the definitive format and content given in the current EToN Technical Specification.

## **10.4 Use of Plain English**

The description of activities must be in plain English, avoiding industry jargon, and preferably agreed standard descriptions.

## **10.5 One Application Per Street**

Each application shall refer to activities in only one street. Where a project covers more than one street, all related applications must be cross-referenced and the project reference included on each application.

## **10.6 Application Covering More Than One Street**

Single applications containing activities in more than one street will not be accepted by the permit authority.

## **10.7 Notification to Interested Parties**

Where the ASD indicates other interested parties, permit applications shall be copied to those parties.

## **10.8 Consultation Requirements**

Activity promoters must carry out necessary consultations as set down in sections 88, 89 and 93 (as amended) and sections 90 and 91 of the NRSWA.

## **10.9 Application and Response Times**

The Permit Scheme sets down the application and response times for dealing with permit applications and permit variation applications electronically in the table below. In all cases given in the table, the time period is measured from the time of receipt of the application by the permit authority. A "response" means a decision to grant or refuse a permit, or issue a Permit Modification Request, but where there are reasons why the permit cannot be granted in the terms applied for, the response indicating that a permit will not be granted in those terms will explain the reasons to the applicant.

The term “days” in the table below refer to working days as defined in NRSWA and the Regulations.

Without a prior telephone call, the minimum period to apply electronically for a permit variation (extension) before the permit expires is 2 days or 20% of the original duration.

Application and Response Times						
Activity Type	Minimum Application Periods ahead of proposed start date		Minimum period before permit expires for application for variation (including extension)	Response Times for issuing a permit or seeking further information or discussion		
	Application for Provisional Authorisation (PAA)	Application of Permit		Application for Provisional Authorisation (PAA)	Application of Permit	Response times for responding to variations
Major	3 Months	10 Days	2 days or 20% of the original duration, which ever is longest	1 Calendar Month	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	Within 2 Hours		N/A	2 Days	

### 10.10 Refusal of Application

The permit authority reserves the right to refuse an application for a permit or PAA where it considers that elements of the permit application, e.g. timing, location or conditions, are not acceptable.

If the permit authority is unhappy with the conditions applied then the application is refused by issuing either a “Modification Request” or a refuse. The activity promoter can then send a “Modified Application” with all the required conditions or make further changes to original plans as necessary. An early start request on a modification request will only be required if the proposed start and end dates are different from those given in the original application.

### 10.11 Restriction on Activities

Where an activity promoter wishes to apply for a permit to carry out specified activities on a specified street where a notice has been issued under Sections 58 or 58A of NRSWA, and the activities are not covered by the specific exemptions of that notice, the activity promoter must make an application for the permit authority’s consent specifying the grounds on which the consent is sought. If the consent is given, then the permit authority will provide an agreement reference number. This agreement reference number must be included in the specific field for agreement details with the permit application for the permit to be approved.

### 10.12 Error Correction (Works Data Alteration)

Where the permit authority identifies an error in data recorded, or submitted for recording, in the permit authority register, it will contact the activity promoter to discuss and agree the

corrections to be made. Where the activity 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 activity promoter shall 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 reference number provided while agreeing the correction; it must also state the data elements that have been corrected. The error correction process is described in the EToN Technical Specification.

This procedure must not be used without the prior agreement of both parties. A variation fee will be payable where the identified error has been caused by the activity promoter and identified by the permit authority, although if the error has been identified by the activity promoter there will be no charge for the permit variation.

## **11 Issue of Permits**

### **11.1 Timing of Permit Issue**

Where the permit authority is content that all aspects of the permit application meet the criteria of the scheme, it will issue a permit within the response times detailed in section 10.9.

### **11.2 Issue of Permit**

A permit will be issued electronically (and copied to Interested Parties) in accordance with the formats given in the Technical Specification for EToN, with the details placed on the permit register. The permit will reference in detail the activity it allows and its duration. In case of an EToN system failure, the permit authority will contact the activity promoter and agree an alternative method by which a permit should be sent.

### **11.3 Inclusion of Conditions**

A permit granted notice will be issued to the activity promoter for every permit and will reference all of the conditions attached to the permit.

### **11.4 Permit Unique Reference Number**

All permits will be given a unique reference number following the EToN numbering sequence. Where permits are issued for linked activities, the common project reference is used on all the related applications, therefore enabling them to be cross referenced.

Displaying Permit Reference Number – A valid permit reference number should be prominently displayed on the site information board.

### **11.5 Remedial Activities**

In the event of remedial activities being required after the expiry of the permit, an application must be made for a new permit. This application should be submitted using the original activity reference, and as a result the permit will be cross referenced to the permit for the original activity.

### **11.6 Notification of Refusal**

If, having considered an application for a permit or PAA, the permit authority decides to refuse the application; it will contact the activity promoter within the response time given in section 10.9 to explain why the application is unsatisfactory and where amendments need to be made.

## **11.7 Amendment to the Original Application**

Where the permit authority discusses its intention with the activity promoter to impose further conditions, which effectively amend the details of the original application, the activity promoter shall amend and resubmit a revised application. There will be no charge if instigated by the permit authority.

## **11.8 Right of Appeal**

The activity promoter has a right of appeal, in accordance with the dispute resolution process set down in the Code of Practice for Permits, should it not be possible to reach a satisfactory resolution in discussions with the permit authority. There may be cases where an immediate activity has to stop, subject to safety and legal considerations, until the issues are resolved.

## **11.9 Permit Application Deemed to be Approved**

If the permit authority fails to reply to an application for a permit or PAA within the designated response times, the permit or PAA is deemed to be granted in the terms of the application. The proposed start and end dates, description, location, duration, traffic management, etc. will be included in the permit and associated conditions for the activity and will then be binding on the activity promoter in the same manner as if the permit had been granted within the timescale.

- Breaching the conditions will constitute an offence.
- In the case of deemed permits, no fee will be applicable.

## **12 Reviews, Variation and Revocation of Permits and Permit Conditions**

### **12.1 Permit Authority Powers**

Within the Permit Scheme, the permit authority has the power, under Regulation 15, to review, vary or revoke permits and permit conditions on its own or an activity promoter's initiative. However, the permit authority is under no obligation to let activities run beyond the permitted period.

### **12.2 Changes to a Provisional Advance Authorisation**

A PAA cannot be varied. Where a PAA has been given though a full permit has not been issued and the proposals change, the activity promoter must inform the permit authority immediately of the proposed changes and a revised application for a PAA should be made.

### **12.3 Avoidance of Criminal Offence**

Permit variations should be sought as soon as changes are identified to avoid a criminal offence being committed by activities being undertaken without a permit or outside of the conditions associated with that permit.

## **12.4 Timing of Permit Variations**

Applications for permit variations may be made at any time after the permit has been issued and before or during the activity itself. Applications must not be made after the estimated end date has passed (no variation for an extension after the estimated end date is allowed). If the actual dates of operation or details of the activities carried out are incorrect, they must be amended and this could therefore be done after the permit end date, so that the register is accurate.

## **12.5 Electronic Application for a Permit Variation – Revised Duration (Extension)**

Where the existing permit has more than 20% of its duration or more than two activity days to run, whichever is the longer, the activity promoter shall apply for a variation electronically.

## **12.6 Telephone Application for a Permit Variation – Revised Duration (Extension)**

Where the criteria in section 12.5 is not met, the activity promoter shall first telephone the permit authority to ascertain whether the permit authority is prepared to grant a variation and only then apply, again electronically, if the permit authority has agreed.

## **12.7 Variations for Immediate Activities**

In the event of immediate activities requiring a series of fault-finding excavations or openings, the following procedure shall apply where it is necessary to undertake activities beyond the initial excavation or opening that was indicated in the first permit application. For immediate activities, the activity promoter will submit the first permit application within two hours of starting the activity. That first permit application will contain the location of the initial excavation or opening:

For any further excavations or openings on the same street within 50 metres of the original excavation or opening, the activity promoter will telephone the permit authority with the new location. No permit variation will be needed and no variation charge will apply.

- i. The activity promoter will telephone the permit authority to apply for a permit variation for the first excavation in each subsequent 50 metre band away from the original excavation or opening in the same street, i.e. 50-100 metres, 100-150 metres, etc. Permit variation charges will apply.
- ii. If the search carries into a different street or a new USRN (including if the street changes to a different street/permit authority), then a separate permit application or notice will be required.
- iii. If the activity promoter cannot contact the permit authority by telephone, it should record the fact and send the message electronically by means of a comment. Conditions for these activities may be varied to take into account the fact that a new location, even within the permitted bands, may be more disruptive.

## **12.8 Information Required for Permit Variation Application**

Applications for permit variations must contain the following information as applicable:

- i. The revised timescale.
- ii. Any change to the description of the activity.
- iii. A revised illustration.
- iv. Any change to the method of excavation.
- v. Any variation to the depth of the excavation.
- vi. Any changes to the reinstatement method.
- vii. Any changes to the conditions, if applicable.

## **12.9 Review of Permit by Permit Authority Due to Circumstances Beyond its Control**

The permit authority may review the permit and associated conditions in the event of circumstances beyond its control having a significant disruptive effect at the location of the activity. The permit authority's policy regarding the circumstances in which it will review, vary or revoke permits on its own initiative is given in Appendix B. No fee will apply for permit variations initiated by the permit authority unless, at the same time, the activity promoter applies for permit variations, which are not the result of the circumstances causing the permit authority's action.

## **12.10 Review of Permit Due to Non-Compliance by the Activity Promoter**

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may issue a FPN or revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to inform them of its intention and initiate a discussion.

## **12.11 Waiving of Fees**

If the permit authority has to revoke a permit through no fault of the activity promoter, no fee will be chargeable for a new permit.

## **12.12 Continuation of an Activity when a Permit has been Revoked**

An activity promoter will be committing an offence if it continues an activity when a permit has been revoked.

## **13 Cancellation of a Permit**

### **13.1 Cancellation Process**

If an activity promoter wishes to cancel a permit for which it has no further use, or withdraw a permit application that has been submitted, for which a permit has not yet been granted, it should use the cancellation process containing the relevant activity/works reference – see ETON Technical Specification. There is no fee payable for this process.

### **13.2 Continuing an Activity following Cancellation of a Permit**

An activity promoter will be committing an offence if it continues an activity when a permit has been cancelled.

## **14 Fees**

### **14.1 Permit Authority's Power to Charge Fees**

To meet the costs of introducing and operating the Permit Scheme, Regulation 30 gives the permit authority the power to charge a fee in respect of the following:

- i. The application for a PAA;
- ii. The granting of a permit;
- iii. Each occasion where there is a permit variation or the conditions attached;
- iv. Where a permit variation would move an activity into a higher permit category, the activity promoter will be required to pay the difference between the permit categories as well as the permit variation fee.

### **14.2 Fee Policy**

The permit authority will charge Statutory Undertakers a fee for the above actions and these are set out in the Permit Fees Matrix, Incentives & Discounts document.

### **14.3 Where Fees will not be Payable**

Fees will not be payable in the following circumstances:

- i. By the highway authority in respect of its own activities for road purposes, although records of all permits issued and the fees that could have been charged will be kept in order to assist in the review of fees, referred to in section 14.6;
- ii. Where a permit is deemed to be granted because the permit authority failed to respond to an application within the time set down in section 10.9;
- iii. If a permit variation is initiated by the permit authority or the permit authority has to revoke a permit through no fault of the activity promoter;
- iv. Where the activity promoter has sent a cancellation before the permit has been approved by the permit authority.

### **14.4 Fee Discounts**

Fee discounts and incentives are as set out in the Permit Fees Matrix, Incentives & Discounts document.

### **14.5 Option to Waive or Reduce Fees**

The permit authority retains the option to waive or reduce fees at its discretion.

### **14.6 Review of Fees**

The permit authority will review its level of fees to ensure that the overall fee income does not exceed the allowable costs. The outcome of the fee reviews will be published.

### **14.7 Processing of Fees**

Quarterly invoices will be issued to each activity promoter, with all permits referenced.

## **15 Sanctions - Permit Authority's Policy**

### **15.1 Undertaking Activities without a Permit**

It is a criminal offence for a statutory undertaker or a person contracted to act on its behalf to undertake specified activities in a specified street in the absence of a permit, except as set down in section 5.2.

### **15.2 Breaching a Permit Condition**

It is a criminal offence for a statutory undertaker or a person contracted to act on its behalf to breach a permit condition.

### **15.3 Action by Permit Authority**

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to inform them of its intention and initiate a verbal discussion followed by electronic communication.

Where a statutory undertaker or a person contracted to act on its behalf undertakes an activity without a permit, where a permit is required, or breaches a permit condition, the permit authority may take one or more of the following actions depending on the seriousness and persistence of the offence(s):

- i. Give a Fixed Penalty Notice (FPN) against the statutory undertaker;
- ii. Prosecute the statutory undertaker.

### **15.4 Fixed Penalty Notices**

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

A FPN will identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence. It will also state:

- i. the amount of the penalty and the period within which it may be paid;
- ii. the discounted amount payable in accordance with Regulation 25 and the period within which it may be paid;
- iii. the person to whom and the address at which payment may be made;
- iv. the method or methods by which payment may be made;
- v. the person to whom and the address at which any representations relating to the notice may be addressed; and
- vi. the consequences of not making a payment within the period for payment.

The person specified under (iii) shall be the permit authority or a person contracted to act on

its behalf. FPNs will be served electronically where possible, but other means of giving the fixed penalty notice are permitted.

If an undertaker wishes to receive FPNs by electronic means, it must tell the permit authority which method (e.g. EToN, email or fax) and provide details of the EToN web service URL, email address or fax number to be used as appropriate. Where an address for service using a particular method for transmitting an electronic communication has been given for receipt of FPNs and the permit authority has not been notified that the address is withdrawn, then a FPN must be given by sending to that electronic address.

In all other circumstances, including system failures or if the permit authority has tried and failed to use electronic means, the fixed penalty may be given by alternative methods such as:

- i. delivering it to the person to whom it is to be given;
- ii. leaving it at the proper address;
- ii. sending it by first class post to their address; or
- iii. by any other agreed means.

Section 98 (2) of NRSWA provides that a notice given after 16:30 on a working day is deemed to have been given on the next working day. The Technical Specification for EToN includes a non-mandatory message type for sending a FPN using EToN.

## **15.5 Withdrawal of an FPN**

In accordance with Regulation 27, if the permit authority considers that a FPN which has been given ought not to have been given, it shall give to the person to whom that notice was given, a notice withdrawing the FPN. The notice shall be in the form set out in Schedule 2 of the Regulations the permit authority in such circumstances will repay any amount which has been paid by way of a penalty in pursuance of the Fixed Penalty Notice. The permit authority shall consider any representations made by or on behalf of the recipient of a Fixed Penalty Notice and decide in all the circumstances whether to withdraw the notice.

## **15.6 Non Payment of FPN**

If the undertaker pays either the full penalty or the discounted amount within the required period, then no further proceedings can be taken against that undertaker for that offence. If the undertaker does not pay the penalty within the 36 days, then the authority may bring proceedings in the Magistrates' Court for the original offence.

Legal action must be taken before the expiry of the six months deadline from the date of the offence for bringing a case before the Magistrates' Court (Section 127 of The Magistrates' Courts Act 1980). This is the case even if the FPN was not given for sometime after the offence was committed. In circumstances where a Fixed Penalty Notice has been issued in relation to an offence, although the permit authority subsequently forms the view that it would be more appropriate to prosecute the offender, the permit authority must withdraw the notice under Regulation 27 before bringing the proceedings.

## **15.7 Application of Money by the Permit Authority**

The permit authority recognises that the FPN scheme is NOT intended to be an additional source of income for authorities, although some income may be generated incidentally. The objective of the FPN scheme is to enable permit authorities to manage and control activities better on the street and thereby contribute to the overall aim of the TMA, which is to minimise disruption from street activities, and will be operated with that in mind, the permit authority should therefore not expect any net proceeds emerging from this Permit Scheme.

## **16 Registers**

### **16.1 Register of Permits**

The Permit Scheme requires each permit authority to maintain a register of each street covered by their Permit Scheme. The register should contain information about all registerable activities on those streets and forward planning information about activities and other events, which could potentially affect users of the streets.

Permit authorities will still need a register under section 53 of NRSWA for street information. This will cover those streets that are not part of the Permit Scheme, including non-maintainable streets. A local register will be maintained by each of the street authorities for its own geographic area. It will include information on all streets other than those streets that are the responsibility of another authority. The Permit Authority will maintain a register of permits in connection with the Permit Scheme and in accordance with Regulation 33 and 34, Part 7 of the Regulations.

### **16.2 Referencing of Information**

All information held in the register of permits will be referenced to the USRN and the permit register will be Geographic Information System (GIS) based.

### **16.3 Content of Register**

The permit register must record:

- 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, including conditions attached as well as all variations to permits and conditions including any permits "deemed" granted (see section 11.9);
- 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 a street authority under section 58 or 58A of NRSWA;
- copies of all notices served by a promoter under sections 58 and 58A of NRSWA;
- copies of all notices given under section 74 of NRSWA;
- 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 (4A) 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.

Authorities should ensure that their register also includes the following items, which are contained within the ASD:

- the road category of each street;
- details of every street where early notification of immediate activities is required.

## 17 Monitoring

### 17.1 Monitoring and Evaluating the Permit Scheme

The permit authority will establish an internal monitoring group, which includes the Traffic Manager, to monitor and evaluate the Permit Scheme. This is to ensure that it demonstrates parity of treatment for all activity promoters, particularly between statutory undertakers and the highway authority's own activity promoters, and to ensure that the scheme is meeting its objectives.

To do this Key Performance Indicators (KPIs) and objective measures will be established and these are set out in the Objectives, Evaluation & Key Performance Indicators document.

**The Key Performance Indicators may change as and when they are updated by HAUC UK, so as to keep compliant with new or changes to legislation.**

## **Appendix A - Policy Statement – Circumstances in which the Permit Authority will review, vary or revoke permits on its own initiative**

Once a permit has been issued, the activity promoter should have reasonable confidence that the road space will be available for them. However, circumstances beyond the permit authority's control may occur which may cause the permit authority to review the permit and, as a result, may lead to the conclusion that the permit or its conditions need to be varied or revoked.

The permit authority's policy is to avoid making such variations other than in exceptional circumstances which could not reasonably have been predicted or where the impact is significant. Such events may include floods and other adverse weather conditions, burst mains, dangerous buildings, etc., which may result in traffic being diverted onto the road where the activity was underway or about to start.

If the consequent disruption of such events cannot be mitigated in a way other than by varying or revoking the permit, the permit authority will adopt the following procedure:

- i. As soon as the permit authority is aware that it may be necessary to vary or revoke a permit, it will contact the activity promoter to discuss the best way of dealing with the situation.
- ii. If these discussions lead to an acceptable solution for both the permit authority and the activity promoter, the activity promoter will apply for a permit variation from which the permit authority will grant the new permit. Failing that, the permit authority will issue an "Authority Imposed Variation".
- iii. In the event that agreement cannot be reached, and the permit authority believes the terms to be reasonable, then the activity promoter would have the option of invoking the dispute resolution procedure.
- iv. No fee will be charged for permit variations or the revoking of a permit where it is initiated by the permit authority unless, at the same time, the activity promoter seeks additional permit variations.

The above policy does not restrict the permit authority from revoking a permit if the activity promoter is considered to be acting unreasonably and causing unnecessary disruption to the flow of traffic or pedestrians.