Oversight and Governance
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CABINET

Supplement Pack

Monday 11 November 2019
1.00 pm
Council House, Plymouth

Members:
Councillor Evans OBE, Chair
Councillor P Smith, Vice Chair
Councillors Haydon, Coker, Dann, Lowry, Penberthy, Jon Taylor, Laing and Kate Taylor.

Please find enclosed additional information for your consideration under agenda item numbers 9, 11 and 13.

Tracey Lee
Chief Executive

Cabinet

9.	**Completed Pledges Report:**	**(Pages 1 - 8)**
11.	**Joint Arrangements: Torbay Council Children's Services (to follow):**	**(Pages 9 - 20)**
13.	**Adoption of Highways Permitting Scheme (to follow):**	**(Pages 21 - 102)**

Cabinet

Date:	11 November 2019
Title of Report:	**Completed Pledges Report – Supplementary Paper**
Lead Member:	Councillor Mark Lowry (Cabinet Member for Finance)
Lead Strategic Director:	Giles Perritt (Assistant Chief Executive)
Author:	Andrew Loton (Senior Performance Advisor)
Contact Email:	Andrew.loton@Plymouth.gov.uk
Your Reference:	P2019/11NOVS
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of Report

This report has been provided as a supplementary paper for Cabinet consideration in conjunction with the Completed Pledges Report (RefP2019/12NOV). This report gives details of a further three pledges, 46, 50 and 53 which have now been completed in addition to pledges 6, 56 and 64. This brings the total number completed to 60 out of 100.

The following "pledge on a page" overview has been prepared for each pledge:

- **Pledge 46:** Mental health care for young people is a growing crisis in our city. We will work with the NHS to expand the support available to schools and young people to tackle this crisis and fight for more Government funding to support provision of services for adults.
- **Pledge 50:** We will oppose the fragmentation of the NHS. We want to strengthen the NHS and social care system, not privatise it. We will take immediate steps to call a Health and Social Care Summit to address the crisis in provision in our city. This will include primary care concerns raised by voters about access to GPs and dentists.
- **Pledge 53:** With child and adult care providers, charities and others, we will examine the benefits and feasibility of intergenerational care facilities with care being provided on the same site bringing older and younger people together.

To see a full list of pledges completed please visit our on-line pledge board.

Recommendations and Reasons

1. Cabinet are invited to note the completion of pledges 46, 50 and 53 in addition to pledge 6, 56 and 64 in October 2019, bringing the total for completed pledges to 60.

Alternative options considered and rejected
N/A

Relevance to the Corporate Plan and/or the Plymouth Plan

The 100 Pledges and manifesto priorities continue to inform development and delivery of the Corporate Plan and therefore have been adopted by the Council as part of delivery of the Corporate Plan.

Implications for the Medium Term Financial Plan and Resource Implications:

All resource implications have been considered and incorporated within the Medium Term Financial Plan and Service Business Plans.

Carbon Footprint (Environmental) Implications:

Pledge completions complement the Council's existing policy framework with respect to the above. However, where potential environmental implications are identified from the implementation of any new activities arising from pledge delivery, assessments will be undertaken in line with the Council's policies.

Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:
** When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*

Where potential implications are identified from the implementation of any new activities arising from pledge delivery, assessments will be undertaken in line with the Council's policies.

Appendices

Ref.	Title of Appendix	**Exemption Paragraph Number** (if applicable) *If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.*						
		1	**2**	**3**	**4**	**5**	**6**	**7**
A	Completed Pledges: Pledges 46, 50 and 53							

Background papers:

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of background paper(s)	**Exemption Paragraph Number** (if applicable) *If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.*						
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Sign off:

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Originating Senior Leadership Team member: Giles Perritt

Please confirm the Strategic Director(s) has agreed the report? Yes

Date agreed: 06/11/2019

Cabinet Member signature of approval: [electronic signature (or typed name and statement of 'approved by email') on Cabinet member approval only]

Councillor Mark Lowry

Date: 06/11/2019

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CHILDREN AND YOUNG PEOPLE

Pledge 46 – Improved mental health care for children and young people

What we said we would do: Mental health care for young people is a growing crisis in our city. We will work with the NHS to expand the support available to schools and young people to tackle this crisis and fight for more Government funding to support provision of services for adults.

What we wanted to achieve: To ensure that children and young people are supported to manage their emotional and mental health, including identifying emerging need early and making sure that families feel supported.

What we have done:

- Re-commissioned the Child and adolescent mental health service in partnership with Devon CCG including provision in all secondary and special schools.
- Secured funding from health partners to continue the Emotional Health and Wellbeing in Schools services, which include online support, face to face counselling, workforce development, peer support and workshops for parents and carers.
- Plymouth has been identified as a pilot site for Mental Health Support Teams (MHST's) in schools as part of the Green Paper – Transformation Children and Young People's Mental Health Provision. This includes a range of secondary and primary schools. The project will employ mental health practitioners to work in pilot schools, covering 20 schools or 8,000 pupils.
- Continued to develop Access, our partnership approach to supporting children with additional needs. This is a partnership between Plymouth City Council
- The Integrated Care Procurement will consider how adult provision will be aligned with community services in the city
- The NHS Long Term plan for Devon includes a commitment to "equally well", so that citizens with mental health challenges can expect the same level of treatment and support as those with physical needs

What's next: Work with Livewell Southwest to consider how to improve the transition of young people with mental ill-health to adult services.

Find out more!

Here is information from one of our schools describing some of the support available for children and young people:

https://plymstockschool.org.uk/positive-mental-health-and-wellbeing/

FOR BETTER HEALTH AND SOCIAL CARE

Pledge 53 – Examine the benefits and feasibility of intergenerational care facilities

What we said we would do: With child and adult care providers, charities and others, we will examine the benefits and feasibility of intergenerational care facilities with care being provided on the same site bringing older and younger people together.

What we wanted to achieve: To bring young and old together by sharing new and old experiences with skills to benefit each other's mental and physical wellbeing.

What we have done: In September 2019, 33 Health and Wellbeing Champions (representing domiciliary care and care homes) attended training, which covered creating community and intergenerational work, which highlights the benefits of facilitating opportunities for schools to work with care homes across the city. In addition a presentation on the benefits of intergenerational work with schools was given to our Dignity in Care Home Forum in June 2019, with 82 people in attendance representing 53 care homes.

Some examples of intergenerational activity taking place in care homes include enjoying board games, dancing, crafts and singing together, events where elderly frail and younger children shared the benefits of integrational connections within the Plymouth community. In addition, *Jiminy Wickett* are providing croquet with older people at Stoke Damerel School. Our partners Livewell Southwest have also engaged in some activities, Reception class children from Salisbury Road Primary have been spending some afternoons at the Kingfisher rehabilitation unit based at Mount Gould Hospital to help patients on their road to recovery.

Feedback from care homes includes increased engagement/mood of the residents; products of work that can be displayed to brighten up the home; increased learning; and greater awareness of dementia in young people, contributing towards social inclusion – 'normalising' people living with dementia in the future generation, i.e. helping to see people living with dementia as people and helping younger people to think about who the person used to be.

Chatsworth Residential Home said: "*It has been great, the children were shy on the first visit but after that they would run in and go straight to the residents, they had no reservations. The residents love the visits from the children and engaging with them and they really loved their visit to the school and all the children in the school were brilliant with them. After each visit our residents are buzzing and talk about it for ages they really love it. We are looking forward to going back to the school again this term. After the visit to the school the residents reminisced for ages about the differences between their school days and how it is now, even the staff love it. Can't wait to get re started.*"

What's next: We will continue to promote the benefits of intergenerational work with schools to increase the number taking part in visits to local care homes and in other activities.

Find out more!

Here are some news stories about our work to deliver the pledge:

https://www.sdcc.net/news/2019-10-28-our-lovely-students-are-a-big-hit-on-their-care-home-visits

https://www.sdcc.net/news/2019-03-14-lord-mayor-joins-in-croquet-session

Image: Livewell Southwest

FOR BETTER HEALTH AND SOCIAL CARE
Pledge 50 – Call a Health and Social Care Summit

What we said we would do: We will oppose the fragmentation of the NHS. We want to strengthen the NHS and social care system, not privatise it. We will take immediate steps to call a Health and Social Care Summit to address the crisis in provision in our city. This will include primary care concerns raised by voters about access to GPs and dentists.

What we wanted to achieve: Prompted by the evident issues in accessing primary care in Plymouth (including GPs and dentists), this Pledge highlights concerns around health and social care and in particular access to GPs and dentistry. Partners have been working together to take steps to resolving these issues, and the Health and Social Care summit provides the opportunity to look back at what has been done, what this has achieved, and ask the question of what more should be done.

What we have done: We have convened a Mental Health Round Table event with key partners across the City including the Police, Healthwatch, the Voluntary Sector, Livewell Southwest and University Hospitals Plymouth where we have developed a system wide action plan and agreed to work collectively to champion mental health and wellbeing for residents in the City.

In partnership with Devon Clinical Commissioning Group we have developed and launched a Primary Care prospectus which provides a range of offers of support for General Practice in the City including funding for additional GP Fellowships, supporting GP's to return to primary care, introducing rotational nurse preceptorships, providing opportunities for flexible portfolio careers, roll out of digital technology to improve access to clinical records and an improved prescribing ordering service to support practices. The offer has been co-designed with the Western Primary Care Partnership to ensure it provides assistance for local GP's in managing existing service demands.

Regarding dentistry, we have been working with NHS England, who commission dentistry, to understand the need in Plymouth through an 'oral health needs assessment'; this produces the evidence to the commissioners that there is a need for more dentistry in Plymouth. This has led to the development of an ambition business case for a further NHS dental practice (to be run by the Peninsula Dental School), which is currently being considered by NHS England. There has also been considerable work underway through the Peninsula Dental Social Enterprise to ensure that some of the most vulnerable people in Plymouth are able to access dental services, working with Devonport House and other partners.

What's next: The next stage is the Health and Social Care Summit; this has been booked in for early February. This summit will enable the attendees to consider the specific issues facing health and social care in Plymouth, with a focus on primary care. This will be set in the national context, of widening health inequalities, stalling life expectancy and increases in infant mortality. They will hear of some of the challenges faced by the front line, as well as some of the work already underway in Plymouth which is seeking to support patients in different ways and therefore support General Practice. There will then be a workshop session which will gain the views of the attendees on what could be done differently, as well as what is working from their perspective, using the Marmot policy objectives (from 'Fair Society, Health Lives; The Marmot Review 2010) as a guide.

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Cabinet

Date of meeting:	11 November 2019
Title of Report:	**Joint Arrangement: Torbay Council Children's Services**
Lead Member:	Councillor Jemima Laing (Cabinet Member for Children and Young People)
Lead Strategic Director:	Alison Botham (Director for Childrens Services)
Author:	Alison Botham
Contact Email:	Alison.botham@plymouth.gov.uk
Your Reference:	AB/SKW
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of Report

This report:

- Updates Cabinet on the joint arrangement with Torbay for the delivery of children's services with a shared Director of Children's Services.
- Sets out the context and origins of the joint arrangement, its governance and management arrangements and improvement progress to date
- Describes the key challenges that face the joint arrangement, and options for addressing them
- Makes a recommendation based on the above
- Ref Cabinet report 29 Aug 2017
- Ref Council report 25 Sept 2017

Recommendation

That the joint arrangement for the provision of children's services between Plymouth and Torbay Councils be drawn to a close by mutual agreement with effect from the end of January 2020, in recognition of the need to revert to a full time, dedicated Director of Children's Services (DCS) in Torbay and to establish equivalent DCS capacity in Plymouth.

Reason

Three options with respect to the future of the joint arrangement were considered carefully by the Department for Education; the Leaders, Lead Members and Chief Executives of Plymouth and Torbay and the current joint Director of Children's Services. They concluded that the best option to secure the required improvements for children and young people in both places is encompassed in the recommendation above.

Alternative options considered and rejected
Two other options were considered regarding the future of the joint arrangement. The first focussed on increased joint working, continuing with a joint DCS and with additional senior management capacity. This option had the potential to drive efficiencies, improve shared learning and build workforce capacity, capability and resilience. However, there were concerns about a lack of flexibility for the joint DCS to ensure the right degree of focus on both known and unanticipated strategic priority, the potential for a slower pace of improvement and greater risk of slippage, and inequalities in experience and capacity across teams.

The second option proposed further and faster integration between children's services in the two councils, with the appointment of a dedicated transformation lead and full project team spanning both councils, with full time Deputy Director Posts in each authority. A number of difficulties were identified with this option, including the risk of diversion from key priorities in each authority, system turbulence created by such a large scale transformation potentially distracting from key improvement priorities, additional costs and issues with the availability of appropriate senior officer capacity.

Relevance to the Corporate Plan and/or the Plymouth Plan
The guiding principles for the joint arrangement, set out in the body of this report were rooted in the values of the Corporate Plan, committing all parties to openness and transparency, co-operation and mutual respect. The primary objective of the agreement – the sustained improvement of children's services – reflect the stated priorities of the plan as a Caring Council. The same values and priorities have informed the review of the arrangement and the recommendation of this report.

Implications for the Medium Term Financial Plan and Resource Implications:
The agreed principle of cost neutrality to the City Council has been applied to the joint arrangement since its inception. Provision for a full time dedicated DCS resource (and associated support services) in Plymouth will be addressed from within the resource envelope available to the Children's Services directorate.

Carbon Footprint (Environmental) Implications:
The recommendation of this report allows for greater strategic focus by the DCS on environmental implications for the city of the activities of the directorate and a closer alignment with corporate carbon reduction priorities.

Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:
** When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*
Risks were identified and reported at the inception of the joint arrangement. These risks have been actively managed through the governance structures set out in the report. The report sets out the shared acknowledgement of the capacity issues impacting the joint arrangement, and the recommendation takes account of the need to take action to mitigate these.

Appendices
**Add rows as required to box below*

Ref.	Title of Appendix	**Exemption Paragraph Number** (if applicable) *If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.*						
		1	**2**	**3**	**4**	**5**	**6**	**7**
A	Briefing report							

Background papers:

**Add rows as required to box below*

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of any background paper(s)	**Exemption Paragraph Number** (if applicable) *If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.*						
	1	**2**	**3**	**4**	**5**	**6**	**7**

Sign off:

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Originating Senior Leadership Team member: Alison Botham

Please confirm the Strategic Director(s) has agreed the report? Yes – Author of report.

Date agreed: 07/11/2019

Cabinet Member approval: *[electronic signature (or typed name and statement of 'approved by email/verbally')] Cllr Laing has received a verbal update.*

Date approved: 07/10/2019

1. Introduction

This report provides an update on the joint arrangement with Torbay Council for the delivery of Children's Services with a shared Director of Children's Services (DCS). It follows an annual stocktake meeting held early in October 2019 between both local authorities and the Department for Education.

The stocktake undertook a review of the first year of the joint arrangement between Plymouth and Torbay councils which became active when the joint DCS took up responsibility for both authorities on 6 July 2018.

This report sets out:

- the context and origins of the joint arrangement
- governance and management
- improvement
- key challenges
- options
- recommendations

The report makes recommendations about how to ensure continued and sustained impact on improved outcomes for children and young people in Plymouth and in Torbay. It is informed by work commissioned over the last few months by each Chief Executive to review and consider the senior officer capacity and structures in each Local Authority as a major factor in evaluating the current situation and future options.

2. Context and Origins

The joint arrangement between Torbay Council and Plymouth City Council was agreed following a recommendation to the Department for Education (DfE) in April 2017 by the Torbay Children's Commissioner (and Hampshire County Council Chief Executive) John Coughlan. As the Commissioner and Chief Executive of Torbay's Improvement Partner, Hampshire County Council, John Coughlan was faced with a range of options to embed a more sustainable solution to turn around many years of underperformance at Torbay. Having ruled out options such as creating a Children's Trust or moving Children's Services into the Integrated Care Organisation, he invited expressions of interest from neighbouring authorities.

His final choice was between recommending a partnering arrangement with Devon County Council or with Plymouth City Council; he opted for Plymouth. Despite being rated Requires Improvement at the time he felt that that Plymouth were on track to improve faster and had a stable and very experienced management structure in place. The partnering model was based on John Coughlan's own experience of Hampshire's support to the Isle of Wight Council over many years which had brought about sustained improvements and many other benefits.

In the spring of 2017 a programme of work was established that was overseen by a board, chaired by the then PCC Strategic Director for People (DCS designate) Carole Burgoyne.

In September 2017, Plymouth City Council agreed 'in principle' to continue to develop proposals, however this was against the backdrop of some uncertainty given that Torbay had commissioned Local Partnerships (a Local Government Association and HM Treasury owned consultancy) to review all options for ensuring the viability of Torbay's services going forward, including whether there was appetite for Local Government re-organisation with Devon County Council.

The primary reasons for Plymouth City Council pursuing the joint arrangement were around:

1. **Peer to peer sector support** – one unitary council supporting another in the region with similar challenges and characteristics. There were clear opportunities for both councils to share learning as part of their respective improvement journeys, to explore new delivery models, and an opportunity for Plymouth to demonstrate strong sub-regional leadership in a challenging and complex service area.

2. **Resilience** – to provide greater critical mass for the recruitment and retention of social workers and other specialist staff within a difficult national and regional picture for training and recruitment. It would also provide improved opportunities for joint training and career development, including potential secondments.

3. **Savings** – a number of service areas were identified as having the potential to deliver savings over time, including franchise arrangements for Quality Assurance, Professional Development, commissioning in relation to placement sufficiency and fostering, and Education. With the biggest potential for savings coming primarily from any potential for joint commissioning.

The guiding principles for the arrangement were set out in a Prospectus and were agreed by the Members and senior management of both Councils. These were:

1. The safety and wellbeing of children and young people within the administrative areas of Torbay Council and Plymouth City Council will be paramount at all times throughout the development and operation of the partnership.
2. **The primary objective will be the sustained improvement of Children's Services in Torbay and Plymouth.**
3. There will be a commitment to openness and transparency at all stages and by all parties.
4. Lines of accountability for politicians and officers will be clearly articulated and agreed at each stage to avoid ambiguity.
5. Any issues will be resolved as quickly as possible by working together in the spirit of cooperation, equality and mutual respect.
6. The development and operation of the partnership will be cost neutral to Plymouth City Council, with all costs recorded and recovered in accordance with an agreed cost recovery model.
7. All communications relating to the partnership arrangement will be agreed by both councils before being issued, including the content and timing of messages, and the channels and audiences.

These principles and the Prospectus itself then created the framework upon which the contractual arrangement was formed. It was important to have absolute clarity regarding the distinct **roles and responsibilities** of each of the bodies and individuals involved, and to note the **phased approach**

adopted, recognising that the priorities and requirements for the initial phase of the arrangement would be different from those in the later years.

The initial expectations on both Torbay and Plymouth were based on an agreed view that Plymouth would be able to support effective and sustained improvement by sharing models, through a franchise approach, for successful improvement in key areas for Children's Social Care.

Roles and responsibilities

Torbay Council
Torbay Council has the statutory accountability for Children's Services in Torbay,

Plymouth City Council
Plymouth City Council has the statutory accountability for Children's Services in Plymouth.

Joint DCS
The Joint Director of Children's Services has full operational responsibility for both Torbay and Plymouth's Children's Services, including education and social care functions. This includes decisions regarding structures and recruitment.

Improvement Partner
Hampshire County Council have the role of providing peer-to-peer improvement support around Children's Services to Torbay Council from the perspective of a high-performing local authority. This arrangement has been agreed until December 2019.

Phased Approach

The formal contract covering the arrangement was signed in April 2018, having been reviewed and approved by Plymouth and Torbay councils, the DfE, and the Children's Commissioner. The senior officer structure within Plymouth City Council was amended to accommodate both the contractual arrangement with Torbay, and other changes that were already in train. This resulted in the development of a distinct Director of Children's Services role and an appointment to this role was made in March 2018. This appointment became the shared DCS role under the joint arrangement.

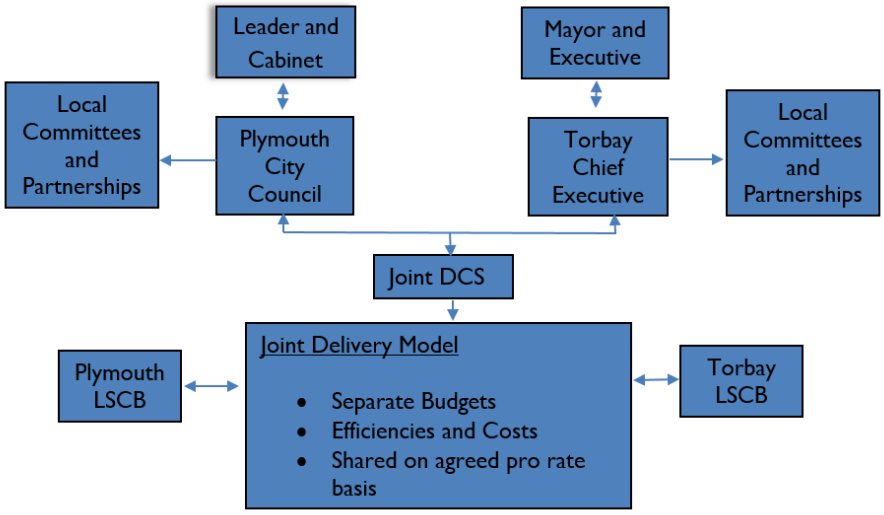
From the outset, and in line with any major joint working exercise, a planned franchise approach was developed to identify the key phases and areas of focus to deliver the long term benefits. The approach is illustrated below.

- Phase 1 - Getting the basics right
  - Prioritising the issues that have consistently been flagged as poor and which put children at risk: **Workforce capacity** (including joint workforce development); **Risk assessment and visit frequencies**; **A clear focus on the individual child and family**
  - Meeting the requirements of Corporate budgets and tackling financial challenges
- Phase 2 - Building capacity and capability
  - Developing overall consistency, quality and confidence across services, embedding effective practice models
  - Learning from improved areas of service delivery and translating that learning to other areas: service interaction; leadership and oversight; communication; information recording and performance management; multi-agency working
- Phase 3 - Achieving stability and sustainability
  - Moving to a culture of success
  - Maintaining standards, keeping an eye on the basics
  - Strong and visible political and senior leadership team ownership

The priorities for the first phase of the arrangement (up to 24 months) were about stabilising the situation within Torbay Children's Services and orientating services to focus on areas of weakness identified over many years within Ofsted judgements. Whilst progress has definitely been achieved against the objectives in the first phase, it is accepted that this progress has not been at the pace that had been anticipated, given the very challenging circumstances and with a series of unanticipated events.

3. Governance and Management

The Governance arrangements that were proposed from the outset are shown below. There have been political changes in both Councils since the original work was conducted and the details are set out in the paragraphs that follow.



Update

Local elections have taken place in each authority; in Plymouth the administration changed in May 2018 immediately prior to the point at which the Joint DCS responsibilities went live. Cross-party support for the proposed Joint Arrangement had been developed in the lead up to the arrangements going live and so the new administration was equally committed to the arrangement as the previous administration.

In Torbay the Mayoral system ended in April 2019, and in May 2019 the new administration was established. At the same time in Plymouth, while there was no change in administration as a result of May 2019's elections, there has been a change of Lead Member which has required additional short term support and orientation.

Plymouth agreed that meetings in Torbay were to be prioritised in order to establish visibility and trust. Despite some practical difficulties at times, the Leaders, and Lead Members in each Authority continue to demonstrate a strong commitment to improving Children's Services. Relationships are supportive and productive.

Regular quarterly meetings take place between the DCS and both Chief Executives. These meetings have been prioritised, and used as a constructive forum to ensure that each Chief Executive is aware of developments in both councils' Children's Services, in addition to corporate and regional issues which may impact upon them.

There has been a shared acknowledgement of the capacity issues impacting upon the joint arrangement, and on the ability of the joint DCS to maintain visible leadership with staff, members, and critically for effective strategic leadership with partners, in addition to each corporate leadership tea

4. Improvement

(i) Torbay

Improvement work in Torbay was progressed and overseen by the Children's Improvement Board chaired by the Children's Commissioner between 2016 and July 2018. It was agreed that, if possible, the appropriate handover point to the joint DCS would occur as soon as possible after the Single Inspection Framework re-inspection in Torbay. Monitoring visits had acknowledged some improvements, but the last monitoring visit in February 2018 was extremely challenging and identified significant areas of concern in relation to basic safeguarding practice.

The Torbay self-assessment to be presented back to Ofsted was developed and agreed by Torbay's Children's Improvement Board at the start of the re-inspection. This clearly articulated a view that the service was rated 'Requires Improvement'. Undoubtedly, substantial work and progress had been made in the previous two years. However, the outcome of the re-inspection was mixed and resulted in an overall judgement of 'Inadequate'. The consequence of this was continued scrutiny and a redoubling of efforts to address areas of weakness rather than being in a position to consolidate achievements and move on.

The assumption when entering into the contractual arrangement was that the service in Torbay would be rated as 'Requires Improvement'. In Torbay the judgement had an immediate negative impact on recruitment and retention at all levels of the Children's Social Care Service and this reverberated and impacted on achieving necessary improvements. Torbay continues to face significant recruitment and retention challenges. It also resulted in having to dedicate far more resources, including more calls on the joint DCS' capacity to respond to on-going monitoring and scrutiny.

The DfE have made substantial funds available to support improvement work, including additional social work capacity. This has permitted the provision of additional training for frontline staff and managers in Torbay in the agreed social work model, and the commissioning of a project team of eight additional social workers for one year, that started in April 2019. However, it is clear that the project team have not been able to deliver all that was anticipated and this team has similarly faced recruitment challenges.

In Torbay the corporate understanding and engagement with the improvement work has continued with a clear commitment to ensuring investment where appropriate, and the leadership team have worked hard to support all aspects of improvement activity. Torbay's decision to redeploy a significant element of its corporate transformation team to support the service has significantly improved the methodology and structure behind the delivery of the improvement plan.

Plymouth has begun to share with Torbay good practice in particular in relation to workforce development and commissioning. This has included: delivering joint supervision training, sharing the successful ASYE programme, and commissioning frameworks and approaches specifically in relation to increasing appropriate residential placements in area.

A Joint Safeguarding Strategic Partnership has been agreed and the proposal was submitted to the DfE in June 2019. The newly established Partnership has just been established.

Recruiting to specific posts to support improvement work has taken longer than anticipated, and this has impacted on the ability to increase the rate of improvement, as well as limiting the opportunity to consider the development of further joint arrangements.

The absence of senior leadership capacity within the service and resilience in Torbay has resulted in further management churn and sickness absences. As a consequence Torbay has created the new position of Deputy Director Children's Safeguarding (currently filled by an experienced interim).

In Torbay the education system and local authority role remain a significant area of strength, and progress and innovative practice continues to develop, with the Council taking significant steps to try to galvanise a wide range of partners to improve the outcomes for pupils within Torbay. The work conducted by the Council is valued and there is confidence that there are the necessary staff, governance systems and strategic plans to continue to impact on change within the sector. The new Local Education Board is leading the way in reducing inequality and focusing on closing the gap in attainment.

(ii) Plymouth

The Children Young People and Families Improvement Plan in Plymouth has been progressing, and there are significant areas of improvement in performance that have been achieved at pace. This includes improved short and long term placement stability, and reductions in the numbers of children subject to repeat Child Protection Plans, with work continuing in other areas.

(iii) Both Councils

A significant factor in the slower rate of achievement points to the issue of capacity at senior management level. The scale of the task and the sheer practical difficulties of being sufficiently visible in both authorities suggests that additional capacity is absolutely vital within the senior management structure in order to genuinely make further progress. This needs to be taken into account in considering any option for moving forward.

5. Key Challenges

The detail in the previous section demonstrates that despite unforeseen events and unprecedented challenges there has been demonstrable progress. However, the pace and scale of this progress has not been as originally planned.

The key challenges that have arisen above and beyond those anticipated when planning the programme and identifying the risks are around:

1. **Workforce** – delays in backfilling vacancies in both councils and increasing/maintaining capacity in the structures.
2. **Unprecedented budget challenges** in Children's Services in both councils.
3. A disappointing Ofsted assessment for Torbay in 2018 and a **slower pace of improvement for Torbay**,
4. A requirement to focus on Education in Plymouth.

1. Workforce

The time taken to recruit to crucial posts in both organisations is a significant area of concern. National challenges in recruitment are exacerbated in the Peninsula, with a reduced catchment to find appropriate high calibre staff and with stronger competition between authorities.

In Torbay agreement was made early in 2019 to increase senior leadership oversight of the improvement work, at the same time as the Corporate Transformation Team became directly involved in overseeing the improvement programme. This involved the current Assistant Director for Education taking on Strategic Improvement and partnership responsibilities, and was dependent on securing appropriate back fill to release her capacity, so that there was no negative impact on the leadership

within the education system in Torbay. Attempts to secure appropriate backfill were unsuccessful despite two different approaches.

In Plymouth, an interim Service Director for CYPFS was appointed in March 2018 to backfill the role vacated by the new DCS. Recruitment to the permanent post also began at that time, however it took 17 months to finally recruit a permanent Service Director. This delay was entirely unanticipated and resulted in a less stable management structure than was hoped for over that period.

2. Budgets

Increases in costs in both Local Authorities for Children's placements mirrors the national picture. The stretched leadership capacity however means the ability to drive through, in a sustained manner, remedial plans to meet such unprecedented challenges is problematic.

In Torbay significant investment has been made in children's services for this year, with very limited savings targets, but significant pressures have recurred mainly as a result of increased numbers of children placed in residential units, and agency staff costs. This has to be a key service and corporate focus and priority, as this has implications for the council's financial viability in the medium and longer term.

3. Slower Pace of Improvement

In Torbay, the relentless need to focus on preparation for the Ofsted monitoring regime, with an unstable senior leadership team in Children's Social Care, and ongoing recruitment and retention issues, has made operational improvement extremely challenging.

In the first six months of this year the small steps that had been taken in stabilising the Children's Social Care (CSC) leadership team were eroded by the unexpected early departure of an interim Head of Service (HOS), immediately prior to the April monitoring visit, and the resignation of both permanent HOS. Currently the Assistant Director of Safeguarding is absent due to ill-health and this may continue for several months. Suitable interim arrangements are being sought.

Positively, three of the four HOS posts in Torbay are now recruited to, and this will put Torbay in the strongest position it has been at this level in CSC for the last two years. However this is not yet impacting on achieving the necessary improvements in outcomes and practice.

4. Education

Plymouth has a priority to improve education across the city and has focussed on this over the last two years, with leadership from both politicians and the Chief Executive. There is however a need to accelerate this improvement and the leadership and visibility of the DCS with partners and key stakeholders is essential in doing this.

Conclusion

At this point in the joint arrangement it's clear that some critical decisions need to be taken in terms of the next phase. Despite some good progress so far during the first phase, the original planning assumptions have proved to be incorrect and the number and scale of challenges that have emerged subsequently are unprecedented.

This leads to the conclusion that the current arrangements cannot deliver what is required and are not viable. A series of options were considered that take into account the experience so far, the benefits, risks and costs of each option, and the requirements for success in terms of senior leadership capacity, which has proved to be an absolutely critical factor.

It is clear that for different reasons in each authority a dedicated full-time DCS is required to provide the necessary level of focused strategic leadership.

The annual review has fully considered alternative approaches to achieving the necessary level of senior officer capacity, including additional senior officer posts in each authority, and further integration at a senior and operational level.

Three options with respect to the future of the joint arrangement were considered carefully by the Department for Education; the Leaders, Lead Members and Chief Executives of Plymouth and Torbay and the current joint Director of Children's Services. They have concluded that the best option to secure the required improvements for children and young people is to revert to a dedicated full time DCS in Torbay, and for a full time DCS in Plymouth.

In order to achieve it has also been concluded that the current joint arrangement should be concluded, recognising that both local authorities, Hampshire as the improvement partner, and the DfE have done all possible to support the arrangement.

Recommendation

That the joint arrangement for the provision of children's services between Plymouth and Torbay Councils be drawn to a close by mutual agreement with effect from the end of January 2020, in recognition of the need to revert to a full time, dedicated Director of Children's Services (DCS) in Torbay and to establish equivalent DCS capacity in Plymouth.

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CABINET

Date of meeting:	11 November 2019
Title of Report:	Plymouth City Council Permit Scheme - Highways Permitting Scheme
Lead Member:	Cllr Mark Coker, Cabinet Member for Strategic planning and infrastructure
Lead Strategic Director:	Anthony Payne, Strategic Director for Place
Author:	Nikki Neale, Network Management – Highways & Traffic Management
Contact Email:	Nikki.neale@plymouth.gov.uk
Your Reference:	NN301019
Key Decision:	No
Confidentiality:	Part I

Purpose of Report

The Purpose of the report is to outline the benefits of adopting Plymouth City Council Scheme (PCCPS) and obtain agreement to proceed to statutory consultation in order to implement the PCCPS

Currently Statutory Undertakers have a right to occupy, which means Statutory Undertakers put their notices on the system & carry out their works. Under the new permitting scheme anyone wishing to carry out works on the public highway must initially apply to the City Council as Highway Authority for permission. As such the Highway Authority can refuse, approve and place conditions on each notice.

Under the permitting scheme anyone working on the public highway must display a permit board at each site, which will include information regarding the contractors and length and times of the works.

Recommendations and Reasons

It is recommended that Cabinet:

1. Agree for the Council to proceed to the statutory consultation process;

Reason : There is a statutory requirement for the Highways Authority to carry out a full consultation of stakeholders. Consultation must be for a minimum of 8 weeks giving sufficient time to adequately respond to consultees as set out in Statutory Guidance for Highways Authority Permit Schemes, Appendix B.

2. Agree that following the consultation process, any objections or comments are considered by the Cabinet Member Strategic Planning & Infrastructure and delegated authority is provided to the Head of Plymouth Highways to proceed to adopt the Plymouth City Council Permit Scheme.

Reason: In order to expedite the process and implement (if appropriate) PCCPS in line with DfT's desired timeline for adoption by 1st April 2020. The highways permitting scheme replaces the current noticing scheme and is being introduced following a directive by the DfT under the Traffic Management Act 2004.

The key objective of the Permit Scheme is to minimise delays to road users and give the City Council greater control of works being undertaken on its road network.

Alternative options considered and rejected

The alternative option is to continue under the current noticing scheme. This option is rejected as it contravenes the directive from the DfT to implement the scheme. In addition the existing noticing scheme gives less control for the Highway Authority of the network which would contravene the City Council's objective to reduce congestion and keep our City moving.

Relevance to the Corporate Plan and/or the Plymouth Plan

The proposals within this report support the Council in achieving the vision to be 'One of Europe's most vibrant waterfront cities, where an outstanding quality of life can be enjoyed by everyone'. The proposals within this report support the Councils priorities as a **Growing City** and a **Caring Council** through maintaining an efficient transport network, supporting economic growth that benefits as many people as possible and ensuring Plymouth is a welcoming city.

Implications for the Medium Term Financial Plan and Resource Implications:

The Permit Scheme is aimed at being self-financing. This includes overhead costs, including the funding of the additional staff required to administer the scheme (4 FTE) and covers all associated pensions & benefits, IT costs, management and invoicing for them.
The Permit Scheme costs and income must be kept separately from all other income. Regulators must see a clear separation between other costs & charges and an annual statement must be provided to the DfT.

The Highway Authority may not use the Permit Scheme to generate surplus revenue. Fees may only be used to cover the cost of the scheme. These fees will be reviewed annually.

The charging matrix we have selected is similar to other City Unitary Authorities.

Carbon Footprint (Environmental) Implications:

The Permit Scheme is aimed at giving the Highway Authority greater control of its highway network meaning that it is possible to reduce the amount of works during traffic sensitive times. This will reduce congestion on the network and as a by-product emissions from vehicles.

There are no perceived negative carbon implications form the implementation of the scheme

Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:
** When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*

No other implications

Appendices
**Add rows as required to box below*

Ref.	Title of Appendix	**Exemption Paragraph Number** (if applicable) *If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.*

		1	2	3	4	5	6	7
A	Plymouth Permit Scheme Draft V1							
B	Statutory Guidance for Highways Authority Permit Schemes							

Background papers:

**Add rows as required to box below*

*Please list all unpublished, background papers relevant to the decision in the table below. Background papers are **unpublished** works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.*

Title of any background paper(s)	**Exemption Paragraph Number** (if applicable) *If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.*						
	1	**2**	**3**	**4**	**5**	**6**	**7**

Sign off:

Fin	akh.19.20.160	Leg	33652/AC/5/11/19	Mon Off		HR		Assets		Strat Proc	
	Originating Senior Leadership Team member: Anthony Payne										
	Please confirm the Strategic Director(s) has agreed the report? Yes Date agreed: 31/10/2019										
	Cabinet Member approval: *Mark Coker, Cabinet Member for Strategic Planning and Infrastructure (verbally agreed)* Date approved: 30/10/2019										

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Plymouth City Council Permit Scheme

Document Information	
Date:	September 2019
Project Name:	Plymouth City Council Permit Scheme(PCCPS)
Service Area:	Plymouth City Council Highway Network
Directorate:	Place
Authors:	Nikki Neale, Network Manager. Project Lead Jeff Elliott, Scheme Consultant
SRO:	Adrian Trim
Version:	Draft

PLYMOUTH CITY COUNCIL PERMIT SCHEME

CONTENTS

1 FORWARD

1.1.1 The Plymouth City Council Permit Scheme is a Single Permit Scheme for the purposes of Part 3 of the Traffic Management Act 2004 (TMA) and the Traffic Management Permit Scheme (England) Regulations 2015.

2 INTRODUCTION TO THE PERMIT SCHEME

2.1.1 A Permit Scheme is an important development for Plymouth City Council and the surrounding area. The development of the scheme shows how the Council, working together with communities and stakeholders, expects to support and deliver the wider aims and priorities that the area has, by investing in the management of its transport network.

2.1.2 This includes coordinating essential works, supporting businesses, economic growth, getting people into work, getting children safely to school, improving air quality and protecting and enhancing our unique natural and built local environments.

2.1.3 We must maintain, manage, protect and improve the transport network because it is such a valuable asset. By making sure the network works safely and efficiently for everybody, we can also enable people to make the right transport and route choices and we want those choices to be, first and foremost, efficient, sustainable, healthy and convenient.

2.2 BACKGROUND

2.2.1 The scheme will operate in accordance with the HAUC (England) Guidance. Operation of Permit Schemes (February 2017) and the Statutory Guidance for Highways Permit Schemes (October 2015)

2.3 THE PERMIT SCHEME

2.3.1 This Permit Scheme, to be known as the **Plymouth City Council Permit Scheme (PCCPS)**, and hereinafter referred to as the 'Permit Scheme', is made under Part 3 of the TMA and the Traffic Management Permit Scheme (England) Regulations 2007, (the Regulations), and has been prepared with regard to the Statutory Guidance issued by the Secretary of State to assist Highway Authorities wishing to become Permit Authorities and in accordance with the requirements set out in the Regulations.

2.3.2 The Permit Scheme will be operated solely by Plymouth City Council as a Single Permit Scheme.

2.3.3 All current New Roads and Street Works Act (NRSWA) and Traffic Management Act (TMA) legislation, codes of practice, etc. and any future amendments to that legislation, apply to this Permit Scheme.

2.3.4 Plymouth City Council recognises the local economic benefits of nationally significant infrastructure projects, including the improved timing, coordination and delivery of works for the roll out of the Superfast Broadband project and any other significant projects in the area. We are committed to ensuring that the commencement of the Plymouth City Council Permit Scheme will not have a detrimental impact on the implementation of any such projects within, or adjacent to, the Permit Scheme area.

2.3.5 In accordance with Regulation 4 (g) it is intended that the Permit Scheme is going to start operation on 2nd March 2020.

2.4 THE PERMIT AUTHORITY

2.4.1 The Permit Scheme will be operated as a Single Permit Scheme by Plymouth City Council, as the Highway Authority for Plymouth City Council, hereinafter referred to as the 'Permit Authority'.

2.5 ACTIVITIES

2.5.1 For consistency, the generic term 'activities' has been used rather than "works" to reflect the fact that the Scheme may eventually cover more than street and road works in subsequent Regulations. These are the specified works as set out in the Regulations.

2.5.2 The term 'Promoters' will be used for both Statutory Undertakers (including Utility companies) and Plymouth City Council Highway Authority. The present 2007 Permit Regulations provide for permit schemes to include both street works by statutory undertakers, as defined in NRSWA (this excludes street works licensed under s50 of NRSWA), and highway works, defined in s83 of NRSWA as works for road purposes. Although the term "works" is used generically in the Regulations, "activities" is used in this guidance to encompass both types of works and anticipates subsequent sets of regulations which may extend the scope of permit schemes to other activities on the street.

2.5.3 Authorities preparing permit schemes must include both highway and statutory undertakers' works. All works comprising "registerable works" in terms of the 2007 Notices Regulations under NRSWA should be included.

2.5.4 A glossary of the main terms contained within this document is provided in Appendix A.

2.6 RELATIONSHIP TO NRSWA

2.6.1 Permit Schemes provide an alternative to Sections of the existing notification system of the New Roads and Street Works Act 1991 (NRSWA), whereby, instead of informing a Highway 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.

2.6.2 Under a Permit Scheme, the activities undertaken by the Highway Authority, its partners or agents are also treated in exactly the same way as a Statutory Undertaker.

2.6.3 The Permit Authority may apply conditions, attached to Permits, which impose constraints on the dates and times of activities and the way that work is carried out.

2.6.4 The Permit Authority's control over variations to Permit conditions, particularly time extensions, gives a greater incentive to complete activities on time.

2.6.5 A Highway Authority may choose to implement a Permit Scheme on all or some of the roads under its control.

2.6.6 Plymouth City Council has decided to implement a Permit Scheme on all of the streets under its control.

2.6.7 Changes to Section 58 and 58a (restrictions on works following substantial road works) and Section 74 (charges of occupation of the highway where works are unreasonably prolonged) apply only to Statutory Undertakers activities.

2.6.8 The Permit Scheme makes arrangements so that similar procedures are followed for Highway Authority Promoter activities in relation to timing and duration, in order to facilitate the operation of the Permit Scheme.

3 OBJECTIVES OF PLYMOUTH CITY COUNCIL PERMIT SCHEME

Working together to deliver a safe, efficient and sustainable highway network for everybody.

3.1.1 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.

3.1.2 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.

3.1.3 The objective of Plymouth City Council Permit Scheme is to improve the strategic and operational management of the highway network through better planning, scheduling and management of activities to minimise disruption to any road or pavement user.

3.1.4 Plymouth City Council Permit Scheme will enable better coordination of activities throughout the highway network.

3.1.5 The objectives and benefits of Plymouth City 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

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

- Enhanced coordination and cooperation
- 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

3.2 ALIGNED OBJECTIVES

3.2.1 The Permit Scheme objectives align with the strategic objectives contained within the Plymouth City Council Local Transport Plan :

- Link Communities together
- Provide high quality transport standards for a vibrant City
- Maximise the transport contribution to Plymouth's carbon reduction target
- Use Transport to drive the local economy
- Create better places

4 SCOPE OF THE PERMIT SCHEME

4.1 AREA COVERED BY THE PERMIT SCHEME

4.1.1 The Permit Scheme applies within the boundaries of Plymouth City Council.

4.2 DEFINITION OF THE TERM "STREET"

4.2.1 For the purposes of the Permit Scheme, the term "street" refers to that length of asset associated with a single Unique Street Reference Number (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.

4.3 STREETS COVERED BY THE PERMIT SCHEME

4.3.1 The Permit Scheme will apply to adopted and publicly maintainable streets identified on the National Street Gazetteer (NSG).

4.3.2 The Permit Authority will create, maintain and publish the Street Gazetteer to Level 3.

4.3.3 The Local Street Gazetteer will be maintained and updated with relevant information. The Local Street Gazetteer will be available to all Promoters via the National Street Gazetteer Concessionaire's website.

4.4 STREETS NOT COVERED BY THE PERMIT SCHEME

4.4.1 Streets that are not highways maintainable at public expense or private streets are not included in the Permit Scheme.

4.5 MOTORWAYS AND TRUNK ROADS

4.5.1 Motorways and trunk roads for which Highways England is the Highway Authority are excluded from the Permit Scheme.

4.6 STREETS TO BE ADOPTED AS A MAINTAINABLE HIGHWAY

4.6.1 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 ACTIVITIES COVERED BY THE PERMIT SCHEME

5.1 ACTIVITIES REQUIRING A PERMIT

5.1.1 The Permit Scheme controls the following activities undertaken on the public highway:

i. Street works as in Part 3 of NRSWA, as defined by s48, except for works by licensees under Section 50 of NRSWA

ii. Works for road purposes as defined by Section 86 of NRSWA – maintenance and improvement works to the road itself, carried out by, or on behalf of, the Highways Authority

iii. Major Highway Works (including Developer activities under Section 278 of the Highways Act 1980)

iv. Other activities that may be introduced under future regulations

5.1.2 The following activities defined in the Regulations as specified works are Registerable for all Promoters and information related to them has to be recorded on the register:

(a) Involve the breaking up or resurfacing any street

(b) Involve opening the carriageway or cycleway of traffic-sensitive streets at traffic-sensitive times.

(c) Reduce the lanes available on a carriageway of three or more lanes.

(d) Require a temporary traffic regulation order or notice, or the suspension of pedestrian crossing facilities.

(e) Require a reduction in the width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time

5.2 WORKS FOR ROAD PURPOSES

5.2.1 The requirements of the Permit Scheme apply equally to both works undertaken by the Highway Authority and Statutory Undertakers with the one exception, that fees will not be charged for Permits issued for the Highway Authority's own works for road purposes.

5.2.2 To demonstrate parity of treatment for all Promoters, particularly between the Highway Authority and Statutory Undertakers, Key Performance Indicators will be used.

5.2.3 Highway Authorities and Promoters of works for road purposes must ensure that they have followed the equivalent Provisional Advance Authorisation (PAA) and Permit application processes for activities.

5.3 STREET LIGHTING

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

6 EXEMPT ACTIVITIES

6.1.1 Certain types of activities are exempt from requiring a Permit.

6.2 NON REGISTERABLE ACTIVITIES

6.2.1 The following activities are non-Registerable and do not require a Permit:

1. Traffic Census Surveys

   Traffic census surveys have deliberately not been included as disclosure of this information prior to a census taking place can encourage a change to the normal pattern of traffic flows.

2. Pole testing
3. 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 done outside traffic-sensitive periods.

6.2.2 Other activities that do not require a Permit:

- Lifting or 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
- Bar holes

6.3 ACTIVITIES NOT REQUIRING A PERMIT BEFORE THEY START

6.3.1 Immediate activities do require a Permit but as such works are concerned with emergency or urgent situations, a Promoter can start work before applying for a Permit provided they apply for a Permit within 2 hours of the works commencing.

6.3.2 If the work commences out of working hours, then a Permit must be applied for by 10am the next working day.

6.4 ACTIVITIES FOR WHICH NO PERMIT IS REQUIRED

6.4.1 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 but will have to follow the normal NRSWA procedures.

7 PERMITS - GENERAL

7.1 REQUIREMENT TO OBTAIN A PERMIT

7.1.1 Any Promoter of specified activities who wishes to carry out such an activity on a specified street should obtain a Permit from the Permit Authority. The Permit will allow the Promoter to:

- Carry out the specified activity
- At the specified location
- Between the dates shown and for the duration shown
- Subject to any conditions that may be attached or required

7.2 ACTIVITIES COVERING SEVERAL STREETS

7.2.1 An application can only be for one street.

7.2.2 Where the specified activity involves a number of specified streets, a separate PAA or Permit will be required for each street.

7.2.3 Permit applications for specified activities covering more than one specified street shall be cross-referenced to all related applications.

7.2.4 Fees for specified activities which involve several Permits will be discounted where the applications are submitted together.

7.3 PHASING OF ACTIVITIES

7.3.1 One Permit can only relate to 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, for example a separate Permit would be required for interim, permanent and remedial reinstatements.

7.3.2 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 and the highway is returned to full use.

7.3.3 A Promoter must clarify when an activity is to be carried out in phases on the application. Each phase will require a separate Permit and, if a major activity involving asset activity also a PAA, which will be cross referenced to the other Permits.

7.3.4 Phased activities must relate to the same works, with applications submitted using the same works reference.

7.4 LINKED ACTIVITIES

7.4.1 Customer connections associated with the installation of a new main or cable run or the replacement or renewal of existing assets will be considered to be linked activities when the work is completed as a single occupancy of a single street. If an activity relating to the installation of customer connections is undertaken at a later date then the Promoter shall apply for a separate Permit.

7.5 INTERRUPTED ACTIVITIES

7.5.1 In the event of an activity being interrupted and delayed, for instance due to damage to a third party's plant or while missing apparatus is acquired. It is the responsibility of the Promoter to contact the Permit Authority to agree what action should be taken.

7.5.2 Where the Permit Authority is satisfied that the excavation can remain open while the repairs are implemented or the equipment obtained, then a variation will be required and an extension to the Permit will be granted.

7.5.3 However, where the Permit Authority considers that the opening should be reinstated and the road returned to full traffic use then the Promoter will need to apply for a further Permit to complete the work at a later date. A Permit fee may be charged for the new Permit.

7.6 CROSS BOUNDARY ACTIVITIES

7.6.1 Where a project with activities in more than one street straddles the boundary between the Permit Authority and an adjacent Permit Authority, separate Permit applications, including any PAA, should be submitted to both Authorities.

7.6.2 If a cross boundary project involves activities on a street of a Street Authority operating a notice system under NRSWA, then the Permit application to the Permit Authority should identify the activity in the other Authority area so that the Permit Authority can liaise with them.

7.6.3 A single project reference should be included on applications and all notices so that both Authorities can consider the impact and coordinate the activities together.

7.7 COLLABORATIVE WORKING

7.7.1 The Permit Authority encourages collaborative working between Promoters for both street works and works for road purposes. 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.

7.7.2 Where two or more Promoters decide to enter into such arrangements, one should 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 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 Promoter will need to show the number of estimated inspection units.

7.7.3 The Primary Promoter's Permit application should give details of the other Promoter(s) involved and the extent of the collaborative working.

7.7.4 The Primary Promoter should also ensure that the estimates of works duration are agreed and confirmed with the Secondary Promoter(s) when submitting the PAA and/or Permit applications. This is necessary in order to comply with the overrun charging requirements in the Permit and NRSWA Regulations.

7.7.5 While the Permit Authority will issue Permits to all the Promoters involved, not just the Primary Promoter, the fees will be discounted to reflect the collaborative approach.

7.8 REMEDIAL WORKS

7.8.1 In the event of remedial works being required after the expiry of a Permit, an application should be made for a new Permit. This Permit should be cross referenced to the Permit using the Works Reference Number for the original activity.

7.9 START AND END DATES

7.9.1 In relation to category 0, 1, 2, and traffic-sensitive streets the planned commencement date and finishing date for the activity are the start date and end dates respectively on the permit. The permit will not be valid before the start date on the permit and will cease to be valid once the end date has passed unless a variation is granted.

7.9.2 In category 3 and 4 streets that are not traffic-sensitive, the Permit will be issued with a start and end date and duration for the activity which is set as a condition. The start date of the Permit will be the proposed start date 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. The starting windows are:

- **5 DAYS FOR MAJOR AND STANDARD ACTIVITIES**
- **2 DAYS FOR MINOR ACTIVITIES.**

The Permit end date will therefore allow for the set duration to be completed if the activity starts on the last day of the starting window.

7.10 EARLY START

7.10.1 The Permit Authority will consider a Promoter's request for an early start before or after applying for a Provisional Advance Authorisation or a Permit application.

7.10.2 Where this is agreed, the Promoter shall submit a variation to a Permit, or in the case of a Provisional Advance Authorisation, include the revised dates on the application for the Permit. If the Permit has already been granted or deemed, a variation charge will apply.

7.10.3 A reference number will be issued by the Permit Authority, and should be quoted on the Permit application or Permit variation application.

7.10.4 Requests for early starts may or may not be agreed by the Permit Authority at their discretion but will not be unreasonably refused, and it is the responsibility of the Promoter to satisfy the Permit Authority as to the necessity for any proposed early start.

7.11 CHARGES FOR OVER RUNNING STREET WORKS

7.11.1 Charges for over running street works, under Section 74 of the NRSWA, will be made alongside the Permit Scheme although these regulations are modified to incorporate the process of setting and modifying the duration of the activity through the Permit application, approval and variation processes.

7.12 WORKING WITHOUT A PERMIT

7.12.1 It is an offence for a Statutory Undertaker or a person contracted to act on its behalf to undertake activities without a Permit, except to the extent that the Permit Scheme provides that this requirement does not apply.

7.12.2 Where it is believed that such an offence is being committed, the Permit Authority may issue a fixed penalty notice and require the party concerned to remove the works and return the street to full use.

8 PERMITS - TYPES

8.1 TYPES COVERED BY THE PERMIT SCHEME

8.1.1 There are two types of Permit covered by the Permit Scheme:

- Provisional Advance Authorisation (PAA)
- Permit

8.2 PROVISIONAL ADVANCE AUTHORISATION (PAA)

8.2.1 A PAA replaces the Advance Notice under Section 54 of NRSWA.

8.2.2 PAAs are a means of enabling Major activities to be identified, coordinated and programmed in advance by allowing activities to be provisionally reserved by the Permit Authority pending the Authority's subsequent decision on whether, and with what conditions, to grant a Permit for the activities.

8.2.3 A Promoter who wishes to undertake Major activities, on a specified street **must** apply for a PAA at least 3 months in advance of those activities starting on the highway, or as agreed with the Permit Authority.

8.2.4 Subsequent applications for Permits for Major activities that have not been preceded by a PAA, will not, except in exceptional circumstances, be accepted by the Permit Authority.

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

8.2.6 An application for a PAA should 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.

8.2.7 A fee will be charged for the granting of a PAA in addition to the fee which is charged for the granting of the Permit.

8.2.8 The granting of a PAA does not prevent the Permit Authority from subsequently refusing to grant a Permit to which the PAA relates. If circumstances change drastically an explanation will be provided.

8.2.9 A copy of each application for a PAA is to be provided by the applicant upon request by a relevant Authority and by any person having apparatus in the street to which the application relates.

8.3 PERMITS

8.3.1 These are full Permits with complete details of the Registerable activities on a specified street.

8.3.2 The information required to support an application for a PAA should be equivalent to, but should not exceed, that required in support of an application for a Permit.

8.3.3 The timing of Permit applications to the Permit Authority will depend on the proposed activity.

8.3.4 A copy of each application for a Permit is to be provided by the applicant upon request by a relevant Authority.

9 PERMITS - CLASSES

9.1 CLASSES COVERED BY THE PERMIT SCHEME

9.1.1 There are four classes of Permit covered by the Permit Scheme:

- Major
- Standard
- Minor
- Immediate

9.2 PERMITS FOR MAJOR ACTIVITIES

9.2.1 Major activities are those which:

- Have been identified in an organisation's annual operating programme, or if not identified in that programme, are part of a scheme which is planned or known about at least 6 months in advance of the proposed start date, but only includes activities on the affected streets and locations within that scheme that have been identified at least 6 months advance stage as likely to require Permits; or
- 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

9.2.2 Major activities are split into 3 sub-categories:

- Over 10 days and all major works requiring a traffic regulation order
- Works 4 to 10 days and meeting the requirement detailed in 9.2.1 above
- Up to 3 days and meeting the requirement detailed in 9.2.1 above

9.2.3 Major Activity Permits are required for the most significant activities on the Highway and require the Promoter to obtain a Provisional Advance Authorisation as part of the application process for a Major Activity Permit.

9.2.4 An application for a Major Activity Permit shall be submitted to the Permit Authority in accordance with the timescales given in Table 1 below and should 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 should explain the reasons for any variation.

9.2.5 Major activities will be subject to conditions.

9.3 PERMITS FOR STANDARD ACTIVITIES

9.3.1 Standard Activities are those activities that have a planned duration of between 4 and 10 days inclusive. Activities lasting less than 10 days but which require a traffic regulation order, such as a temporary road closure, will be classified as a Major Activity and will be subject to the requirements in 9.2 above.

9.3.2 An application for a Standard Activity Permit shall be submitted to the Permit Authority in accordance with the timescales given in Table 1 below and should include a description of the proposed activity together with the proposed start and end dates of the activity.

9.3.3 Standard activities will be subject to conditions.

9.4 PERMITS FOR MINOR ACTIVITIES

9.4.1 Minor Activities are those activities, where the planned working is 3 days or less. Activities lasting less than 3 days but which require a traffic regulation order, such as a temporary road closure, will be classified as a Major Activity and will be subject to the requirements in 9.2 above.

9.4.2 An application for a Minor Activity Permit shall be submitted to the Permit Authority in accordance with the timescales given in Table 1 below and should include a description of the proposed activity together with the proposed start and end dates of the activity.

9.4.3 Minor activities will be subject to conditions.

9.5 PERMITS FOR IMMEDIATE ACTIVITIES

9.5.1 Immediate Activities are either:

- Emergency works as defined in Section 52 of NRSWA; or
- Urgent 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
     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
  b) Including works that cannot reasonably be separated or severed from such works.

9.5.2 Given the nature of immediate activities, work may commence without a Permit. However, where it is necessary to carry out excavation in the Highway, Promoters of such activities should contact the Permit Authority by telephone immediately if identified on the NSG.

9.5.3 Where the activity is identified within the normal working day (i.e. after 08.00 hours and before 16.30 hours), a Permit application must be made as soon as reasonably practicable and in any event, within two hours of the activity starting.

9.5.4 If work starts outside of working hours, an application for a Permit must be submitted by 10am the next working day.

9.5.5 If the Permit Authority disputes whether an activity, or part of an activity, is immediate, the Promoter must demonstrate conclusively that it is.

9.5.6 Immediate activities will be subject to conditions.

10 PERMIT APPLICATIONS

10.1 APPLICATION TIMING AND RESPONSE TIMES

10.1.1 The timing of applications for Permits and PAAs and the Permit Authority's response will vary according to the proposed activity. The **minimum** times are given in Table 1 Section 10.6 and Promoters should give as much notice as possible to ensure that the coordination process can be facilitated effectively.

10.1.2 Where the activity is dependent on a Temporary Traffic Regulation Order (TTRO), temporary traffic signal approval, or the suspension of parking regulations, the relevant timescales should be taken into account by the Promoter, and applicants are advised to submit their requests for TTROs and/or temporary traffic signal approval when applying for a PAA.

10.1.3 The application process will begin at the time of receipt of the application by the Permit Authority. The electronic permit application system will provide an auditable record of when an application was received.

10.1.4 The Permit Scheme sets down the application and response times for dealing with Permit applications and variation applications in Table 1 below.

10.1.5 In all cases given in Table 1, the time period is measured from the time of receipt of the application by the Permit Authority.

10.1.6 A "response" means a decision to grant, refuse or request a Permit Application Modification Request.

10.2 SUBMITTING AN APPLICATION

10.2.1 Permit and PAA applications must be made electronically on the current permit system in use at the time of the application, unless there is a failure in the electronic system in which case a paper application will be acceptable and is available from the Council.

10.3 SYSTEM FAILURE

10.3.1 In the event of an electronic system failure, Promoters shall adopt the following procedure:

- Where an electronic application cannot be submitted, notification should be given by telephone, email or fax for immediate activities with formal electronic application following as soon as reasonably practicable.
- Other applications may be submitted by other electronic means, (e.g. e-mail or fax), or may be sent by post or delivered by any other method agreed with the Permit Authority
- Following recovery of the electronic system a copy of the application should be sent through electronically.
- Where applications or notices are sent by post or delivered by any other method agreed with the Permit Authority, Promoters should take into account that there is no guarantee that they will be delivered to the Permit Authority the next day
- A delivery mechanism that includes a delivery receipt is recommended

10.3.2 In regards to variations during a system failure, Promoters should also make contact with the Permit Authority by telephone.

10.4 NOTIFICATION TO INTERESTED PARTIES

10.4.1 Where the NSG indicates other interested parties, Permit applications will be copied to those parties by the Works Promoter.

10.4.2 Promoters are required to check whether any parties have registered such an interest prior to submitting an application for a Permit or PAA.

10.5 CONSULTATION REQUIREMENTS

10.5.1 Promoters must carry out the necessary consultations as set down in Sections 88, 89 and 93 (as amended) and Sections 90 and 91 of the NRSWA.

10.6 TABLE 1 – APPLICATION TIMINGS

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		Response times for responding to applications for Permit variations
	Provisional Advance Authorisation	Application		Provisional Advance Authorisation	Application	
Major	3 months	10 days	2 days or 20% of the original duration whichever is the longer	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	2 hours after		N/A	2 days	

10.7 REFUSAL OF APPLICATION

10.7.1 The Permit Authority reserves the right to refuse or request a Permit Application Modification Request for a Permit where it considers that elements of the application (e.g. timing, location or conditions) are not acceptable.

10.7.2 If the Permit Authority decides to refuse the application or request a Permit Application Modification Request, it will contact the Promoter within the response time given in Table 1 to explain why the application is not satisfactory and what amendments are needed in order to achieve a successful application.

10.8 RESTRICTIONS ON FURTHER ACTIVITIES

10.8.1 Where a Promoter wishes to apply for a Permit to carry out specified activities on a specified street where a Section 58 or 58A Notice under NRSWA is in force, and the activities are not covered by the specific exemptions of that notice, the Promoter must make an application for the Permit Authority's consent specifying the grounds on which the consent is sought.

10.9 ERROR CORRECTION

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

10.9.2 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 shall submit a Modified Application by the end of the next working day following the agreement of the correction.

10.9.3 This Modified Application should include the corrected data and the name of the person in the Permit Authority who agreed that the correction should be made.

10.9.4 The error correction process must follow the process as set out in the electronic system in use at the time of the application.

11 INFORMATION REQUIRED IN A PERMIT APPLICATION

11.1 PERMIT AUTHORITY REQUIREMENTS

11.1.1 The information required to make a permit application is described in the HAUC (England) Guidance, Operation of permit schemes (February 2017).

12 PERMIT CONDITIONS

12.1 APPLYING CONDITIONS

12.1.1 The Permit Scheme allows for the attaching of conditions to Permits. These will be specified in detail on the Permit and will reflect any constraints on the original application.

12.1.2 Not all types of conditions will necessarily be applied to all Permits or PAA's.

12.1.3 In general, conditions will be varied for each Permit, as each set of circumstances will be different.

12.1.4 The Promoter should endeavour to have a copy, either electronic or hard copy, of the current Permit on site for inspection.

12.2 CONDITIONS APPLIED TO ALL PERMITS

12.2.1 Plymouth City Council will adopt solely the nationally agreed conditions text as set out in the amended 2015 statutory guidance. Plymouth City Council will adopt any government approved changes to the condition text.

12.2.2

12.3 REQUIREMENTS FOR IMMEDIATE ACTIVITIES

12.3.1 Promoters of such activities should contact the Permit Authority by telephone immediately if identified in the NSG.

12.3.2 The Promoter shall submit an application for a Permit within two hours of beginning work. If work starts outside of working hours, an application for a Permit must be submitted by 10am the next working day.

12.3.3 The Permit Authority may impose further conditions prior to the granting of a Permit where this is required. Imposing such conditions will be in discussion with the Promoter of the activity and will be included in the subsequent Permit.

12.3.4 Once granted, the Permit reference number must be prominently displayed on the site information board for each set of works.

12.4 BREACH OF CONDITIONS

12.4.1 If the Permit Authority considers that a 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 Promoter to warn them of its intention and allow the situation to be discussed.

12.4.2 Where it appears to the Permit Authority that a condition has been breached and that the Promoter or a person contracted to act on its behalf has therefore committed an offence it will take action as described in Section 17.

12.5 AVOIDANCE OF CONFLICT WITH OTHER LEGISLATION

12.5.1 The Promoter should bring such conflicts to the attention of the Permit Authority who will then be responsible for resolving the issue with the other legislative bodies or groups that may be involved and amending the Permit conditions accordingly.

12.5.2 If the 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 condition.

12.5.3 It is a criminal offence for a Statutory Undertaker or a person contracted to act on its behalf to breach a Permit Condition.

12.5.4 Any person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

13 GRANTING OF PERMITS

13.1 TIMING OF PERMIT ISSUE

13.1.1 Where the Permit Authority is content with the proposal, it will Grant a Permit within the response times detailed in Table 1 Section 10.6, via the electronic permit application system.

13.2 ISSUING OF PERMITS

13.2.1 A Granted Permit will be issued electronically in accordance with the Prescribed Electronic Format Technical Specification.

13.2.2 The Permit will specify in detail the activity it allows and its duration. The start and end dates will be in calendar days to prevent any ambiguity over the duration of the Permit.

13.3 PERMIT REFUSAL

13.3.1 If, after careful consideration, the Permit Authority decides to refuse the PAA or Permit application, the refusal will be issued electronically and where possible using sector agreed refusal codes as approved by HAUC England. An explanation of refusal will be given and discussions with the Promoter may be held regarding amendment to the application.

13.4 RIGHT OF APPEAL

13.4.1 The Promoter has a right of appeal, in accordance with the Dispute Resolution process set down in Section 18 if it is unable to reach agreement with the Permit Authority over the terms it requested or the conditions attached.

13.4.2 In the case of immediate activities it may be that the Permit Authority may direct the work to stop, subject to safety and legal considerations, such as Health and Safety legislation, legal requirements to supply services, until the issues are resolved.

13.5 PERMIT APPLICATION DEEMED TO BE APPROVED

13.5.1 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 under the terms of the application.

13.5.2 The proposed start and end dates, description, location, duration, traffic management, etc, will be included in the Permit and associated conditions for the activity. This detail will then be binding on the Promoter as it would have had the Permit been issued within the timescale. Breaching the conditions will constitute an offence.

13.5.3 No fee will be applied to deemed Permits.

14 REVIEW, VARIATION AND REVOCATION OF PERMITS AND CONDITIONS

14.1.1 Once a Permit has been granted, the 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 Authority to review the Permit and as a result, may lead to the conclusion that the Permit or its conditions need to be changed or revoked.

14.1.2 The Permit Authority's policy is to avoid making such changes 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.

14.1.3 As soon as the Permit Authority is aware that it may be necessary to vary or revoke a Permit, it will contact the Promoter to discuss the best way of dealing with the situation.

14.2 PERMIT AUTHORITY POWERS

14.2.1 Within the Permit Scheme, the Permit Authority has the power, under Regulation 15 of the Traffic Management Permit Scheme (England) Regulations 2015, to review, vary or revoke Permits and Permit conditions on its own or a Promoter's initiative. However, the Permit Authority is under no obligation to let activities run beyond the Permitted period.

14.2.2 Any activities that exceed the agreed Permitted duration will be committing an offence and could be subject to New Roads and Street Works Act 1991 Section 74 overrun charges.

14.3 PROMOTER REVOCATION

14.3.1 If a Promoter wishes to cancel a Permit or withdraw a Permit application for which they have no further use, they should use the cancellation process in the electronic permit application system.

14.4 CHANGES TO A PROVISIONAL ADVANCE AUTHORISATION

14.4.1 A PAA cannot be varied once granted.

14.4.2 Where a PAA has been given but a Permit has not been granted and the proposals change, the Promoter should inform the Permit Authority immediately of the proposed changes and a revised application for a PAA or Permit should be made.

14.5 CHANGES TO PERMITS

14.5.1 If the Permit Authority considers a variation necessary then it should contact the Promoter to discuss the best way of dealing with the situation whilst meeting the coordination duties and other Statutory Requirements of those involved. Good coordination and cooperation between Promoter and the Permit Authority will minimise the time that the Authority needs to vary Permits or their conditions. This will be in the interests of all parties.

14.5.2 This discussion may lead to an agreement on the variation required. In that case, the Permit Authority will then grant a revised Permit on those terms when, the Promoter applies for a Variation.

14.6 AVOIDANCE OF CRIMINAL OFFENCE

14.6.1 Variations should be sought as soon as changes are identified to avoid a criminal offence being committed by work being undertaken in breach of the conditions associated with that Permit.

14.7 SUSPENDING OR POSTPONING AN ACTIVITY

14.7.1 If a Promoter would like to start an activity at a later date after a Permit has been issued, a Permit Variation will need to be applied for. There is no option to suspend or postpone an activity.

14.8 REVIEW OF PERMIT BY PERMIT AUTHORITY DUE TO CIRCUMSTANCES OUTSIDE ITS CONTROL

14.8.1 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.

14.8.2 No fee will apply for Permit Variations initiated by the Permit Authority unless, at the same time, the Promoter applies for variations which are not the result of the circumstances causing the Permit Authority's action.

14.9 TIMING OF VARIATIONS

14.9.1 Permit Variations may be made at any time after a Permit has been issued up until the end date of the Permit. Once this date has passed, applications for variations cannot be made.

14.9.2 If a variation is required, the Promoter is encouraged to telephone the Permit Authority to discuss, prior to submitting a Duration Variation Application electronically, to improve coordination.

14.10 VARIATIONS FOR IMMEDIATE ACTIVITIES

14.10.1 In the event of immediate activities requiring a series of fault finding excavations or openings, for example locating a gas leak, the following procedure shall apply where it is necessary to undertake works beyond the initial excavation or opening covered by the first application.

14.10.2 As they are immediate works, the Promoter will submit the first Permit application within two hours of starting work. That first application will contain the location of the initial excavation or opening:

i. For any further excavations or openings on the same street within 50 metres of the original hole, the Promoter is encouraged to telephone the Permit Authority with the new location. No Permit variation will be needed and no variation charge will apply

ii. The Promoter should apply for a Permit variation for the first excavation in each new 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 apply, however the Permit Authority may use their discretion to waive these charges.

iii. For additional excavations within each band, the Promoter is encouraged to telephone the Permit Authority with the new location. No Permit variation will be needed and no variation charge will apply

iv. If the search carries into a different street or a new USRN, (including if the street changes to a different Permit Authority), then a separate Permit application will be needed

14.10.3 Conditions for these activities may be varied to take into account the fact that a new location, even within the permissive bands, can be more disruptive

14.11 IF AN AGREEMENT CANNOT BE MADE

14.11.1 If agreement cannot be reached regarding a variation, the Permit Authority may issue an Authority imposed variation on the terms it considers reasonable. If the Promoter disagrees with the decision, it will have the option to invoke the dispute resolution procedure (See Section 18)

14.12 REVIEW OF PERMIT DUE TO NON-COMPLIANCE BY THE PROMOTER

14.12.1 If the Permit Authority considers that a Promoter is failing to comply with the conditions of a Permit then it may revoke the Permit or issue a Fixed Penalty Notice (FPN).

14.12.2 Before revoking a Permit, the Permit Authority will contact the Promoter to warn them of its intention and allow the situation to be discussed.

14.13 WORKING AFTER A PERMIT HAS BEEN REVOKED

14.13.1 A Promoter will be committing an offence if it continues to work after a Permit has been revoked.

15 CANCELLATION OF A PERMIT

15.1 CANCELLATION NOTICE

15.1.1 If a Promoter wishes to cancel a Permit it should use the cancellation process as set out in the electronic permit application system. There is no fee payable for this process; however Permits already granted will still be charged.

16 FEES

16.1 PERMIT AUTHORITY POWER TO CHARGE FEES

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

i. The application for a PAA in respect of Major activities

ii. The granting of a Permit

iii. Each occasion where there is a variation of a Permit or the conditions attached

iv. Where a Permit variation would move an activity into a higher category, the Promoter will be required to pay the difference between the Permit fee for the two categories as well as the Permit variation fee

16.2 FEE POLICY

16.2.1 The Permit Authority will charge Statutory Undertakers for the actions detailed in Section 16.1.

16.2.2 Fees will not be payable in the following circumstances:

i. By the Highway Authority 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. Any work undertaken on a fire hydrant.

iii. 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 10.6 above

iv. If a Permit variation is initiated by the Permit Authority or the Authority has to revoke a Permit through no fault of the Promoter

v. Where a Promoter wishes to cancel a Permit for which it has no further use, or to cancel or withdraw an application that has been submitted but for which a Permit has not yet been granted

16.2.3 Lower fees or discounted fees will be given in the following circumstances:

i. Where several Permit applications for works that are of part of the same project but which are carried out on more than one street, but on a scale comparative to one street, are submitted at the same time.

ii. Where several Promoters are working within the same site submit applications at the same time. Where the Highway Authority Promoter is collaborating with Statutory Undertakers, those Undertakers will be eligible for the discount.

iii. Where works are undertaken wholly outside of traffic sensitive times on Traffic Sensitive Streets.

iv. A discount 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 program is being undertaken to meet customer demand.

16.3 RATE OF DISCOUNT

16.3.1 A discount of **30%** will be applied in the above circumstances.

16.4 OPTION TO WAIVE OR REDUCE FEES

16.4.1 The Permit Authority retains the option to waive or reduce fees at its discretion.

16.5 REVIEW OF FEES

16.5.1 The Permit Authority will review its scale of fees annually to ensure that the overall fee income does not exceed the allowable costs.

16.5.2 The outcome of the annual fee reviews will be published and open to public scrutiny.

16.5.3 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.

16.6 APPROVED SCALE OF FEES

16.6.1 The current approved scale of fees is included in the local order for the Permit Authority to operate the Permit Scheme.

16.7 PROCESSING OF FEES

16.7.1 Monthly invoices will be issued to each Promoter with all Permits referenced.

17 SANCTIONS

17.1 UNDERTAKING ACTIVITIES WITHOUT A PERMIT

17.1.1 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 6.

17.1.2 Any person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

17.2 ACTION BY PERMIT AUTHORITY

17.2.1 Where a Statutory Undertaker or a person contracted to act on its behalf undertakes without a Permit, works for which a Permit is required, or breaches a Permit condition, the Permit Authority may take one or more of the following courses of action depending on the seriousness and persistence of the offences:

i. Serve a notice requiring that Statutory Undertaker to take such reasonable steps as detailed in the notice to remedy the situation within a specified timescale

ii. Where a Statutory Undertaker fails to comply with the requirements of such a notice within the timescale the Permit Authority may undertake the specified steps and recover the costs that are reasonably incurred from the Statutory Undertaker

iii. Issue a Fixed Penalty Notice (FPN), against the Statutory Undertaker

iv. Prosecute the Statutory Undertaker

17.2.2 Remedial action could include the removal of the activity; rectify the breach of conditions or discontinuing any obstruction.

17.2.3 In the event that the Permit Authority subsequently considers that an 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.

17.2.4 Any offences which run alongside to the Permit Scheme under NRSWA will still apply and action will be taken.

18 DISPUTE RESOLUTION

18.1 INTRODUCTION

18.1.1 Plymouth City Council Council welcomes the opportunity to informally resolve disputes before resorting to formal resolution processes

18.1.2 If disputes are not resolved informally within 14 days, they will be referred to SWHAUC or HAUC England as appropriate.

18.2 DISPUTE RESOLUTION PROCEDURE

18.2.1 If agreement cannot be reached informally on any matter arising in relation to the Plymouth City Council Permit Scheme, the dispute will be referred for review on the following basis:

Straightforward issues

18.2.2 Where Plymouth City Council Council and the Promoter(s) consider that the issues involved in the dispute are relatively straightforward, the matter will be referred to

impartial members of the regional SWHAUC (that is those not representing parties directly involved in the dispute) for review. That review should take place within ten days from the date of referral by either party. Both parties will accept the result as binding.

Complex issues

18.2.3 If by Plymouth City Council Council or 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.

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

18.2.5 The review would normally take place within ten working days from the date on which the issue is referred to HAUC England by either party. Both parties will accept the conclusions of the review panel as binding.

18.3 INDEPENDENT ADJUDICATION

18.3.1 If agreement cannot be reached by the procedure above, the dispute can be referred to independent adjudication.

18.3.2 Adjudication within Plymouth City Council Permit Scheme will only be used by Plymouth City Council and the Promoter(s) if they agree in relation to the matter under dispute, that:-

- The decision of the adjudicator will be deemed to be final; and
- The costs of adjudication will be borne equally unless the adjudicator considers that one party has presented a frivolous case, in which case costs may be awarded against them.

18.3.3 Where the adjudication route is followed, Plymouth City Council and the Promoter(s) will apply to the joint chairs of HAUC England, who will select and appoint the independent adjudicator from a suitable recognised professional body.

19 REGISTERS

19.1 REGISTER OF ALL WORKS

19.1.1 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.

19.1.2 The register will contain information about current and planned activities and will be available electronically to Promoters to assist them in planning and coordinating their own works at the earliest possible stage

19.2 REFERENCING OF INFORMATION

19.2.1 All information held in the register of all works will be referenced to the USRN and the Permit register will be Geographic Information System (GIS) based.

20 TRANSITIONAL PHASE

20.1.1 Once an Order has been made, the Authority will provide at least four weeks' notice of its intention to operate a Permit Scheme from a given date.

20.1.2 The Permit Authority will liaise closely with all Promoters during the transition period so that any issues are identified early and appropriate action taken to resolve them.

20.1.3 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.

20.1.4 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.

20.1.5 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.

20.1.6 Any Phase which started under the notices regime will continue under that regime until completed.

20.1.7 The issue of Fixed Penalty Notices (FPNs) will be suspended for the first month of operation of the Scheme to allow a settling in period.

20.1.8 This period is sufficient as much of the Permit Scheme operation is run alongside NRSWA and extensive testing of systems between the Permit Authority and Promoters will have taken place and will continue on the run up to the implementation of the Scheme

21 PERMIT SCHEME MONITORING

21.1 USE OF KEY PERFORMANCE INDICATORS

21.1.1 Parity will be measured through Key Performance Indicators (KPIs). The following KPIs are mandatory and in addition, the Permit Authority will produce an annual set of KPIs identifying the treatment of individual Promoters.

21.2 MANDATORY KPIS

KPI 1
The number of Permit and Permit variation applications received, the number granted and the number refused
This will be measured by Promoter and shown as: • the total number of Permit and Permit variation applications received, excluding any applications that are subsequently withdrawn • the number granted as a percentage of the total applications made • the number refused as a percentage of the total applications made.

KPI 2
The number of conditions applied by condition type
This will be measured by Promoter and shown as: • the number of Permits issued

- the number of conditions applied, broken down into condition types. The number of each type being shown as a percentage of the total Permits issued.

21.3 ADDITIONAL KPIS?

KPI 3
The Number of approved extensions
This will be measured by promoter and shown as: • the total number of permits issued • the number of requests for extensions shown as a percentage of permits issued • the number of agreed extensions as a percentage of extensions applied for.

KPI 4
Number of inspections carried out to monitor conditions
This will be broken down by promoter and shown as: • the number of sample permit condition checks carried out as a percentage of the number of permits issued • the percentage of sample inspections by promoter should also be shown.

21.4 PRESENTATION OF KPIS TO COORDINATION MEETINGS

21.4.1 The KPIs will be discussed at the local coordination meetings and at other meetings with Promoters. In addition, the KPIs will be made available to any other person on request or via the Authority's website.

22 APPENDIX A: DEFINITION OF TERMS

Activity	Any works undertaken by Statutory Undertakers and the Highway Authority (or their agents/contractors) and any other works that maybe covered in future regulations.
Additional Street Data	Additional Street Data (ASD) refers to other information about streets held on the NSG concessionaire's website alongside the NSG
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	If there is an unresolved disagreement between the Promoter and the Permit Authority about the terms and conditions of the Permit or PAA, the Promoter may appeal against the Permit Authority's decision to either SWHAUC or HAUC England.
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 holes	Bar holes are 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 provided 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"
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 track) over which the public have a right of way for the passage of vehicles"
Collaborative working	Includes trench sharing, multi-utility working, utility/works for road purposes situations and compliance testing.
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"
Day	A calendar day, unless explicitly stated otherwise
DfT	Department for Transport
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"
Excavation	"Breaking up" (as defined above)
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"
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"
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
HA 1980	The Highways Act 1980
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 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"
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"
Main roads	All streets in reinstatement categories 0, 1 and 2 and those streets in categories 3 and 4 which are traffic sensitive for all or part of the time
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, 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
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 tunnelling or boring under the highway"
Minor activities	• As stated in Section 9.4, minor activities are those activities other than immediate activities where the planned duration is 3 days or less.
Minor roads	h) Streets in reinstatement categories 3 and 4 which are not traffic sensitive at any time.
National grid reference	Location reference using nationally defined eastings and northings.
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 BS 7666 standard.
NRSWA	New Roads and Street Works Act 1991.
NSG Concessionaire	The body appointed to manage the NSG on behalf of the local Highway Authorities.

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.
Permit	The approval of a Permit Authority for a Promoter to carry out activity in the highway subject to conditions.
Permit application	See Section 10. 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 Coordination regime.
Permit Authority	See Section 1.4. A local Authority or other “Highway Authority” which has be given approval by the Secretary of State to operate a Permit Scheme on all or some of its road network.
Permit Scheme	See Section 1. A Scheme approved by the Secretary of State under which Permits for activities are sought and given.
Promoter	A person or organisation responsible for commissioning activities in the streets covered by the Permit Scheme. The Promoter will usually be a Statutory Undertaker or the Highway or Traffic Authority.
Protected Street	See Section 1.6. A street that has been designated as a protected street. It 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 Statutory Undertakers can place the equipment that would otherwise lawfully have been placed in the protected street.
Provisional Advance Authorisation	See Section 8.2. The early approval of activities in the highway, equivalent to the advance notice given under s 54 of NRSWA.
Registerable activities	See Section 5.1. Registerable activities are as listed in Chapter 9 of The Code of Practice for Permits.
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 Highway 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 where in any other case the street is carried or crossed by a bridge, the Bridge Authority"
Remedial work	Remedial works are those required to put right defects identified and in accordance with the provisions of the Code of Practice for Inspections and regulations.

Road	c) See "Street".
Road Categories: • Type 0 • Type 1 • Type 2 • Type 3 Type 4	Roads carrying over: • 30 to 125 msa* • 10 to 30 msa • 2.5 to 10 msa • 0.5 to 2.5 msa • Up to 0.5 msa *millions of standard axles
• Road works	See “Works for road purposes” definition below.
Special Engineering Difficulties (SED)	See Section 1.6. 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.
Specified Area	That geographical area to which the Permit Scheme applies.
Specified Street	Those streets to which the Permit Scheme applies.
SROH	New Roads and Street Works Act 1991 Specification for the Reinstatement of Openings in Highways.
Standard activities	Standard activities are those activities, other than immediate activities, that have a planned duration of between 4 and 10 days inclusive.
Statutory 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".
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; 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 if the street is not a maintainable highway, the street managers".
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 c) 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 Highway 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	b) The Traffic Management Act 2004.
Traffic	b) As defined in Section 105(1) of NRSWA, "traffic includes pedestrians and animals"
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works"
Traffic regulation order	This means an order made under Section 1, 6 or 9 of the Road Traffic Regulation Act 1984.
Traffic sensitive street	See Section 1.6. This means a street designated by a Highway 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.
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".
Temporary Traffic Regulation Order (TTRO)	This means an order made under Section 14 of the Road Traffic Regulation Act 1984 and amendments.
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 of the above or by virtue of an order or direction under Section 10 of the above or under any other enactment".
Unique Street Reference Number (USRN)	As defined in the British Standard BS7666.
Urgent activities	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 Includes activity that cannot reasonably be separated or 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	b) Street works or Works for road purposes.
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 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.
	d)

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Department for Transport

Statutory Guidance for Highway Authority Permit Schemes

October 2015

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Preface to this statutory guidance

The Department for Transport considers that well-designed, outcome-focussed, and reasonably implemented permit schemes provide the best method of managing a highway authority's road network and the works that take place in or on the public highway. The main aim of a permit scheme should be to minimise disruption to the authority's network.

Permit schemes affect everyone who uses roads in that area, but they particularly affect those who are responsible for installing and maintaining highways' and utilities' infrastructure, and their contractors. It is considered that better co-ordination of all works, and closer monitoring can be used to drive behavioural change and to ensure that disruption to local communities and road users is reduced.

This Statutory Guidance is provided to support Local Highway Authorities who are developing; varying or operating permit schemes.

1. Part 1 - Framework for permit scheme development (or variation)

Section 1: Legal framework

1.1 Highway Authority Permit Schemes were introduced by Part 3 (sections 32 to 39) of the *Traffic Management Act 2004* (TMA) and are regulated in England by the *Traffic Management Permit Scheme (England) Regulations 2007* (the 2007 regulations).

1.2 The Deregulation Act 2015 removed in England the requirement for permit schemes to be approved by the Secretary of State. It amended the TMA enabling highway authorities in England to make their own schemes and to vary or revoke existing schemes. Amendments made by the Deregulation Act 2015 and the Infrastructure Act 2015 also enable Highways England to make permit schemes in relation to highways for which it is responsible.

1.3 The 2007 Regulations have been amended by the *Traffic Management Permit Scheme (England) (Amendment) Regulations 2015* (S.I. 2015/958) (available at: http://www.legislation.gov.uk/uksi/2015/958/contents/made) to reflect changes made by the Deregulation Act 2015 and other changes to the operation of permit schemes. The amended regulations applied to all new schemes from 30 June 2015 and will apply to all existing schemes from 1 October 2015.

1.4 Under section 33(5) of the TMA highway Authorities preparing a permit scheme are also required to have regard to Statutory Guidance issued by the Secretary of State.

1.5 In this Statutory Guidance “must” has been used to refer to a statutory requirement. “Should” is used where the Department for Transport strongly recommends specific action is taken. Where “may” is used it refers to those things a highway authority will want to consider in the development of a scheme and as part of its own approval process.

1.6 In developing and operating a permit scheme authorities must comply with the TMA and the 2007 Regulations, and must have regard to this guidance.

Common elements with *New Roads and Street Works Act 1991* (NRSWA)

1.7 Where a permit schemes is in place a number of provisions of the ‘notice system’ under NRSWA are dis-applied, but in order to facilitate sound working practices, authorities preparing or varying permit schemes should use the same or equivalent definitions or requirements as are used in NRSWA notice system. The authority still has available to it a wide range of powers through other legislation such as the powers contained in: NRSWA; the TMA; the *Highways Act 1980*; and the *Road Traffic Regulation Act 1984*. It may also have powers granted by local acts, particularly in London.

1.8 There are additional duties on local authorities (Equality Act 2010), which gives disabled people a right of access to goods, facilities, services and premises.

1.9 Statutory undertakers, or those granted a street works licence (under section 50 of NRSWA), have a legal right to carry out street works. Local authority duties are balanced against the statutory obligations (or licensed conditions) of statutory undertakers. The utility companies have statutory obligations to provide a supply or service, and these are closely monitored by the utility regulators to ensure that the required level of service is maintained.

Traffic Authorities - network management duty and duties under NRSWA

1.10 Section 16 of the TMA introduced a network management duty (NMD) on traffic authorities. A permit scheme does not remove the requirements on each local highway authority to perform those duties– even where the permit scheme is operated as a joint scheme.

1.11 All scheme developers should have in mind that a permit scheme does not alter or reduce the duties to cooperate and coordinate works set out in sections 59 and 60 of NRSWA.

Legislative differences with regard to NRSWA

1.12 Permit schemes will replace parts of NRSWA - see in particular regulations 14, 36 and 37 of the 2007 Regulations.

Status of this document

1.13 This document is Statutory Guidance. This document and the Statutory Guidance issued 17 March 2015 ("*Statutory Guidance for Highway Authority Permit Schemes - Permit Scheme Conditions*") replace all previous documents. Statutory Guidance related to Permit Schemes is issued by the Secretary of State under section 33(5)(a) of the TMA.

1.14 It is expected that further guidance on the development and operation of permit schemes will be provided by The Highway Authorities and Utility Committee – HAUC (England).

Direction to vary or revoke an operational Highway Authority Permit Scheme

1.15 Although the Secretary of State no longer approves permit schemes, he retains the power to direct an authority to prepare a scheme (s33(2(b)) and to direct that a scheme is modified or revoked. Where the Secretary of State makes such a direction, or the authority seeks to cease the operation of a scheme, the authority should notify all works promoters at least four weeks in advance.

Section 2: Processes for developing or varying a Highway Authority Permit Scheme

1.16 An authority must ensure that all aspects of the proposed scheme or variation to an existing scheme comply with the 2007 regulations (as amended), before making the order giving effect to the scheme. Notice of such an order should be provided to statutory undertakers at least four weeks before the order comes into effect. Authorities may wish to consider the checklist at Annex B.

Types of permit scheme

1.17 There are two basic types of permit scheme. **Single-authority schemes** - these cover roads managed by an individual highway authority. Such an option provides the most flexibility, allowing a scheme to be designed around the specific needs of a particular area.

1.18 **Multi-authority schemes** – under s33(1)(c) a permit scheme may be developed by an authority acting together with one or more other authorities. Schemes may be managed separately by the individual authorities or managed and run centrally by an authority on behalf of a group of authorities. Such schemes should demonstrate economies of scale and be used to deliver cost efficiencies. Under s33A(2) such schemes do not have effect in the area of the participating authority unless the (each) authority gives effect to it (and any subsequent variation) by order.

Scheme objectives

1.19 Schemes can be used to help deliver a range of local authority objectives, but minimising delays to road users is expected to be the key objective of a permit scheme. During the day-to-day operation of the scheme and the assessment of permit applications, the aim of reducing disruption will be key to the process. It is recommended that scheme objectives are supported by targeted specific financial incentives, such as the application or disapplication of permit fees and fee discounts.

1.20 Although a set method will need to be followed to the approach for assessing permit applications, it is recommended that the level of scrutiny carried out is in proportion to the level of disruption that works in each type of location would cause. The question of how to minimise congestion while applying a reasonable duration and requesting specific conditions are added should be considered. For example, we would expect to see a more rigorous approach to the assessment of category 0, 1 and 2, and traffic-sensitive locations than those categorised as 3 and 4. This approach enables lower fees to be applied (or waived) in specific cases.

Extent of a permit scheme

1.21 It is most likely that schemes will apply permits to 100% of the network, with fees being waived or discounted on lower priority roads. Schemes may also choose to operate permits only across the areas largely defined by its **strategically significant streets**.

1.22 **Strategically significant streets (SSS)** are defined as including streets which have been designated as traffic sensitive in accordance with the criteria set out in regulation 16 of *The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007*, as well as streets which fall into reinstatement categories 0, 1 or 2 as defined in section S1.3 of the *Specification*

for the Reinstatement of Openings in Highways (A Code of Practice - April 2010). We would expect a greater level of scrutiny to be applied to those higher priority parts of the network. Long term planning through improved co-ordination with, and co-operation from, works promoters should also deliver benefits.

Highway Authority activities

1.23 Permit schemes must apply to a highway authority's own works in exactly the same way as other works (see regulations 6(2) and 40).

Section 3: Permit scheme essentials

Electronic Transfer of Notifications (EToN) system

1.24 Local authorities planning to introduce a permit scheme must be set up to receive applications, issue notifications and otherwise communicate electronically – see regulation 39. Schemes should comply with and use the current version of the Electronic Transfer of Notifications (EToN) protocol.

Creating and updating the National Street Gazetteer (NSG)

1.25 Authorities are required to indicate in the Additional Street Data (ASD) as part of the National Street Gazetteer which streets are subject to the permit scheme. The NSG is already used under NRSWA whereby each street has a Unique Street Reference Number (USRN).

1.26 USRNs can refer to a whole street or, if the street is long, to part of a street between significant junctions. Permit schemes should provide that a “street” refers to that length of road associated with a single USRN, i.e. to a street or part of a whole street where a street is subdivided. Each local highway authority (which will normally also be the Permit Authority, either individually or jointly with others) must create, maintain and publish street gazetteer data for all streets within their geographical area, whether or not they are the street authority for any particular street.

1.27 The specification for street gazetteers is set out in British Standard BS 7666. It is important that permit schemes make sure their street gazetteer is upgraded at least to level 3 of that standard.

1.28 Prior to introducing a permit scheme, and at regular intervals after that, the authority should carry out a thorough review of their NSG, in particular of those designated as traffic-sensitive streets. Given the requirement in the regulations (regulation 4 as amended) to evaluate schemes, it would be reasonable to review the NSG every three years. Any proposed updates identified from that process will be subject to the requirement to consult on any changes (regulation 3). Keeping this information current will ensure that cost benefit analysis also remains current.

1.29 Discounts - It is expected that schemes are used to encourage behaviours aimed at minimising disruption, and discounts are available to be used to help achieve that aim, e.g. by rewarding high levels of compliant first time reinstatements to reduce the additional disruption caused by remedial works. Planning for discounts should form part of the Business Case.

Section 4: Preparing information to introduce an order

1.30 Each authority will need to prepare information and evidence (including information from the consultation exercise) to support the decision of each Chief Executive (or similar) to bring the scheme into operation. They may wish to refer to the checklist in the Annex.

2. Part 2 - Developing a Permit Scheme

Introduction

2.1 It is essential that scheme developers involve stakeholders from the earliest stages of developing or varying a permit scheme. Engagement with stakeholders and consultation should be used to make sure the Permit Scheme is the best one possible for the area. It will also help achieve 'buy-in' from those affected, and maximise value for money.

Regulation 3. Consultation for permit schemes

2.2 There is a statutory requirement for Highway Authorities to carry out a full consultation of stakeholders. **Regulation 3** of the 2007 regulations provides details of those to be consulted. Authorities must consult those specified within **regulation 3** and any other persons the authority consider appropriate.

2.3 Consultation should be sufficiently detailed to enable an adequate response to be considered and provided. This means that where a variation is proposed the consultation should be proportionate to the nature of that variation, and that consultees should have the detail they need to make a fully-informed response.

2.4 The Secretary of State is listed as a consultee and will consider on a case by case basis whether to make representations.

Regulation 4. Procedural requirements for commencing permit schemes

2.5 There is a requirement under **regulation 4(d)** as amended by the 2015 regulations that before developing a permit scheme the authorities must consider how they propose to evaluate the scheme, so as to demonstrate whether its objectives have been met. Under **regulation 16A** authorities must evaluate their scheme every 12 months of operation for the first 3 years of operation and then every three years thereafter.

2.6 The evaluation of the scheme should cover the costs and benefits of the scheme (whether or not financial), and review the level of fees.

2.7 Under **regulation 4(2)** authorities are required to confirm in the permit scheme that they have prepared the scheme in accordance with the 2007 Regulations as amended, and regard has been given to this Guidance.

Key Performance Indicators (KPIs) for permit schemes

2.8 A set of Key Performance Indicators (KPIs) has been developed by the HAUC (England) Permit Forum (Annex A) and these may be used to help under pin scheme evaluation.

2.9 In addition authorities may wish to use their own KPIs – aligned with their objectives.

2.10 It is recommended that the KPIs are discussed at Quarterly Co-ordination Meetings and other regular meetings with promoters.

Regulation 5. Varying and revoking permit schemes at the Permit Authority's request

2.11 An authority can now vary or revoke its own scheme. Before doing so the authority must consult those identified in **regulation 3(1)**. When consulting the reasons for any variation or revocation should be explained.

2.12 Where the scheme is to be varied the consultation can be in proportion to the variation proposed. For example if, after say three years of operation it is decided that the scheme fees should be reduced, it is unlikely that a detailed consultation will be required but it is recommended that the in-depth reasons for the fee reduction will be set out in the three year evaluation.

3. Part 3 – Permit Scheme Content

Regulation 6. Specified works

3.1 This regulation requires permit schemes to set out the works or types of works which the scheme has been designed to control

3.2 No scheme can include works carried out under section 50 of the 1991 Act (street works licenses).

3.3 Specified works must include works by undertakers and the authority alike and **regulation 40** (non-discrimination) must be complied with.

Regulation 7. Specified area

3.4 **Regulation 7** requires the permit scheme to specify the area within which works' promoters will need to apply for a permit.

Regulation 8. Specified streets

3.5 **Regulation 8** requires the permit scheme to specify the streets (or types of streets) to which it applies. These streets should be specified within the NSG. A permit scheme can only be applied to roads that are maintained at the public expense.

Regulation 9. Permit scheme provision

3.6 The Permit Authority should give all promoters working in their area, or who may potentially work in their area, the name and contact details of those who will be dealing with permit applications, or the details of a fully monitored generic email account. It is suggested that this should be done through a dedicated section on their website rather than the permit scheme itself, so that it is more straightforward to amend if the details change.

3.7 **Regulation 9** states that where a permit scheme is in operation, the scheme must require, any promoter of "specified works", wishing to carry out such works to first obtain a permit from the Permit Authority unless it is a specific exception. The permit allows the promoter to:

- carry out the specified activity;
- at the specified location;
- between the dates shown and for the duration shown; and
- subject to any conditions that may be attached

3.8 **Regulation 9(2)** allows the exceptions to be defined, so that certain activities can take place without requiring a permit. To allow for activities for emergency or urgent reasons, authorities should provide for the initial stage of immediate activities to be exempted from requiring a permit, but promoters should be

required to apply for a permit within 2 hours (or by 10 a.m. on the next working day where the Authorities' contact line is not staffed out-of-hours).

3.9 The definition of “permit” in **regulation 2** indicates that a permit must contain details of the duration for which the activity is authorised. That duration may coincide with the validity of the permit, i.e. the time between the start and end dates (inclusive) on the permit. The duration may also coincide with the “reasonable period” for the purposes of section 74 of NRSWA but, again, does not necessarily do so. .

3.10 Under **regulation 9(4)** permit schemes must require each application for a permit to be limited to a single street. For consistency with NRSWA, permit schemes should provide that a “street” relates to a single USRN. This means that, where a single street has more than one USRN, separate permits would be needed for each USRN where the activity will take place. Permit schemes should also provide that where activities are carried out in more than one phase (e.g. separate interim and permanent reinstatements) each phase will need a separate permit.

3.11 Permits will only be valid from the start date to the end date of the permit. The start and end dates should be in calendar days, even though many aspects of permit schemes will operate in working days. This should eliminate ambiguity about whether the permit is valid or not, even at weekends or on Bank Holidays. That will be important for the operation and enforcement of a permit scheme.

3.12 For consistency, Permit Authorities should design their schemes so that:

- for category* 0, 1, 2, and traffic-sensitive streets, the planned commencement date and finishing date for the activity are the start date and end dates respectively on the permit. The permit will not be valid before the start date on the permit and will cease to be valid once the end date has passed;
- on category* 3 and 4 streets that are not traffic-sensitive, permit start and end dates should allow for flexibility in the start of the activity but once the activity is started it must be completed within the duration period specified in the permit. The starting date will be the planned start date for the activity but the end date must allow for the activity starting on the last day of the starting window, noting that the last day of the starting window would then be day 1 of the activity duration. If the permit allows working at weekends or on bank holidays, then the permit start and end dates should accommodate that.

  * As defined in the *Specification for the Reinstatement of Openings in Highways (A Code of Practice - April 2010)*

3.13 **Regulation 9(7)** provides for different classes of permit. As previously mentioned the intention is for these classes to mirror the approach under the notice system, so four classes of permits should apply reflecting the work categories in the notice system.

3.14 In line with **regulation 9(9)**, Permit Authorities must ensure that their schemes require promoters applying for permits or provisional advance authorisations to copy their applications to an enquirer (usually an authority or undertaker) that has requested to see notices or permit applications on certain streets. **Regulation 37(7)** imposes the equivalent requirement (through modifying the application of section 93 of NRSWA) for copying such an application to the relevant transport authority for activities in the vicinity of a level crossing and tram ways.

3.15 **Regulation 9(10)** requires that the permit scheme sets out the grounds for refusing a permit. It is expected that reasons for permit refusal will be considered with works' promoters in appropriate meetings and on-going scheme evaluation.

3.16 **Regulation 9(11)** requires that a local authority must issue a permit where the permit application meets the requirements of the permit scheme. This ensures that once a works promoter has met all the requirements for a permit, and the authority has no 'co-ordination' issues with the works taking place, they must issue the permit for works to take place.

Permits for Major Activities

3.17 Major Activities are those 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, require a temporary traffic regulation order (i.e. not a temporary traffic notice) under the *Road Traffic Regulation Act 1984* for any other activities; or
- other than immediate activities, have a duration of 11 working days or more.
- Major Activity Permits are usually required for the most significant activities on the highway, as Permit Authorities will generally need the most advance notice in for such activities. This is why it is expected that Permit Authorities will choose to incorporate the requirement to obtain a **provisional advance authorisation (PAA)** as part of the application process for a Major Activity Permit. This should incorporate a minimum of three months advance notice of the proposed activity, to enable appropriate planning and co-ordination. The application for a **PAA** should include a description of the proposed activity and the proposed start and end dates.

3.18 The promoter should be required to provide the final detailed information in support of its application for a permit nearer the time of the proposed start of the activity - at least 10 working days before the activity is due to commence. Such information will need to include the proposed start and end dates for the activity, which may differ from those in the provisional advance authorisation application, and if so, the applicant should be required to explain the change in their application.

Permit for Standard Activities

3.19 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 will be classified as major activities if they require a temporary traffic regulation order, e.g. to close a street or to prevent vehicles from turning left or right.)

3.20 When the promoter of the activity applies for this class of permit it should do so at least 10 working days before the activity is due to commence. Such an application should include a description of the proposed activity and the proposed start and end dates.

Permit for Minor Activities

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

3.22 The promoter of the minor activity should be required to apply for a permit at least 3 working days before the proposed start of the activity. The application should include a description of the proposed activity and the proposed start and end dates.

Permit for Immediate Activities

3.23 Immediate Activities comprise:

- Emergency works as defined in section 52 of NRSWA; and
- Activities (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; including works that cannot reasonably be severed from such works.

3.24 These are the equivalent of “urgent works” as defined in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.

3.25 Promoters of immediate activities should be required to apply for a permit within two hours of the activity starting (or by 10 a.m. on the next working day where the Authorities' contact line is not staffed out-of-hours). As mentioned above, the permit scheme should provide that activities of this nature may proceed without a permit, given their emergency or urgent nature. However, Permit Authorities should consider making such activities subject to conditions (this is specifically provided for in **regulation 13**).

3.26 The permit conditions imposed will depend on the specific activity to which the permit relates, but must be of a type specified in **regulation 10(2)** and use the wording and numbering set out in the *Statutory Guidance for Highway Authority Permit Schemes - Permit Scheme Conditions* issued March 2015, which can be viewed at: www.gov.uk/government/publications

Description of activity

3.27 Permit schemes should require applications to include a sufficiently detailed description of the activities to be provided to allow the street authority to assess the likely impact of the activity.

Location

3.28 Permit schemes should require promoters to include an accurate location in their application based on National Grid References (NGRs), one in the centre of the excavation for small excavations, and the provision of sufficient points to clearly identify trenches. These NSGs should be provided together with the dimensions of the space taken up by all the activities in the street. That space needs to cover all the area used by the activity, including for storage of materials, working space, safety zone, provision for pedestrians and traffic management.

Timing and duration

3.29 Permit schemes should require each application for a permit to include proposed start and end dates, and to indicate whether the permit should allow for work at weekends and on Bank Holidays (where applicable). It is also suggested that details of the times of day the activity is to be carried out should be required, including any proposal to work at night.

3.30 Permit schemes should require the applicant to provide an illustration of the works (including plans, digital photographs etc.) where appropriate. Such a requirement places an added burden on the works' promoter, so should only be applied where it will provide additional necessary information. This may not only apply to major activities, as a small short duration excavation at a critical junction may be very disruptive. This should include details of the nature of the works, whether they are likely to affect more than one lane of the street. A numerical measure of estimated disruption may also be required if available.

Technique to be used for underground activities

3.31 Permit schemes should require applicants to supply details of the planned techniques to be used, such as open cut, trench share, minimum dig technique or no dig.

Traffic management and Traffic Regulation Orders

3.32 Permit schemes should require applicants to supply details of their traffic management proposals, including any requirement for action by the local authority, such as the need for Traffic Regulation Orders (TROs), lifting of parking restrictions and approval for portable light signals. It may be worth making it clear that TROs have to be applied for in the usual way and to the usual timescales, so that applicants do not think that an application for a permit automatically incorporates an application for associated TROs, or that the timescales applicable to permits apply also to the TRO process.

Depth

3.33 Permit schemes should require that activity promoters provide their best estimate of the excavation depth as part of the application. While this might be expressed as a range, it should nonetheless provide a meaningful indication of the nature and extent of activity involved.

Reinstatement type

3.34 Permit schemes should require applicants to indicate whether the activity is intended to be completed with interim or permanent reinstatement. Permanent reinstatements should be encouraged, and the Permit Authority may consider offering a discount by way of an incentive.

Inspection units

3.35 Permit schemes should require applications to include the estimated number of inspection units for the activity, in accordance with the current regulations and guidance.

Contact person

3.36 Permit schemes should require all applications to include the contact details of the person who will deal with any problems that may occur during the activity, including provision for out of hours contact by the promoter.

Issuing permits

3.37 The permit scheme should provide that a permit is issued to the promoter for every permit that is granted. The permit should be sent to the promoter electronically through the EToN system. The issued permit should contain all the conditions attached to the permit so that there is no ambiguity about the validity and terms of the permit. The permit must also be placed on the permit register and copied to any undertaker, authority or other relevant body that has asked to be informed about activities on a particular street.

Regulation 10. Conditions attached to permits

3.38 **Regulation 10** requires that a permit scheme must include provision allowing for conditions to be attached to permits. Where conditions are attached to permits they must be of a type specified in **regulation 10(2)**, and use the wording and numbering set out in the *Statutory Guidance for Highway Authority Permit Schemes - Permit Scheme Conditions* - issued March 2015. Authorities may not impose any additional conditions not covered by the Statutory Guidance when granting a permit.

3.39 Where the wording enables discretion (for times etc.) these should be reasonable; deliverable and aimed at effective network management; and the effective monitoring and management of activities. Conditions should be applied following due consideration only where they contribute to meeting the scheme objectives.

Conflict with other legislation and legal liability

3.40 Permit authorities must ensure that no requirement within a permit condition conflicts with the activity promoter's statutory obligations.

3.41 It is a requirement of **regulation 10(6)** that the wording of all conditions must conform to the text set out in the Statutory Guidance – Permit Scheme Conditions. Only those conditions, that numbering and that text may be used.

3.42 The condition text has been developed with the Highway Authorities and Utilities Committee (England).

3.43 From time to time HAUC (England) may suggest changes to the conditions, after completion of its consultation processes. After due consideration the Department may make the suggested changes by updating the Statutory Guidance – Permit Scheme Conditions. Alternatively, the Department may itself wish to make changes, which it will consult on.

3.44 The Permit Authority may in certain circumstances wish to vary or impose other conditions for a permit that has already been granted (see **regulation 15**), having regard to the potential of that activity to cause disruption on its network. Such changes must still conform to the condition text in Statutory Guidance – Permit Scheme Conditions. Unless in exceptional circumstances, the authority should first discuss with the works promoter.

3.45 To ensure that works are carried out to comply with the permit conditions, works promoters should ensure that site operatives are made aware of the conditions and of the Traffic Management agreements that are in place.

Regulation 11. Provisional advance authorisations

3.46 A permit scheme may include provision requiring a provisional advance authorisation to be obtained in certain cases.

3.47 A Provisional Advance Authorisation lets the promoter know that the proposed activity is approved and enables him to provisionally reserve occupation of the highway. However, as it may be difficult to be certain of the start date three months before the event, the proposed start date is regarded as provisional and may be amended in the application for a final permit.

3.48 An application for a Provisional Advance Authorisation should include the following: -

- location of activity;
- proposed start and end dates;
- an outline description;
- times of working, including hours of the day and any weekend provisions;
- the road space occupancy;
- method of working; and
- traffic management (which may include conditions).

Permit application for Major Activities

3.49 The promoter should apply for a Permit at least ten days before the activity is due to commence, as set out in the table at 11.3. This application will need to include the proposed start and end dates. If these are different from those in the Provisional Advance Authorisation, the application should explain the reasons for the change.

Regulation 12. Permit reference numbers

3.50 Under **regulation 12**, all permits must be given a unique reference number, so as to provide a quick means of cross-referencing and assist in the compilation of the register. EToN numbering conventions should be followed when determining reference numbers, under which variations to permits are denoted by the use of the same unique reference with a suffix.

3.51 Permit Authorities should cross references any linked permits. A condition requires the permit reference number to be prominently displayed on the site of each set of works.

Regulation 13. Conditions on immediate works prior to obtaining a permit

3.52 **Regulation 13** allows permit schemes to impose National conditions on activities for which the scheme does not require a permit to be obtained before works are begun. In practice this means an immediate activity can commence before a permit is issued.

3.53 Permit Authorities should ensure that their schemes enable them to link immediate activities and the conditions attached to them prior to a permit being issued.

Regulation 14. Criteria to be taken into account by Permit Authority

3.54 This regulation applies to works where a notice under section 58(1) of the 1991 Act has been issued (restriction of works following substantial road works) in respect of a specified street, and an application for a permit or a provisional

advance authorisation is made in respect of works to be carried out during the prescribed period.

3.55 The regulation sets out the criteria an authority should have regard to when considering such applications. Both authorities and utilities should have in mind **regulation 37** (modification of enactments) as it relates to s58 of the 1991 Act and the application of this regulation.

Regulation 15. Review, variation and revocation of permits and permit conditions

3.56 **Regulation 15** provides that permit schemes must include provision for the permit authority to vary or revoke permits and permit conditions.

3.57 This is important as it allows the Permit Authority to actively manage activities on the network in the light of changing circumstances. Variations can take place at any time after the permit has been issued and before or during the activity itself, but must be done before the permit end date has passed. The permit scheme must set out clearly how applications for variations to permits must be made in accordance with the latest version of EToN.

3.58 A provisional advance authorisation cannot be varied. Permit schemes should be designed so that in circumstances where a PAA has been given but a full permit not yet been issued, the Permit Authority should be informed of any proposed changes and a revised application for PAA.

3.59 **Regulation 15(3)** provides that the Permit Scheme must include a statement of the Permit Authority's policy as to the circumstances in which it will review, vary or revoke permits on its own initiative.

3.60 The policy statement should include an explanation of the procedures which will apply when the Permit Authority decides to initiate a change. Advance consultation with the permit holder affected will be appropriate in most cases, and wherever possible changes should be agreed with them. Under **regulation 31(2)** no fee may be charged for variations initiated by the Permit Authority.

Regulation 16. Time limits on Permit Authority

Timing of applications and Permit Authority response

3.61 While it is crucial that applications for permits and variations are made in a timely manner, it is equally essential that Permit Authorities are proactive in responding to permit applications. **Regulation 16** requires time limits to be set out in a permit scheme committing the Permit Authority to respond to applications within set periods.

3.62 For reasons of consistency, schemes should use the time periods as set out in the following table. It should be noted that this includes timings for the application for a permit.

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		Response times for responding to applications for permit variations
	Provisional Advance Authorisation	Application		Provisional Advance Authorisation	Application	
Major	3 months	10 days	2 days or 20% of the original duration whichever is the longer	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	2 hours after		N/a	2 days	

3.63 **Regulation 30(7)** provides that where a permit is granted but subsequently revoked by the Permit Authority prior to commencement of the specified works, the permit Authority must refund in full the permit fee, where the revocation is no fault of the permit holder.

Evaluation of permit scheme

3.64 A scheme must contain information on how the Permit Authority will evaluate that scheme. **Regulation 16A** prescribes how this evaluation will take place. As a minimum, schemes must evaluate the scheme after every 12 months of operation for the first three years and then every three years.

3.65 This evaluation must include (**regulation 16A(2)**) consideration of whether the fee structure needs to be updated in light of any scheme surplus or deficit as well as the costs and benefits of operating the permit scheme. Each scheme should also state the schemes objectives and reported on how these and the cost/benefits are being achieved. Evaluation may also consider whether the scheme is meeting the Key Performance Indicators set out in Annex A.

3.66 Each scheme evaluation must be made available to stakeholders (those consulted at the scheme development stage, as set out in **Regulation 3**) within three months of the date on which the evaluation was due.

4. Part 4 - Notification

Regulation 17. Notification of permit scheme

4.1 The authority gives effect to a scheme (or a variation to an existing scheme) by making an order.

4.2 The authority must notify those set out in **regulation 3(1)** that the order has been made and provide them with a copy of the order and scheme at least four weeks before the scheme is to come into effect. .

4.3 Provision of the information to stakeholders should be in a suitable format and conform to the council's own policy on communication with stakeholders should be followed.

4.4 Section 36(2) of the TMA allows the Secretary of State to direct an authority to vary or revoke a scheme. Under **regulation 17(2)**, where such a direction is made, the authority must notify those persons set out in **regulation 3(1)** that such a direction has been made at least four weeks before the variation or revocation comes into effect.

4.5 A direction may be given where there is evidence that a scheme is failing. A direction may require all authorities to vary their schemes where there is evidence that this would be an advantage to the management of the highway network as a whole.

5. Part 5 – Sanctions

Introduction

5.1 The Regulations provide Permit Authorities with sanctions which they may use to achieve compliance with their schemes. Permit Authorities should prepare a statement to indicate how the sanctions will be used.

5.2 There are two offences relating to permit schemes – working without a required permit (**regulation 19**) and breaching a permit condition (**regulation 20**). These offences can be dealt with by a Fixed Penalty Notice (FPN), although prosecution through the Magistrates' Courts remains an option for permit authorities. Authorities and utilities are encouraged to resolve issues locally, or through the HAUC (England) mediation procedure, using court action only as a last resort.

Use of permit scheme Fixed Penalty Notices

5.3 The following points should help clarify the purpose for which those offences are intended.

5.4 **Time Periods** - Time periods (unless otherwise stated) are in days.

5.5 **Time limits** – an FPN may not be given more than 91 calendar days after the offence, beginning with the day on which the offence is committed.

5.6 **Payment** - 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.

5.7 **Non-payment** - if the undertaker does not pay the penalty within 36 days then the authority may bring proceedings in the Magistrates' Court for the original offence. Under section 127 of the *Magistrates' Court Act 1980* a permit authority must bring the case within six months of the commission of the offence. This should provide sufficient time for authorities to prepare their case and take legal action even if the FPN was not given for some time after the offence was committed.

5.8 **Application of Money by the Authority** - **Regulation 28** states that the permit authority may deduct costs of operating the FPN scheme from the fixed penalties received under section 37 (6) of the TMA. The authority must then apply the net proceeds to promoting and encouraging safe, integrated, efficient and economic transport facilities and services to, from and within the area covered by the scheme.

5.9 Authorities should be able to demonstrate that the costs of running the FPN scheme are reasonable and that the net proceeds after deducting these costs are being correctly applied. Although separate accounts do not have to be kept for the FPN scheme, it should be possible to follow the audit trail to check income and expenditure for this scheme.

5.10 The introduction of a FPN scheme is intended to drive improvements, and is NOT intended to be an additional source of income for authorities, although some

income may be generated. **The authority should therefore not expect or set income targets for any net proceeds emerging from this scheme**.

Regulation 18. Action which may be taken for unauthorised works

5.11 **Regulation 18(1)** enables Permit Authorities to issue notices in respect of non-compliance requiring remedial action which must be undertaken within the timeframe set in the notice.

5.12 **Regulation 18(3)** provides that where an undertaker has not taken the remedial action required within the timeframe, the Permit Authority may take such steps as it considers appropriate, at the cost of the undertaker.

Regulation 19. Offence to undertake works without a required permit

5.13 This regulation makes it a criminal offence for an undertaker, or someone acting on its behalf, to undertake works without a permit. The offence carries a **maximum** fine of level 5 on the standard scale, but may also be discharged by fixed penalty. **Regulation 19** only applies where a specific 'work', has been commenced without a permit except to the extent that a permit scheme provides that this requirement does not apply (for example for immediate works where the 2 hour rule applies).

5.14 The offence under **regulation 19** does not apply where a valid permit has been obtained for the works, but they continue beyond the permitted duration. In such circumstances the undertaker may have committed an offence of breaching a permit condition under **regulation 20**.

5.15 Where an offence is committed under **regulation 19**, it would not be appropriate to impose "over-run" charges on the undertaker under the *Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009* (as amended). This is because there can be no overrun of a non-existent permit.

Regulation 20. Offence to breach a permit condition

5.16 This regulation makes it a criminal offence for an undertaker or someone acting on its behalf to undertake works in breach of a permit condition. The only conditions that a Permit Authority can apply to a permit are those set out in the Statutory Guidance (first published 17 March 2015).

5.17 This offence carries a maximum fine of level 4 on the standard scale but may also be discharged by fixed penalty.

5.18 The undertaker may also be liable to pay an "over-run" charge to the permit authority under the *Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009* (as amended).

5.19 An offence under **regulation 20** is intended to be a single offence. In other words it may only be committed once in relation to each permit condition breached.

5.20 When applying penalties for these offences, authorities should be mindful that the purpose of **regulations 19 and 20** is to drive improved behaviour and ensure that the occupation of the highway is as short, and causes the least disruption, as possible.

Regulations 21 to 28

5.21 **Regulations 21 to 28** (and the Schedules set out in the regulations) allow Permit Authorities to issue Fixed Penalty Notices in respect of the criminal offences.

5.22 Fixed Penalty Notices offer the offender an opportunity to discharge liability for an offence by paying a penalty and **regulation 25** provides for a discount for early payment. The penalty amount is £500 for working without a permit, but a discounted amount of £300 is available if payment is made within 29 days. For working in breach of a condition the penalty is £120 and the discounted amount £80.

5.23 Where a Fixed Penalty Notice has been issued for an offence, but the Permit Authority forms the view that it would be more appropriate to prosecute the offender, the Authority must withdraw the Notice under **regulation 27** before bringing the proceedings. Once the Fixed Penalty Notice has been paid, however, no prosecution in relation to the offence can be brought.

6. Part 6 – Fees

Introduction

6.1 Permit Authorities may charge fees in relation to the issuing of permits and must justify those fee levels. The fee levels should be available to those consulted under **regulation 3** and may not exceed those set out in **regulation 29**.

6.2 *The Traffic Management Act*, section 37(7), allows charging for the work resulting in the issuing of permits (and variations to permits). However, Permit Authorities may not use their permit schemes to generate surplus revenue, only to cover costs.

Regulation 29. Prescribed costs

6.3 The regulation sets out the costs which fees may recover.

6.4 **Regulations 30 to 32** cover fees that can be recovered within a permit scheme, setting the maximum amount that can be charged for a single permit, when they are payable and when not, discounts and the use of the income.

6.5 The income from fees must not exceed the total allowable costs prescribed in the permit regulations. This balance can be achieved over several years. Allowable costs are limited to: the proportion of direct costs and overheads attributable to operating the scheme for undertakers, which are over and above the cost of the authority's co-ordination duty under NRSWA. This may include the costs related to permits which may not always lead to a permit being granted. Overheads can include: non-salary staff-related costs such as pensions and benefits, proportionate allocation of accommodation, central services and IT costs, as well as general administration and management for monitoring the permit system, KPIs and invoicing.

6.6 In the event that fees and costs do not match the actual outturn for any year adjustments should be considered. Transparent information on this should be provided to all stakeholders as part of the published evaluation of the scheme. It is essential that, at least over a three year period fees do not exceed the allowable costs, also that fees must not exceed the proportion of costs for operating the permit scheme incurred in relation to statutory undertakers.

6.7 Regulations must be complied with and due regard must be given to this statutory guidance when developing a scheme's fee structure and considering which costs can be included.

Regulation 30. Power to charge a fee and discounts.

6.8 A highway authorities is not required to charge a fee for its own works, but it can use a shadow charging arrangement to show the cost of issuing permits to its own works promoters both to help understand its own costs, and to set those alongside the costs to other promoters.

6.9 The fees are structured to reflect the greater work involved in handling larger activities and busier roads. **See Table at 6.24**

6.10 The permit scheme must include provision as to the circumstances in which fees may be discounted. This should cover discounts where applications for a number of permits are submitted together and form a wider project, and where under-takers collaborate to carry out their works in the same location simultaneously.

6.11 All schemes must provide for a discount for works on traffic-sensitive streets undertaken wholly outside of traffic-sensitive times.

Maximum fees

6.12 The regulations set maximum fees that Permit Authorities may charge. These are set out in **regulation 30(4), (5) and (6)**.

Recommended fees

6.13 The Department recommends that authorities set fees within the limits set out in the fees table in respect of each class of permit.

6.14 Where a permit variation would move an activity into higher category, the permit scheme should require the promoter to pay the difference between the permit fee for the two categories as well as the permit variation fee.

6.15 These fee levels are intended as maximum fee levels, and it may be appropriate for lower fees to be set.

Discounts from permit fees

6.16 **Regulation 30(1A)** requires that where a Permit Authority is an Approved Authority for 'Lane Rental' under the *Street Works (Charges for Occupation of the Highway) England Regulations 2012*, permit fees may not be charged as well as Lane Rental charges.

Regulation 31. Savings from the payment of fees and discounts

6.17 **Regulations 31(1), 31(2) and 31(3)** prescribe circumstances when no fee is payable or a fee discount applies. In addition, there may be circumstances where through no action, failing or fault on the part of the promoter, the Permit Authority revokes the promoter's permit. This might arise as a result of third party activity. This should be incorporated in Permit Authorities' schemes.

6.18 **Regulation 31(4)** sets out the circumstances in which the 30% discount as specified in **regulation 31(5)** applies. In **Regulation 31(5)** an undertaker should be eligible for a discount where an activity involves more than one promoter collaborating in a single coordinated set of works. This should include coordinating with highway authority promoters. It is not intended that this covers area wide activities and the applications should be submitted at the same time – it is recommended that such opportunities are identified at coordination meetings. The primary promoter will require a permit with full information about the activities, and the other promoters will require a permit, with full information, so that the authority knows who is working there. The minimum discount is 30 per cent for all qualifying permits. Authorities can give greater discounts if they wish to encourage particular behaviours.

6.19 Permit Authorities are encouraged to design their schemes to offer further discounts, in order to reward particular behaviours that reduce road occupation, such as first time reinstatements.

6.20 A Permit Authority may set out specific circumstances when it would always waive or reduce fees. Additionally it is recommended that when developing a scheme the Permit Authority includes provision for waiving or reducing fees in other circumstances, such as when methods are used to speed up the work or reduce the footprint of the works.

Regulation 32. Application of sums received as fees

6.21 **Regulation 32** stipulates that fee income must be applied 'towards the costs of operating the permit scheme which are prescribed costs'. This is defined in **regulation 29** as the costs of the scheme relating to the activities of statutory undertakers. In the event that there is a surplus in a given year, the money should be applied towards the costs of the scheme in the next year and the fee levels adjusted accordingly.

6.22 A sustained surplus where the income was regularly exceeding the prescribed costs would indicate that the fee levels should be adjusted. The Secretary of State may also direct the authority to do this using his powers under s36 of TMA.

A scheme's staff costs should **only include staff costs over and above those costs incurred running an effective noticing system**. The income from fees shall not exceed the total allowable costs prescribed in the permit regulations. The allowable costs of the complete scheme and its overall income have to be balanced – not each subsection, such as each activity type. This balance can be achieved over several years – but clarity should have emerged after 3 years of operation.

Fee structure

6.23 The regulations set maximum fees that may not be exceeded in any circumstances. This Statutory Guidance sets out the recommended fee structure for each category of permit. The fee structure is arranged to reflect the greater work involved in handling larger activities and busier roads. The Table of fees is set out below:

Maximum fee structure for each category of works and for a hierarchy of main and minor roads - Road category refers to the reinstatement category of the street under the New Roads and Street Works Act 1991		
Road Category 0, 1 & 2 or Traffic-sensitive		**Road Category 3 & 4 and non-Traffic-sensitive**
Provisional Advance (It is suggested this fee applies only where value has been added in processing the works)	£105	£75
Major works – over 10 days and all major works requiring a traffic regulation order.	£240	£150
Major works – 4 to 10 days	£130	£75
Major works – up to 3 days	£65	£45
Activity Standard	£130	£75
Activity Minor	£65	£45
Immediate Activity	£60	£40
Permit Variation	£45	£35

Circumstances where no fee is payable

6.24 A promoter cannot be charged a fee where:

a. the promoter is a highway authority;

b. a permit is deemed to be granted because the authority failed to respond to an application in the time required;

c. a permit variation is initiated by the permit authority;

Use of income

6.25 Permit schemes must not be used with the intention of generating surplus revenue. Income must only be used to meet the costs of the scheme.

Keeping accounts

6.26 Permit scheme costs and income should be kept separately from other income streams, such as over-runs and fixed penalties. This meets the industry regulators' requirements to see a clear separation between costs to undertakers that are avoidable and costs that are not.

7. Part 7 – Registers and Record Keeping related to a permit scheme

Introduction

7.1 **Part 7 of the Regulations** requires that **the permit authority must maintain a register** of each street covered by their scheme containing information with respect to all registerable activities on those streets. (Permit Authorities still need to run a street works register required under s53 of NRSWA for any private streets and for any publicly maintained streets that are not included in the permit scheme).

7.2 Permit management systems will receive applications electronically and this enables an authority to manage them together with other relevant information. Requirements for NRSWA registers are contained in the *Code of Practice for Co-ordination of Street Works and Works for Road Purposes and Related Matters*. Again, in the interests of consistency, Permit Authorities should ensure that all information held in permit registers is referenced to the Unique Street Reference Number (USRN) and be GIS (Geographic Information System) based. Permit Authorities should follow the requirements in the latest Technical Specification for EToN.

Regulation 33. Duty to maintain register

7.3 The permit regulations require each permit authority to maintain a register of each street covered by their scheme. The register should contain information about all registerable activities (those activities that have the potential to cause delay or disruption, except those not breaking up the street) on those streets and forward planning information about activities and other events which could potentially affect users of the streets.

7.4 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. It is recommended that authorities meet the statutory requirements for maintaining the two registers in such a way that the information can be combined easily to aid the co-ordination of activities and to provide information to road users.

7.5 Permit and notice management systems receive notices and permit applications electronically and allow an authority to manage them together with other relevant information. It often happens that one computer system doubles-up as the register and the permit and notice management system in a permit authority. This is acceptable provided the system fully meets the requirements for both Registers and Notice Management Systems.

Regulation 34. Access to register

7.6 There is a right to inspect the register, free of charge and at all 'reasonable times', except where it is 'restricted information'. Reasonable times may be taken to mean normal office hours (e.g. 08:00 to 16:30, Monday to Friday except Bank Holidays). Restricted information is only available to those having the authority to execute works in the street or those appearing to have sufficient interest (see **regulation 34(1)(a)**).

7.7 Permit authorities are strongly recommended to publish their register on a public website. This should be available 24 hours a day, seven days a week, except for those occasional times when it will be unavailable due to upgrade being made to it and maintenance. This work should, wherever possible, be done outside normal office hours.

7.8 Much of the detailed information in the register is unlikely to be of interest to the public. It is the responsibility of the local authority to decide how much information to make available in this way.

7.9 Authorities should make sure that relevant information remains confidential and make it clear that they are not responsible for the accuracy of information concerning those activities for which they are not the promoter.

7.10 The website should allow records to be searched by the USRN or the “street descriptor” (the street name, description or street number) as given in the NSG.

7.11 The register must be kept electronically using GIS, as required by *The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007*.

7.12 It is essential that information on major, large-scale works, or potentially very disruptive activities is included in the permits register at the earliest opportunity (in either a separate section or flagged as forward planning). The entry should give as much detail as possible. This will enable activity promoters to take part in early co-ordination enable:

- consideration of joint working (Inc. trench sharing);
- identification of other activities which need to be co-ordinated with these activities; and
- production of reports for activity co-ordinators.

7.13 The minimum information needed is the street involved, the nature of the activity and the proposed dates - which may be just within a calendar year. 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.

Entering information on the register

7.14 It is the permit authority's responsibility to enter forward planning information into the relevant section of the register. An EToN transaction has been developed for sending forward planning information - this can be found in the Technical Specification for EToN.

Requirements for the permit register

7.15 The permit register must record:

- copies of all Provisional Advance Authorisations,

- 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 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.

Additional Street Data

7.16 Additional Street Data (ASD) refers to other information about streets held on the NSG Concessionaire's website alongside the NSG data. Local highway authorities should provide suitable information to the ASD.

Responsibility for creating and updating

7.17 Where the street authority is also the local highway authority, it creates the ASD together with the NSG. Network Rail (which is the street authority for level crossings between the barriers), any other authority, activity promoter or interested party should submit records to the NSG Concessionaire to ensure that their

interest in a street is logged. The interest records should be entered into the ASD maintained by the local highway authority.

8. Part 8 - Other Enactments

Introduction to this part

8.1 Part 8 of the regulations relates to the relationship with other legislation, especially as they relate to the dis-application or modification to NRSWA, principally as they provide for the operation of a permit scheme. This Part also provides information for the preparation of an Order.

Regulation 35. Application of Part

8.2 This regulation applies to the specified streets within a permit scheme.

Regulation 36. Disapplication of enactments

8.3 The permit regulations dis-apply or modify certain sections of NRSWA. In permit areas the duties of activity promoters and street authorities under the following sections of NRSWA are replaced by equivalent duties imposed under Part 3 of the TMA and the 2007 regulations as amended:

Promoters' duties – Dis-applied sections of NRSWA			
NRSWA Section		**Regulation 36 - (section provided at end)**	**Permit Regulations – Revised Arrangements**
S 53	The street works register	Section 53 (the street works register) Shed (1); Section 53 is prospectively amended by the *Traffic Management Act 2004*, section 45. [36 (a)]	Permit regulations prescribe similar provisions for permit registers.
S 54	Advance notice of certain works	Section 54 (advance notice of certain works)(2); Shed (2) Section 54 was amended by the *Traffic Management Act 2004*, sections 40 and 49 and Schedule 1. [36 (b)]	Replaced by applications for provisional advance authorisation.
S 55	Notice of starting date	Section 55 (notice of starting date of works)(3); Schedule (3) Section 55 was amended by the *Traffic Management Act 2004*, sections 40, 49 and 51 and Schedule 1. [36 (c)]	Replaced by applications for permits.
S 56	Power to direct timing of street works	Section 56 (power to give directions as to timing of street works) (4); Section 56 was amended by the *Traffic Management Act 2004*, sections 40 and 43(3) and Schedule 1. [36 (d)]	Replaced by permit variations including those initiated by the permit authority and standard conditions.
S 57	Notice of emergency works	Section 57 (notice of emergency works)(5); Section 57 was amended by the *Traffic Management Act 2004*, sections 40 and 52(3) and Schedule 1 [36 (e)]	Replaced by applications for immediate activities.

Promoters' duties – Dis-applied sections of NRSWA			
NRSWA Section		**Regulation 36 - (section provided at end)**	**Permit Regulations – Revised Arrangements**
S 66	Avoidance of unnecessary delay or obstruction	Section 66 (avoidance of unnecessary delay or obstruction). (6) Section 66 was amended by the *Traffic Management Act 2004*, section 40 and Schedule 1. [(36 (f)]	Replaced by equivalent provisions for permit authorities to require promoters in breach of the permit requirements to take remedial action and failing that for the authority to act. 24-hour compliance period to be replaced with a requirement for promoters to comply within a reasonable specified period determined by the circumstances.

Regulation 37. Modification of enactments

8.4 The Permit Regulations modify the sections of NRSWA to accommodate the issuing of permits rather than the exchange of notices. Some modifications to NRSWA affect both undertakers' and highway authorities' activities but others do not. It should be noted that promoters should make reference to the legislation in relation to the application of any such modification.

8.5 In particular Section (2) of **regulation 37** refers 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. It is recommended that the permit authority considers carefully the relevant undertaker's industry responsibilities to connect its customers, and to maintain customer connections, and we would not expect that emergency works, subsequently evidenced, attract any penalty.

8.6 The modifications are listed below:

Modifications to NRSWA		
NRSWA Section		**Permit Regulations - Revised Arrangements**
S 58	Restriction on works following substantial road works. Reference is also made to S54	The authority's ability to issue permits with start and end dates replaces directions to start work covered in S 58 (5) to (78). The regulations provide the equivalent of S 58A powers by allowing authorities to take into account whether promoters responded to the S 58 notice by submitting an application for their planned activities.
S 58A	Restriction on works following substantial street works	Schedule 3A is modified to work in conjunction with permits.
S 64	Traffic-sensitive streets	Permit regulations provide that permit applicants are notified of proposals to designate streets as traffic-sensitive streets. See also Amendment regulations 2015
S64 (1)	Traffic-sensitive streets	Has effect as if— (a) after "or paragraph 2 of Schedule 3A" there were inserted "or the content, operation, variation or revocation of permit schemes"; and (b) after "street works" there was inserted "or works for road purposes".
S 69	Works likely to affect other apparatus in the street	Permit regulations create an equivalent requirement on highway authority promoters.

Modifications to NRSWA		
NRSWA Section		**Permit Regulations - Revised Arrangements**
S 74	Charge for occupation of the highway where works are unreasonably prolonged	Permit regulations make provision to operate in parallel with permits.
S 88	Bridge, bridge authorities and related matters	Modified to work in conjunction with permits.
S 89	Public sewers, sewer authorities and related matters	Modified to work in conjunction with permits.
S 90	Provisions as to reinstatement of sewers, drains or tunnels	Modified to work in conjunction with permits.
S 93	Works affecting level crossings or tramways	Modified to work in conjunction with permits.
S105	Minor definitions	Modified to work in conjunction with permits.

Regulation 38. Modification of Regulations

8.7 It should be noted that the wording for paragraph 7(a) of the Schedule to the *Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007* has been modified.

8.8 NRSWA imposes various restrictions on all undertakers, such as procedures for working on streets with special engineering difficulties or near to level crossings. Authorities should ensure they apply equal treatment to all works promoters. This, where applicable, includes an authorities own works – see also **Regulation 40**.

9. Part 9 – Miscellaneous

Introduction to this part

9.1 The requirements in this section of the regulations relate to the treatment of the applicants for permits and the permits themselves.

Regulation 39. Service of documents etc.

9.2 This regulation sets out how communications between the applicant for the permit and the authority should be made. This will be by electronic means and, it is expected that this will be via the latest version of the Electronic Transfer of Notifications – EToN.

9.3 All participants in a permitting regime should ensure that their systems are compliant with the current EToN specification.

Regulation 40. Non-discrimination

9.4 There is a requirement that requests for a permit; the consideration of all works; and the value added by the permit authority to each permit application received are treated equally regardless of the works' promoter.

9.5 This will mean that an authorities' works will be treated in the same way as any undertaker except that they are not liable for the fees or sanctions covered in Parts 5 and 6 of the permit scheme regulations.

9.6 The requirement for parity of treatment has not altered as a result of changes to the approval process – (the demonstration of parity for authority works is seen as very important.

Rules of transition – from notices to a permit scheme

9.7 The basic rules of transition will apply on all roads where the permit scheme operates.

- The new permit regime will apply to all activities where the administrative processes, such as application for a permit or Provisional Advance Authorisation, start after the commencement date.
- 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 (for major activities) shall operate under the permit scheme. This means that even if the relevant section 54, section 55 or section 57 NRSWA notice has been sent before the changeover, the promoter will have to apply for a permit.
- Any other activities which started under the notices regime will continue under that regime until completion.

9.8 Given the advanced notice of the changeover there should be few activities where these rules will create difficulties. In those few cases, discussions should take

place between the authority and the promoters concerned to work out a practical way of dealing with the activities.

Amendment Regulation 14 -Transitional provision (Amendment regulations 2015)

9.9 This regulation provided the 'transitional' arrangements for existing schemes. It was in two parts. Paragraph (1) requires that by 1st October 2015 Permit Authorities must ensure that existing permit schemes comply with the 2007 Regulations, as amended. The effect of paragraph (2) is that an authority with an existing scheme does not have to consult just to make the changes needed to comply with the amended regulations.

Statutory consultee

9.10 The Secretary of State is a statutory consultee (**regulation 3**) for new and varied schemes. The following emails address should be used to provide documents to the Secretary of State in accordance with the requirement in this regulation: permit.schemes@dft.gsi.gov.uk

10. Conclusion

Implementing a permit scheme

10.1 The Department does not provide advice or guidance on the practicalities of the day to day operation of a Permit Scheme in a local authority - it is recommend that authorities consult the Joint Authorities Group (JAG) on any remaining issues.

Dispute resolution

10.2 Various sections of The TMA provide powers to devise a suitable dispute resolution procedure, and to identify the stages of the permit application process at which it can be invoked. Chapter 13 of the *Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters* sets out a process for dispute resolution. It is expected that all concerned will use their best endeavours to resolve disputes locally without having to escalate them.

Background information

10.3 Previous Statutory Guidance and Codes of Practice on Permit Schemes are no longer valid, but may provide background information to support the initial stages of scheme development. They were as follows:

- *Traffic Management Act 2004 Statutory Guidance for Permits* – issued 28 March 2008;
- *Traffic Management Act 2004 Code of Practice for Permits* – issued 28 March 2008;
- *Traffic Management Act 2004 Permit Fee Guidance* – issued 1 July 2008;
- *Traffic Management Act 2004 Permit Scheme Decision Making and Development (2nd edition)* – issued 1 November 2010; and
- *Traffic Management Act 2004 Additional Guidance for new Permit Schemes* – issued 15 January 2013.

Annex A – Key Performance Indicators

Reference Number	Indicator
TPI 1	Works Phases Started (Base Data)
TPI 2	Works Phases Completed (Base Data)
TPI 3	Days Of Occupancy Phases Completed
TPI 4	Average Duration of Works
TPI 5	Phases Completed involving Overrun (this will be reworded to make it a positive figure)
TPI 6	Number of deemed permit applications
TPI 7	Number of Phase One Permanent Registrations
These measures, with the exception of deemed permits are all currently available in existing noticing/permit systems, meaning notice and permit authorities can be directly compared.	

Annex B – Check List

Checklist (1.29) for senior officer approval for finalising a permit scheme.

Full Name of the Highway Authority			
Type of scheme (Single/Multi)			
Date final Checks Completed		Officer who confirms completion of full checks	
		Finance officer final clearance	

Content checklist: The reference column refers to the relevant section in the 2007 Regulations as amended in 2015 (Rag), and to the 2015 Statutory Guidance (S.G) Part. Reference to this document can be found in section 1.29.

No.	Reference		Subject	Yes/No	Place in scheme doc
	Rag	S.G. Part			
1		Part 1	Scheme compliance statement – which includes: - - The Legal name of the authority/authorities included - An assurance of EToN compliance - A table showing Regulatory compliance. - Confirmation that all financial requirements have been met		
2.		Parts 1, 2 & 3	The Permit Scheme document must Clearly define the streets the scheme applies to Detail the team that will be in place to operate scheme. Detail the approach to post-implementation evaluation Demonstrate benchmarking undertaken & completed.		
3.	4(c) & 40	Parts 3 & 9	Demonstration of compliance with the non-discrimination obligation.		
4.	4(b)	Parts 1 & 2	Permit Scheme Objectives (including the improvements expected).		

No.	Reference		Subject	Yes/No	Place in scheme doc
	Rag	S.G. Part			
5.	4(d)	Part 3	How and when the Permit Authority proposes to evaluate the scheme so as to measure it continually against its objectives [by written statement from senior manager].		
6.	4(e)	Part 2	The costs and benefits (whether or not financial) which the Permit Authority anticipates will result from that permit scheme.		
7.	4(f) 15 (3) (1)	Part 6	The evidence considered by the Permit Authority as to the fees which may be charged, and the reasons for its decision (fees matrix). To confirm that the fees and costs are developed in line with the Regulations (15.3.1) and proportionate to the value added by issuing a permit.		
8.	4(g)	Part 1	The proposed Implementation date		
9.	4(h)	Part 9	Details of any transitional arrangements which the Permit Authority would wish to apply in relation to the permit scheme coming into effect.		
10.	3 & 4(g)	Part 1	Consultation Report – changes to scheme clearly shown in response to the consultation.		
11.			Consideration of 'Nationally Significant' initiatives for example: Implementation of Superfast Broadband, HS2, etc.		
12.		Part 1	In developing and operating a permit scheme authorities must comply with the TMA and the 2007 Regulations, and must have regard to statutory guidance.		

Annex C - Glossary

Term	Explanation
Additional Street Data ("ASD")	Additional Street Data (“ASD”) refers to other information about streets held on the NSG concessionaire’s website alongside the NSG
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"
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"
Bridge	As stated 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"
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street)
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 track) over which the public have a right of way for the passage of vehicles"
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"
DfT	Department for Transport
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"
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"
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"
HA 1980	*The Highways Act 1980*
HAUC	The Highway Authorities and Utilities Committee
HAUC (England)	The Highway Authorities and Utilities Committee for England

Term	Explanation
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
Highways England	Highways England is the company set up to run the motorways and major A roads in England through legislation within 'The Infrastructure Act 2015'.
Highway Works	"works for road purposes" or "major highway works"
Immediate Activities	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*
JAG (UK)	Joint Authorities Group (UK)
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 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"
Major activities	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 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"
Minor activities	Minor activities are those activities other than immediate activities where the planned duration is 3 days or less.
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
NJUG	National Joint Utilities Group
NRSWA	New Roads and Street Works Act 1991
OSGR	Ordnance Survey Grid Reference

Term	Explanation
Permit	The approval of a permit authority for an activity promoter to carry out activity in the highway subject to conditions
Permit application	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 Coordination regime.
Permit Authority	A local authority or other “street authority” which has be given approval by the Secretary of State to operate a permit scheme on all or some of its road network.
Permit Scheme	A scheme approved by the Secretary of State (pre April 2015) or Local Authority Order (post April 2015)
Protected street	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.
Registerable	Registerable activities correspond to specified works in the regulations.
Reinstatement	As defined in section 105(1) of NRSWA, “reinstatement includes making good"
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 “*Specification for the Reinstatement of Openings in Highways*”
Road works	Works for road purposes
Special Engineering Difficulties (SED)	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 or 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	Standard activities are those activities, other than immediate activities, that have a planned duration of between 4 and 10 days inclusive.
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

Term	Explanation
	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 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
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	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 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"
Works Promoter	A works promoter is anyone (including Utility Companies, Statutory Undertakers, Local Authorities Road Work Providers and Contractors) responsible for undertaking works on the highway.