Nottingham City Council Permit Scheme

For

Road Works and Street Works

Consultation Document
11th April 2014 to 11th June 2014

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For:

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refer to "The Nottingham Permit Scheme for Road Works and Street Works – Supplementary Scheme Information" document.

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Introduction

1.1 Background

Permit schemes provide a new way to manage activities in the public highway. They were introduced by Part 3 of the Traffic Management Act 2004 (TMA) to improve authorities' abilities to minimise disruption from street and highway works.

1.2 Relationship to NRSWA

Permit schemes provide an alternative to the 'notification system' of the New Roads and Street Works Act 1991 (NRSWA) and differs from existing powers for managing activities on the street in a number of key respects:

- Rather than informing the authority of the promoters' intentions, permit schemes may be envisaged as schemes to book occupation of the street for specified periods and for a specified purpose.
- highway authorities' activities undertaken by itself, its partners or agents are included.
- conditions which impose constraints on the dates and times of activities and the way that work is carried out can be attached to permits.
- the authority's control over variations to the permit conditions, particularly time extensions, gives a greater incentive to complete activities on time.

Permit schemes will replace parts of NRSWA, particularly the notices related to section 54 (advanced notice of certain works), section 55 (notice of start of works) and section 57 (notice of emergency works) (see Appendix B - Dis-applied Sections from the NRSWA(1991) and Appendix C - Modifications to NRSWA (1991)). Many elements of NRSWA will continue alongside the permit scheme, in some cases amended to operate effectively with permits.

Where necessary, activity promoters must also submit any notices required by those sections of NRSWA not disapplied in the permit regulations. Details of these can be found in the *Co-ordination Code of Practice* and *Notices Regulations 2007*

1.3 Definition of Terms

The Permit Scheme uses similar concepts to the NRSWA notice system in a number of key areas. This is to ensure consistency and facilitate better co-ordination of activities. Examples of these areas are:

- Registerable activities/works.
- Categories of activities/works, (major, standard, minor and immediate activities/works).
- Street gazetteers (to level 3), including street referencing by means of a Unique Street Reference Number (USRN) and Associated Street Data (ASD).
- Street reinstatement categories as defined in the NRSWA Reinstatement Specification.
- The distinction between main roads and minor roads where such distinctions are relevant.

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- Streets designated as Protected Streets, streets having Special Engineering Difficulties, (SED), or a Traffic Sensitive Street.

- The Electronic Transfer of Notices (EToN) system.

Some useful definitions referenced within this document are:

The TMA

The Traffic Management Act 2004 is hereinafter referred to as ***the TMA.***

The Regulations

The Traffic Management Permit Schemes (England) Regulations 2007 is hereinafter referred to as ***The Regulations.***

The Permit Scheme

This permit scheme is known as The Nottingham Permit Scheme for Road Works and Street Works, and hereinafter is referred to as ***The Permit Scheme.***

The Permit Scheme is based on Part 3 of the TMA and The Regulations and has been prepared with regard to the Draft 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. Activity promoters should make themselves aware of the content of these documents and also "The Code of Practice for Permits" alongside which the Permit Scheme will be operated.

The Permit Scheme will replace the NRSWA notification system for all streets in Nottingham as described in section 2.2. The streets within the Permit Scheme (along with any special designation) will be clearly identified on the National Street Gazetteer Associated Street Data files. The National Street Gazetteer for Nottingham is established and maintained at level 3. The Authority is committed to maintaining the gazetteer to level 3.

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

In making the application to the Secretary of State under Regulation 3(1) to run this Permit Scheme, a full consultation in relation to the Permit Scheme was carried out which includes those stakeholders that are set out in Regulation 3 of The Regulations.

The Permit Authority

The Permit Scheme is operated by Nottingham City Council as the highway authority for the city of Nottingham, and is hereinafter referred to as the ***Permit Authority*****.**

For all other definitions, refer to Appendix A.

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Coverage of the Permit Scheme

2.1 Definition of the Term "Street"

For the purpose of this permit scheme, a "Street" is as defined in Appendix A.

2.2 Streets Covered by the Permit Scheme

The Permit Scheme will apply within the administrative boundaries of Nottingham City Council to all streets for which Nottingham City Council is the highway authority, i.e. publicly maintained by or on behalf of Nottingham City Council, are included in the Permit Scheme. These are the "specified streets" as set out in the regulations.

In addition, any street not adopted by Nottingham City Council as maintainable by the local Highway Authority but is prospectively maintainable will be included within the Permit Scheme.

The Permit Scheme shall not apply to:

- roads managed, maintained and operated by the Highways Agency;
- roads managed, maintained and operated by Nottinghamshire County Council;
- streets not adopted by and not expected to become adopted by Nottingham City Council as maintainable by the local Highway Authority.

2.3 Identification of Streets

All streets that are subject to the Permit Scheme will be clearly identified within the National Street Gazetteer (NSG) and Associated Street Data Files and on the NSG Concessionaire's website.

2.4 Streets Subject to Special Controls

Certain streets are designated as being subject to special controls. The four categories of street subject to special controls are:

- Protected streets.
- Streets with special engineering difficulties.
- Traffic sensitive streets.
- Streets subject to early notification of immediate activities.

For further information of streets subject to special controls, refer to Appendix F.

2.5 Specified Activities

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

- street works - work on plant and apparatus in the street by undertakers except for works by licensees under section 50 of NRSWA; and,

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- works for road purposes - maintenance and improvement works to the road itself carried out by, or on behalf of, the highway authority; and

- major highway works.

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

1. all activities that involve the breaking up or resurfacing of any street, (but see below for pole testing involving excavation);

2. all activities that involve the opening of the carriageway or cycleway of traffic-sensitive streets at traffic-sensitive times;

3. all activities that require the use of any form of temporary traffic control as defined in the Code of Practice for Safety at Street Works and Road Works;

4. all activities that reduce the number of lanes available on a carriageway of three or more lanes;

5. all activities that require a temporary traffic regulation order or notice, or the suspension of pedestrian crossing facilities;

6. all activities that require a reduction in width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time.

The following activities are non registerable

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

   Pole testing involving excavation only requires registration and therefore needs a permit; as would be the case with other excavations, when one or more of rules 2 – 6 above apply. However in all circumstances the work must be registered using section 70 (3) under NRSWA for the purpose of reinstatement inspections within 10 days of completion.

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.

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2.6 Bar Holes

Bar holes are used to detect and monitor gas leaks. When bar holes are carried out and it is known that no further activity in the street is required (such as when a gas leak is reported but none detected), a registration under s70 (3) of NRSWA should be sent within 10 days, once final monitoring checks have been established. The bar holes will count as a single excavation and reinstatement for registration purposes.

An application for a permit should be made within two hours of the commencement of any other registerable activity (i.e. excavation, or any other activity defined above) associated with the bar holes. In this latter case, these bar holes will not count as further excavations and reinstatements for the purposes of registrations but will be incorporated with the registerable activity.

All bar holes must be reinstated and registered when work on site is complete.

2.7 Activities Not Requiring a Permit

Activities not requiring an advanced Permit include:

- The initial stages of immediate activities (refer to sections 4.2.4 and 7.6)

Activities not requiring a Permit include:

- Works carried out under a s50 licence (see section 2.5).
- Maintenance and inspection of fire hydrants carried out by fire service vehicles, where the activity is undertaken outside of traffic sensitive times (see section 2.5).

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Registers

3.1 Register of Permits

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.

3.2 Referencing of Information

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

The Permit Authority will also maintain a street works register required under Section 53 of NRSWA for historic information.

Details in respect of registers are also shown in Chapter 3 of the Code of Practice and 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.

The statutory requirements for maintaining the two registers will be met in such a way that the information can be combined easily to aid the coordination of activities and to provide information to road users.

3.3 Form of Registers

The permit register and streetworks register will be kept on an electronic system. In accordance with The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 requirement, the Permit Registers will use Geographic information System (GIS). Permit registers will follow this requirement to ensure consistency between all holdings of street related data. Each register will be maintained against the same digital map base to ensure consistency between all holdings of street related data. This common geographical dataset will be vector based, nationally consistent, maintained and seamless, with changes published on a regular update cycle.

Nottingham City Council will provide the Unique Street Reference Number (USRN) definitions and attribution, while the geometries will be recorded by referencing the road centreline objects in the digital map base.

3.4 Content of Registers

The permit register held by the Permit Authority will record:

- copies of all Provisional Advance Authorisation, permit and permit variation applications submitted to the permit authority relating to registerable activities in any street;
- copies of all permits and Provisional Advance Authorisations given by the authority, including conditions attached as well as all variations to permits and conditions including any permits "deemed" granted;
- 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;

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

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3.5 Access to Registers

Nottingham City Council will publish their register on their public website. This website will be available 24 hours a day, seven days a week, except for occasional down-time due to upgrades and essential maintenance. Upgrading and maintenance will, wherever possible be carried out outside normal office working hours.

3.6 Restricted Information

Restricted information is anything certified by, or with the authorisation of, the Secretary of State as being restricted information for the purpose of safeguarding national security or information certified by, or with the authorisation of, an undertaker as being restricted information because its disclosure would, or would be likely to, prejudice the commercial interests of that undertaker, such as a contract under negotiation or tender.

The promoter must indicate restricted information on the relevant permit or PAA application.

Restricted information will not be shown on Nottingham City Council website.

3.7 Retention of Information

Information will be retained on the registers for a minimum of six years after completion of the guarantee period of the activity referred to in the TMA guidance.

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Permits

4.1 Types of Permit

The types of permit covered by the Permit Scheme are

- Provisional Advance Authorisation (PAA)
- Permits
- Optional Permits (as described in 4.1.3)

4.1.1 Provisional Advance Authorisation (PAA)

Provisional Advance Authorisations will improve the coordination and works planning processes and provide improved opportunities to optimise the use of road space for specified (and non-specified) activities. PAA's provide the Permit Authority with a better opportunity to examine specified activities and determine the most appropriate conditions to include when an application for a Permit is made at a later date.

Provisional Advanced Authorisation applications are only required in relation to Major activities. Standard, minor and immediate activities do not require an application for a Provisional Advance Authorisation.

Applications for Major activities will not be accepted by the Permit Authority unless a Provisional Advance Authorisation application has been previously submitted.

Provisional Advance Authorisations must be applied for at least 3 months in advance of proposed Major activities starting, unless the Permit Authority agrees to a shorter period. For application and response times, refer to Appendix G.

A Provisional Advance Authorisation must be served for each street on which specified activities, which are classed as major activities, are being proposed.

A Provisional Advance Authorisation application must include the following information.

- 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.
- Traffic management.

It is understood that the information may be provisional at this early stage, for example start and end dates are particularly likely to change and there may need to be discussion and agreement of alternative traffic management methods.

A fee will be charged for each Provisional Advance Authorisation in addition to any subsequent Permit fee. The Permit Authority has the discretion to reduce the charge where Provisional Advance Authorisations are submitted for schemes that involve multiple neighbouring streets as part of a planned and coordinated programmes of works. For permit fee information, refer to Appendix I.

A copy of the Provisional Advance Authorisation will be provided by the work promoter upon request to any person identified as having apparatus in the street to which the Provisional Advance Authorisation relates.

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The Permit Authority, as the organisation responsible for the register, will provide information relating to S50 Licences and assets maintained by the Highway Authority.

The Permit Authority will carry out tasks compliant with the duty to coordinate works. If an owner of apparatus contacts the Permit Authority to request information, additional to that circulated from the register, then the request will be forwarded to the promoter.

The granting of a Provision Advance Authorisation will not prevent the Permit Authority from subsequently refusing to grant a Permit for the specified activity proposed in the Provisional Advance Authorisation.

4.1.2 Permits

Permits will be the final Permit for 'Registerable' activities. The application period for Permits will depend on the type of activity proposed. For application and response times, refer to Appendix G

A copy of the Permit application will be provided by the work promoter upon request to any person having apparatus in the street to which the Permit application relates.

The Permit Authority, as the organisation responsible for the register, will provide information relating to S50 Licences and assets maintained by the Highway Authority.

If an owner of apparatus contacts the Permit Authority to request information, additional to that circulated from the register, then the request will be forwarded to the promoter.

For further information on Permit categories, refer to section 4.2.

4.1.3 Optional Permits

Optional Permits relate to non-specified activities (refer to section 2.5 for Specified Activities). The application process is intended to be the same as for Provisional Advance Authorisations and Permits relating to streets within the scope of the scheme. A fee will not be charged for Optional Permits. For permit fee information, refer to Appendix I.

The purpose of Optional Permits is to include a wider range of activities into the coordination process and improve the management of the road network.

These activities may result in disruption to traffic flow or may require road space that utility companies need to use. The use of Optional Permits, which will be publicised and promoted by the Permit Authority, will extend the principle of parity to a wider range of activities.

A fee will not be charged for Optional Permits, but conditions may be attached to approvals. In such circumstances the relevant parts of the scheme will apply to conditions and variations, with details issued on approval of the Optional Permit. The use of Optional Permits will encourage promoters and organizers to provide improved information and allow early engagement in the planning stages.

Optional Permits will be available to promoters or organizers carrying out the following activities

- S50 Licences.
- When materials, not related to street works or works for road purposes, are being placed on the highway.
- Special events requiring the use of the highway.
- Maintenance and inspection of fire hydrants carried out by fire service vehicles, where the activity is undertaken outside of traffic sensitive times.

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- Where neighbouring Highway Authorities (including the Highways Agency) require the use of roads within the Permit Scheme for the purpose of erecting temporary signage or for temporary diversions off their own road network.

Details of the information required for an Optional Permit application can be found in Section 4.4 (Permit Application – Information Required).

Works carried out under S50 will be subject to Fixed Penalty Notices (FPNs) under the NRSWA regulations.

The use of Optional Permits will be monitored and breaches will be logged and reported.

Optional Permits will be issued on the understanding that if circumstances change so that the activity becomes 'Registerable' then the activity must cease, the highway fully restored to use and the process started to obtain the appropriate Permit.

4.2 Permit Categories

There are four categories of Permit with The Permit Scheme:

- Permit for Major Activities
- Permit for Standard Activities
- Permit for Minor Activities
- Permit for Immediate Activities

4.2.1 Permit for Major Activities

Permits for Major Activities are required for the most significant activities on the highway and will require the Activity Promoter to obtain a Provisional Advance Authorisation as part of the application.

Major activities are activities which:

- Have been identified in an organisation's annual operating programme or which have been normally planned or known about at least six months in advance of the proposed date of the activity; or,
- Other than immediate activities, require a temporary traffic regulation order, (i.e. not a temporary traffic notice), such as a temporary road closure under the Road Traffic Regulation Act 1984 for any other activities; or,
- Other than immediate activities, have duration of 11 working days or more.

For Major Activities the Activity Promoter must apply for a permit in accordance with the timescales set out in Appendix G. If the proposed start and end dates are different from those in the Provisional Advance Authorisation then the applicant must explain and justify the reason for the variation.

Applications for Major activities will not be accepted by the Permit Authority unless a Provisional Advance Authorisation application has been previously submitted (see section 4.1.1).

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4.2.2 Permit for Standard Activities

Standard activities are 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 but which require a traffic regulation order, such as a temporary road closure, will be classified as Major Activities and will be subject to the requirements in 4.2.1.

An application for a Standard Activity Permit shall be submitted to the Permit Authority in accordance with the timescales set out in Appendix G and must include a description of the proposed activity together with the proposed start and end dates of the activity.

4.2.3 Permit for Minor Activities

Minor activities are activities, other than immediate or major activities, that have a planned duration of 3 working days or less. Activities lasting 3 working days or less but which require a traffic regulation order, such as a temporary road closure, will be classified as Major Activities and will be subject to the requirements in 4.2.1.

An application for a Minor Activity Permit shall be submitted to the Permit Authority in accordance with the timescales set out in Appendix G and must include a description of the proposed activity together with the proposed start and end dates of the activity.

4.2.4 Permit for Immediate Activities

Immediate Activities are either:

- emergency works, which are defined in section 52 of NRSWA, are works required to end, or prevent, circumstances, either existing or imminent, that might cause damage to people or property. This applies to both street works and works for road purposes which fall within the definition of activities. The term also includes activities not falling within that definition but which cannot be severed from those that do - such as activities away from the emergency site that are necessary to shut off or divert a supply. Remedial works to dangerous defective reinstatements are classed as emergency works (but there will be a need to cross reference these to the permit given for the parent activity); or,

- urgent activities are defined in the regulations as activities:

    a) (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required):

        (i). to prevent or put an end to an unplanned interruption of any supply or service provided by the promoter;

        (ii). to avoid substantial loss to the promoter in relation to an existing service; or,

        (iii). to reconnect supplies or services where the promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and,

    b) includes works that cannot reasonably be severed from such works.

Immediate activities may commence without a permit being obtained prior to the activity starting on the street. Activity Promoters applying for immediate activities must contact Nottingham City Council immediately, by

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telephone, when they determine the need to carry out unplanned works on a specified street as indicated on the ASD.

The activity promoter must apply to the Permit Authority within 2 hours of the activity starting. Information regarding Immediate Activities will be registered and cross referenced / updated within the register when or if a Permit application is subsequently made.

Immediate activities will be subject to conditions, refer to Appendix E.

4.3 PAA and Permit Applications

4.3.1 Requirement to Obtain a Permit

Any promoter proposing specified activities on a specified street within the scope of the scheme must obtain a Permit from the Permit Authority. The Permit will allow the applicant to:

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

4.3.2 Timing of Applications

The timing of applications for PAAs and Permits, and the Permit Authority's response, varies according to the proposed activity. The minimum application and response times are given in Appendix G. Activity promoters should give as much notice as possible so as to facilitate the co-ordination process.

Where the activity is dependant on a temporary traffic regulation order, temporary traffic signal approval or the suspension of parking regulations, the timescales indicated in Appendix K should be taken into account and applicants are advised to submit their requests for TTROs and/or temporary traffic signal approval when applying for a PAA.

4.3.3 Submitting an Application

PAA and Permit applications, wherever possible, must be made electronically, as set down in the Technical Specification for the Electronic Transfer of Notices, (EToN), unless there is a failure in the electronic system or the promoter does not have access to electronic systems in which case a paper application will be acceptable.

For further information on paper applications, please refer to Appendix P. For contact details, please refer to Appendix Q.

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4.3.4 Failure in the EToN System

In the event of a system failure, activity promoters shall adopt the procedure for "Handling System Unavailability" contained within the Technical Specification for the Electronic Transfer of Notifications (EToN).

Fixed Penalty Notices (FPNs), Section 74 charges and any other penalties that result due to system failures may be waived. However, activity promoters shall inform the permit authority about system failures and get an agreement to avoid FPNs and Section 74 charges.

4.3.5 Compliance with EToN

All applications (even when made by paper) must comply with the definitive format and content given in the Technical Specification for the Electronic Transfer of Notifications (EToN) (see Appendix P).

4.3.6 Use of plain English

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

4.3.7 One Application Per Street

Each application shall only refer to activities in one street. If a project covers more than one street, separate Permits will be required for project activities in each specified street that are part of the Permit Scheme and notices will be required for project activities in streets where Permits do not apply. Also Permits will be required where activity on an adjoining or neighbouring non-specified street mean that any registerable activity, as set out in Chapter 9 of the Code of Practice for Permits, takes place on a specified street.

All such related project activities must be cross referenced on each related application and notice.

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

4.3.8 Activities Covering Several Streets

Where the specified activity involves a number of specified streets, a separate permit will be required for each street. Permit applications for specified activities covering more than one specified street shall be cross-referenced to all related applications.

Fees for specified activities which involve several permits will be discounted where the applications are submitted together. For consistency with NRSWA, a street will correspond to a USRN.

4.3.9 Notification to Interested Parties

Where the ASD indicates other interested parties, activity promoters should copy their Permit applications to those parties. Activity promoters are required to check whether any parties have registered such an interest prior to submitting an application for a Permit or PAA.

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4.3.10 Consultation Requirements

Activity promoters must carry out necessary consultation as set out in S88, S89 and S93 (as amended) and S90 and S91 of the NRSWA.

4.3.11 Permit Application and Response Times

The Permit Scheme application and response times for dealing with Provisional Advance Authorisation Permit applications and variation applications are set out in Appendix G.

The Permit Authority has the right to refuse an application for a Permit where it considers that elements of an application are not acceptable (eg. timing, location, description, proposed method, dates or conditions, etc.). The Permit Authority will inform the promoter within the timescale set out in Appendix G and explain the reasons for refusal and the amendments required.

4.3.12 Restrictions on Further Activities

If an activity promoter applies for a Permit for a specified street where a notice has been issued under S58, S58A or S61 NRSWA (and the activities are not included in the exemptions) the application must include specific details seeking consent to carry out the activities given the additional restrictions. This condition applies to all activity promoters, in the interests of parity.

4.3.13 Procedure for Optional Permits

Where activity promoters are seeking an Optional Permit then the procedure and timescales for application and response will be the same as for specified activities (see Appendix G).

4.3.14 When Non-Specified Activities Become Specified Activities

If a non-specified activity changes, such that a Permit becomes required then the activity must stop and a Permit application made. The Permit Authority may require that the highway be reinstated and all works leave site whilst the Permit application process proceeds.

The timescales for application and response will be as set out in Appendix G.

4.3.15 Error correction

Where the Permit Authority identifies an error in data recorded in, or submitted for recording in, the permit register, it will contact the activity promoter to discuss and agree the corrections to be made. Where the promoter identifies an error, he 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 permit variation request by the end of the next working day following the agreement of the correction. This permit variation request should include the corrected data and the name of the person in the Permit Authority who agreed that the correction should be made. The error correction process is described in the Technical Specification for the Electronic Transfer of Notifications (EToN).

This procedure cannot be used without the prior agreement of both parties. A variation fee will be payable where the identified error has been caused by the promoter.

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4.4 Permit Application – Information Required

The following information will be required for applications for PAAs and Permits.

4.4.1 Contact Person

All Permit applications must include the contact details of person(s) responsible for the activity and who will be able to resolve any problems that may arise during the execution of the activity. They must also include details for out-of-hours contacts.

4.4.2 USRN

Each application must relate to a single street. In this instance, the term 'street' refers to the length of a road associated with an individual USRN. Hence, where a single street on the ground has more than one USRN, separate Permit applications will be required for each USRN relating to the activity.

4.4.3 Activity Description

Each application must include a detailed description of the activity. The detail must be sufficient to allow the Permit Authority to assess the impact of the works.

4.4.4 Location

Each application must include an accurate location based on National Grid References (NGR). For example:

- For small excavations the NGR for the centre of the excavation must be provided.
- For trench excavations the NGR for each end of the trench(s) must be provided.

For works for road purposes the same system will apply, for example:

- small reinstatements or installation of posts, columns, etc… then the centre of the excavation must be referenced.
- For surfacing activities the NGR must reference the extents of the works.

4.4.5 Start Date and Duration

Each Permit application must include the proposed start and end dates of the specified activity. Each Permit must also include the times of day when the activity will be carried out. Each Permit must also include details of weekend, bank holiday and night working, where this is required.

4.4.6 Illustration

Major and Standard Permit applications must include an illustration of the proposed works showing:

- The extent of the highway space to be occupied;
- The extent and position of the actual excavation;

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- Proposed site layout of traffic (including pedestrian) management;

- Where necessary diversion routes and any anticipated temporary accommodation works should be detailed;

The illustration should comprise of plans (to scale), sections and digital photographs and other similarly appropriate materials.

For minor activities and Immediate Activities, illustrations may be provided by the undertaker and they may be requested by the Permit Authority where the activity is likely to result in disruption due to the position, size or the type of activity.

Illustrations and technical specifications must be provided for all specified activities where the street has a Special Engineering Difficulty designation or if the Street Authority advises that the activity is proximate to a highway structure.

The Permit Authority may request a disruption effect score (see Appendix H). Where this is requested, the Permit Authority will provide the traffic count data to the promoter.

4.4.7 Traffic Management

All Permit applications must include full details of the proposed traffic management method. This should include the site layout, pedestrian facilities and portable light signals where required. All Permits must indicate the need for Temporary Traffic Regulation Orders (TTRO), such as road closures and parking restrictions etc. and indicate where the activities will affect the operation of any permanent traffic signal equipment.

The requirement for a TTRO will involve an additional cost and there will be a specific timescale for the making of orders (refer to Appendix K).

Alterations to affect the operation of any permanent traffic signal equipment may also incur an additional cost.

4.4.8 Technique

All Permit applications must include details of the technique to be used; for example:

- open cut;
- no-dig;
- low-dig (eg insertion or pipe bursting);
- trench sharing;

This detail is required to allow the Permit Authority to understand what activities are being carried out. The planned method can have implications for the impact on traffic.

4.4.9 Depth

All Permit applications must include a best estimate of the excavation depth.

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4.4.10 Reinstatement

All Permit applications must indicate whether the proposed activity will be completed with:

- a first time permanent reinstatement; or
- an interim reinstatement, followed by a permanent reinstatement.

A combination of techniques may be appropriate to a particular activity; this must also be indicated on the Permit application.

4.4.11 Inspection Units

All Permit applications must include a provisional number of inspection units appropriate to the activity and in accordance with the Inspections Code of Practice and The Street Works (Inspection Fees) (England) (Amendment) Regulations 2004.

4.5 Multiple Stage Activities:

Where the specified activity is carried out in more than one stage, such as with separate interim and final reinstatements, each stage will require a separate permit, and also, if a major activity, a Provisional Advance Authorisation, (PAA), all of which must be cross referenced to the others. (See 4.1.1 for details of PAAs).

A promoter is required to clarify to the Permit Authority that an activity is to be carried out in stages on the application.

A stage of an activity is a period of continuous occupation of the street, or part thereof, whether or not the work is taking place for the whole time, between the start and completion of the activity.

4.6 Linked Activities:

Where linked activities are carried out at separate locations in the same street they will be treated as belonging to the same set of works.

Where the same promoter wishes to carry out unconnected activities in the same street then these shall be treated as separate activities and will require a separate permit and, if appropriate, PAA.

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 the street. If the installation of customer connections is undertaken at a later date then the promoter shall apply for a separate permit.

4.7 Collaborative Activities:

The Permit Authority encourages collaborative working between promoters for street works and works for road purposes.

Collaborative working includes trench sharing, multi-utility working, joint utility & works for road purposes activities and compliance testing.

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Where two or more promoters decide to enter into such arrangements, one must take on the role of the primary promoter with the overall responsibility for the activities and will be the point of contact with the Permit Authority.

While the secondary 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. The primary promoter's permit application must give details of the other promoter(s) involved and the extent of the collaborative working. The primary promoter must also ensure that the estimates of works duration are agreed and confirmed with the secondary promoter(s) when submitting the application.

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, subject to all criteria being met.

The primary promoter will excavate the trench and install its own apparatus with the secondary promoter(s) installing their apparatus in the same trench. The primary promoter will backfill and reinstate the trench unless it has previously been agreed with the Permit Authority and the secondary promoter(s) that the secondary promoter(s) will do this work. In which case the responsibility for the reinstatement will rest with the promoter who undertook this work.

Where, the collaborative working is trench sharing, the primary Activity Promoter will excavate the trench and install their own apparatus. The secondary Activity Promoter will also install their apparatus in the same trench. The primary promoter will backfill and reinstate the trench unless it has previously been agreed with the Permit Authority and the secondary promoter(s) that the secondary promoter(s) will do this work. In which case the responsibility for the reinstatement will rest with the promoter who undertook this work.

4.8 Separate Activities:

The activity promoter must clarify when an activity is to be carried out in phases, where a separate permit should be required for each phase and where the same activity promoter wishes to carry out unconnected activities in the same area.

4.9 Interrupted Activities:

In the event of an activity being interrupted and delayed, for instance due to damage to a third party's plant or whilst missing apparatus is acquired, the promoter shall contact the Permit Authority to agree what action should be taken. 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 (see section 7.3 for permit variations). However, where it is considered 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.

4.10 Remedial Works

In the event of remedial works being required after the expiry of the permit, an application must be made for a new permit. This permit must be cross referenced to the permit for the original activity.

4.11 Request for an Early Start

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. 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.

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Permit Conditions

5.1 Principles for Conditions

The Permit Scheme includes for the attaching of conditions to permits and also specifies the types of conditions that may be applied. Any permit issued will specify in detail the activity it allows and the conditions attached. Any constraints in the original application will be reflected in the conditions in the permit. For example, if the planned activity will be located in a street which is traffic sensitive at some times and the permit application stated that the activity was to be outside the traffic sensitive times, then 'working outside of traffic sensitive times' will be made a condition of the permit.

Any permit issued must set out in detail the activity it allows as set out in Section 4.4 of this document and the conditions attached.

In applying conditions, the Permit Authority will consider the proposed activity's potential to cause disruption. Where possible, conditions attached to a permit will provide flexibility for the Promoter by requiring an outcome rather than stipulating the method by which the work must be carried out. When setting any condition, the Permit Authority must act reasonably and take account of how feasible it is for the Promoter to comply not only with the condition being imposed but also on their ability to meet their statutory obligations.

5.2 Condition Types

The conditions that the Permit Authority can apply to permits, referred to as "types" (listed below) are detailed in Regulation 10 of the 2007 Regulations.

2007 Regulations	HAUC (UK) permit guidance 2013/01
• Timing and duration of activity	• Date Constraints
	• Time Constraints
• Road space	• Road Occupation Dimensions
	• Traffic Space Dimensions
• Traffic management provisions	• Road Closure
	• Light Signals and Shuttle Working
	• Traffic Management Changes
• Methodology for carrying out activities	• Work Methodology
	• Material and Plant Storage
• Consultation and publicity	• Consultation and publicity
• Environmental conditions	• Environmental

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The Permit Scheme will apply standard conditions as detailed in Appendix D.

In addition to the standard conditions referred to above, the Permit Scheme will also apply several local conditions. Refer to Appendix D for details on local conditions.

Conditions applied to a permit by the Permit Authority will be pertinent to the objectives of the Permit Scheme.

5.3 Applying a Condition to a Permit

Where the Permit Authority considers it necessary and appropriate to impose conditions that differ from the proposals in the permit application, the Permit Authority will state the reasons for this action on their refusal of the permit. The Promoter can then choose whether to make a revised permit application or dispute the permit refusal.

For the application of permits, the main principle behind the Technical Specification for EToN is that when the Promoter submits an application to the Permit Authority they enter the content of the permit, for example the timing, duration and work methodology. The Permit Authority cannot amend the content of a permit, including the conditions attached.

If the Permit Authority does not agree with the condition(s) applied or requires additional conditions the application may be either:

- Refused with the inclusion of a comment to reflect the changes required;

  or

- Responded to with the issuing of a Permit Modification Request (refer to section 7).

The Promoter should submit a subsequent permit application with any agreed changes. It is the responsibility of the Promoter to ensure the application meets the permit conditions specified by the Permit Authority.

Promoters are encouraged to consider the inclusion of conditions on their permit during the initial application. By doing so, the likelihood of the Permit Authority refusing a permit, with a subsequent re-application could be minimised.

Where a Promoter recognises that multiple conditions should be used, or as indicated by the Permit Authority, all multiple conditions should be included on the permit application.

5.4 Breaching of conditions

Where it appears to the Permit Authority that a condition has been breached and that an activity promoter (or person acting on behalf of an activity promoter) has committed an offence then the Permit Authority may revoke the Permit and impose a fixed penalty notice.

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Issuing of permits

6.1 Timing of Permit issue

Where the Permit Authority is content with the proposal, it will issue a permit in accordance with the response times detailed in Appendix G

6.2 Issue of Permit

A permit will be issued electronically in accordance with the formats given in the Technical Specification for the Electronic Transfer of Notifications (EToN) with the details placed on the permit register and copies supplied to any undertaker, authority or other relevant body and other interested parties that have asked to be informed of activities in a particular street or of activities in relation to a particular Permit application.

6.3 Inclusion of Conditions

A Permit will be issued to the Activity Promoter every time an application is approved by the Permit Authority.

Each issued permit will specify in detail the specific activity permitted. The Permit will include all of the conditions attached to the Permit. Where any constraints were provided in the original application, such as work being undertaken during school holidays, such constraints will be included in the conditions attached to the granting of the Permit.

6.4 Permit Unique Reference Number

All permits will be given a unique reference number following the EToN numbering conventions with cross referencing to linked permits which have been issued.

6.5 Permit Application Deemed to be Approved

If the Permit Authority fails to reply to an application for a Permit or PAA within the designated response times (Appendix G), the Permit or PAA is deemed to be granted in accordance with the terms of the application. The proposed start and end dates, description, location, duration, traffic management, etc., will be included in the permit and associated conditions for the activity and will then be binding on the promoter as they would had the permit been issued within the timescale.

Breaching the conditions of a deemed Permit or PAA will constitute an offence.

6.6 Right of Appeal

The promoter has a right of appeal, in accordance with the Dispute Resolution process set down in the Code of Practice for Permits and Nottingham City Council's Dispute Procedure contained in its Network Management Plan, if it is unable to reach agreement with the Permit Authority over the terms it requested or the conditions attached. In the case of immediate activities it may be that the work has to stop, subject to safety and legal considerations, until the issues are resolved.

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Review, Variation and Revocation of Permits and Permit Conditions and Permit Cancellations

7.1 Permit Authority powers

Regulation 15 grants the Permit Authority powers to review, vary and revoke Permits and Permit conditions. There is no obligation upon the Permit Authority to allow activities to continue beyond the permitted period.

7.2 Changes to a Provisional Advance Authorisation

A Provisional Advance Authorisation cannot be varied. Where a Provisional Advance Authorisation has been given, but a full Permit has not been issued and the promoter wants or needs to amend the proposal, then the promoter must inform the Permit Authority immediately of the proposed change and a revised application for a Provisional Advance Authorisation or a Permit should be made.

7.3 Variations

If variations are required, then the activity promoter should contact the Permit Authority as soon as possible to avoid a criminal offence being committed by working without a Permit or working without complying with the Permit conditions.

If the variation changes the category of Permit required to a higher category, then the promoter will be required to pay the difference between the relevant Permit fees, in addition to the Permit variation fee.

The number of such variations will be reported each year, including where variations to higher Permit categories have been required for work for road purposes (refer to Appendix J).

7.4 Timing of Variations

Applications for variation may be made at any time after the Permit has been issued or before and during the activity taking place. Applications for variations must not be made after the end date of the Permit has passed. Applications for variations must include the information set out in section 4.4, with the variant information clearly identified.

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

7.5 Telephone Application for a Variation

If paragraph 7.4 does not apply, then the promoter must telephone the Permit Authority to seek the Permit Authority's initial opinion on granting a variation. If the initial opinion is to accept a variation the activity promoter may then submit an electronic application for a variation. For contact details refer to Appendix Q.

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7.6 Variations for Immediate Activities

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

As immediate works, the promoter will submit the first permit application as stipulated in section 4.2.4. That first application will contain the location of the initial excavation or opening:

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

2. The promoter will have to apply for a permit variation for the first excavation in each further 50 metre band away from the original hole in the same street, i.e. 50-100 metres, 100-150metres etc. Standard variation charges can be applied, although the permit authority may opt to waive such charges as a general rule or for particular cases.

3. Separate variations will be required for bands going in opposite directions or on opposite sides of the street.

4. For additional excavations within each band, the promoter will telephone the Permit Authority with the new location. No permit variation will be needed and no variation charge will apply.

5. If the search carries into a different street or a new USRN, then a separate permit application will be needed.

6. If the promoter cannot contact the Permit Authority by telephone, it should record the fact and send the message electronically.

7. The Permit conditions for Immediate activities may have to be altered to take account of how the activity develops and of the change of location, traffic management and working method. This may be initiated by the promoter or the Permit Authority, dependant on the site specific conditions.

7.7 Information Required for Variation Applications

Applications to vary a Permit or Permit Condition must contain the information in Section 4.4, with the reasons for the required variation clearly stated.

7.8 Permit Authority Initiated Review, Variation or Revocation

The Authority may take the initiative to review, vary or revoke Permits where it appears likely that Permit or Permit conditions or Permit Scheme objectives are not likely to be met, through no fault of the Activity Promoter. This could be due to unforeseen circumstances (for example, unusual weather or ground conditions) or because of Immediate unplanned works, leading to a delay in either the start date or the progress of permitted works. In these circumstances the Promoter is primarily responsible for reporting the delay; however the Authority may take the initiative in the best interests of road users.

Applications to revoke a Permit or Permit condition must contain the information in Section 4, with the reasons clearly stated.

Refer to Appendix L for the Policy Statement on Permit Authority Review, Variation and Revocation of Permits.

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7.9 Review of Permit Due to Non-Compliance by the Promoter

If the Permit Authority considers that a promoter is failing to comply with the conditions of a permit then it may take action to review, vary or revoke the Permit or Permit Condition. Before revoking a permit or Permit Condition, the Permit Authority will contact the promoter to warn them of its intention and allow the situation to be resolved.

Applications to revoke a Permit or Permit condition must contain the information in Section 4, with the reasons clearly stated.

Refer to Appendix L for the Policy Statement on Permit Authority Review, Variation and Revocation of Permits and to Appendix M for the Policy Statement on Sanctions.

7.10 Waiving of Fees

If the Permit Authority has to revoke a permit through no action, failing or fault on the part of the promoter, no fee should be chargeable for a new permit.

7.11 Suspending or Postponing an Activity

There is no mechanism in the Permit Scheme to formally suspend or postpone a permit, only to vary or revoke one. If the Permit Authority has to suspend or postpone an activity for which it has already given a permit, but which it intends must happen at a later date, the Permit Authority will contact the Promoter and agree that a variation is submitted by the Promoter. There will be no fee for this Permit variation.

If the Activity Promoter has to suspend or postpone an activity for which it has already received a permit, but which it intends must happen at a later date then the Activity Promoter must submit a Permit Variation request (see section 7.3). A fee will apply for this Permit variation.

7.12 Cancellation of a Permit

A Promoter who wishes to withdraw an application before a Permit is granted or cancel a permit for which they have no further use must use the cancellation notice as specified in the Technical Specification for the Electronic Transfer of Notifications (EToN).

There is no fee for a cancellation notice, but no refund of the fee paid for issuing the permit will be made.

7.13 Working after a Permit has been Revoked or Cancelled

An activity promoter will be committing an offence if it continues to work after a permit has been revoked or cancelled.

Refer to Appendix M for the Policy Statement on Sanctions.

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Fees

8.1 Permit Authority Power to Charge Fees

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

- The application for a PAA in respect of Major activities;
- The issue of a permit;
- Each occasion where there is a variation of a permit or the conditions attached.
- 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.

8.2 Fee policy

The Permit Authority will charge Activity Promoters for the above actions.

8.3 Where Fees will not be Payable

Fees will not be payable in the following circumstances:

- By the highway authority in respect of its own works for road purposes, but records of all permits issued and the fees that could have been charged will be kept in order to assist in the review of fees referred to in 8.7 below;
- Where a permit is deemed to be granted because the Permit Authority failed to respond to an application within the time set down in Appendix G;
- If a permit variation is initiated by the Permit Authority or the Authority has to revoke a permit through no fault of the promoter;
- Where the promoter has applied for an optional permit as described in section 4.1.3.

8.4 Fee Discounts

Fee discounts will be given where:

- Several permit applications for activities which are part of the same project but which may be carried out in more than one street (see 4.3.7), are submitted at the same time (this is not intended to cover area-wide activities);
- Several promoters working within the same site submit applications at the same time. The primary promoter will require a permit with full information about the activities, and the other promoters will require a permit so that the authority knows who is working there.

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8.5 Rate of discount

A discount of 30% will be applied in the circumstances described in 8.4 above.

8.6 Option to waive or reduce fees

Variation fees may be waived where a Promoter has identified that varying their application or Permit will allow collaborative working and the Permit Authority agrees that there is a benefit to road users from the proposed variation.

The Permit Authority retains the option to waive or reduce fees at its discretion in other circumstances.

8.7 Review of fees

The Permit Authority will review its scale of fees annually to ensure that the overall fee income does not exceed the allowable costs. The outcome of the annual fee reviews will be published and open to public scrutiny and made available at the local HAUC co-ordination meeting.

8.8 Approved scale of fees

The current approved scale of fees is included in the order made by the Secretary of State for the Permit Authority to operate the Permit Scheme.

8.9 Processing of fees

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

A summary will be issued to each promoter every two weeks so that amounts can be confirmed before the invoice is raised so as to avoid late payments.

Each promoter is required to provide an e-mail contact to where the summary can be sent.

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Inspection of Activities

9.1 Purpose of Inspections

The Permit Scheme aims to improve the planning and execution of works on specific roads of importance within the administrative area of the Permit Authority. The inspection regime will reflect the relative importance of the road network, the needs of road users and the impact of avoidable congestion on these routes.

9.2 Inspection Process

The basic sample inspection process as outlined in the Code of Practice for Inspections will apply, with A, B and C inspections being carried out.

9.3 Number of Inspections

The basic number of A, B and C inspections will be determined using the methodology contained within the Code of Practice for Inspections.

9.4 Right to Carry Out Additional Inspections

The Permit Authority has the right to carry out more than the 10% sample as the interests of the road users and the objectives of the Permit Scheme may benefit from an increased level of monitoring. However these additional inspections will not be charged as part of the sample charging regime.

9.5 Inspection Coverage

All activity promoters will be subject to sample inspections at A, B and C. The Permit Authority already has a regime in place and this will be adapted to the Permit Scheme.

9.6 Inspection Reporting

All results of A, B and C inspections will be recorded, published and reported to all promoters.

9.7 Improvement Notices

The Improvement Notice processes contained in the Code of Practice for Inspections will continue to be used where any activity promoter's non-compliance falls within the intervention criteria.

9.8 Permit Compliance Monitoring

The inspection criteria for monitoring Permit compliance will be incorporated within the A, B and C process where Permits have been issued for works.

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9.9 Inspections for Overrunning Works

Inspections for overrunning works under NRSWA s74 will be carried out in relation to the works of all activity promoters, in the interests of parity. Fees may be charged for unauthorised overrunning works, in addition to other fees and FPNs that may be applied under the Permit Scheme. Fees for overrunning works will not be charged for works under S50 or for works for road purposes, but statistical information will be collected and reported at local and regional HAUC meetings, in a similar way to that currently used to report inspection information.

9.10 Reporting of Overrunning Works

Figures for overrunning highway works will be published and reported alongside performance information relating to other activity promoters.

9.11 Defect Inspection

Defect Inspection (and third party inspections) as defined in the Code of Practice for Inspections will also be applied to works carried out on specified streets.

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Permit Scheme Monitoring

10.1 Evaluation

In accordance with the 2007 Regulations, the Permit Authority will monitor and evaluate the Permit Scheme to ensure parity of treatment for all activity promoters and that the scheme meets its objectives.

Parity and performance will be measured using a set of Key Performance Indicators (KPI's) (see 10.2). The results of the KPIs will be published annually.

The KPIs will be discussed at the regular activity promoter meetings as appropriate. In addition, the KPIs will be made available to any other person or body on request or the authority may choose to publish them on their website.

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

10.2 Key Performance Indicators

A key principle and objective of the Permit Scheme is that it treats all activities covered by the Permit Scheme equally. The 2007 Regulations provide for permit schemes to include both street works by statutory undertakers (as defined in NRSWA) and highway works (as defined in Section 86 (2) NRSWA) as works for road purposes. Although the term "specified works" is used generically in the 2007 Regulations, "activities" is used in the Permit Scheme 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.

In order to show that the Permit Authority is operating the Permit Scheme in a fair and equitable way the Permit Authority will apply a set of Key Performance Indicators (KPIs). The Permit Authority must report against these KPIs on an annual basis.

Mandatory KPIs for The Nottingham Permit Scheme for Road Works and Street Works
1. The number of permit and permit variation applications received, the number granted and the number refused
This will be measured 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.

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2. The number of conditions applied by condition type

This will be measured 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.

This KPI is dependent upon the use of standard conditions. Local or specific conditions will be grouped into a single category that may be analysed more fully if required.

The number and types of condition applied are likely to be determined by the specific location, scale and category of the works. There will be a need to separate the data to get down to reasonably equivalent situations. For example, if for minor works on category 2 streets, one promoter had an average of four conditions and another had an average of seven conditions then that would suggest an imbalance. Similarly, if one promoter had conditions for restricted hours of working on traffic-sensitive streets in 90% of cases and another had such conditions in only 60% of cases, then that would raise a question.

The Permit Authority may select additional KPIs in addition to the mandatory KPIs above. The initial selection is detailed in the application document (section 10) and the available KPIs which can be reported on by the Permit Authority to demonstrate parity of treatment of promoters across the scheme are detailed in Appendix J.

The Permit Authority may seek to add additional local performance indicators in consultation with Activity Promoters. Regular meetings will be held to discuss the scheme performance and to report and develop relevant measures.

The available KPIs which can be reported on by the Permit Authority to demonstrate parity of treatment of promoters across the scheme are detailed in Appendix J.

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Sanctions

11.1 Permit Authority's Policy

Appendix M describes the Permit Authority's policy regarding sanctions. This policy statement should be read in conjunction with this section.

11.2 Undertaking Activities Without a Permit

It is a criminal offence for an activity promoter or a person contracted to act on an activity promoter's behalf to undertake a specified works activity in a specified street without obtaining a Permit, except in the circumstances in section 2.5.

11.3 Breaching a Permit Condition

It is a criminal offence for an activity promoter or a person contracted to act on an activity promoter's behalf to breach a Permit condition.

11.4 Action by the Permit Authority

Where an activity promoter or a person contracted to act on an activity promoter's behalf undertakes without a permit, works for which a permit is required, or breaches a permit condition, the Permit Authority may:

- Serve a notice requiring the promoter to take such reasonable steps as detailed in the notice, which may include steps to remove works, to remedy the breach or to minimise or discontinue any obstruction of the street connected with the works to the satisfaction of the Permit Authority;
- If an activity promoter fails to comply with the requirements of such a notice, within the timescales, then the Permit Authority may undertake the specified steps and recover the costs that are reasonably incurred from the activity promoter;
- Issue a Fixed Penalty Notice (FPN) against the promoter;
- Prosecute the promoter.

The form of the FPN is given in Appendix N.

In the event that the Permit Authority subsequently considers that a FPN which has been given ought not to have been given, it shall give to the person to whom that notice was given a notice withdrawing the FPN. The form of notice withdrawing a FPN is given in Appendix O.

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Dispute Resolution

12.1 Introduction

The TMA provides extensive powers to devise a suitable dispute resolution procedure and to identify the stages of the permit application process at which it can be invoked. There are no prescribed statutory dispute resolution procedures as yet and the approach taken therefore is to build on arrangements which already exist through the Highways Authorities and Utilities Committee (HAUC UK) at local and national level for resolving disputes and are set out in the code of practice for permits.

The Permit Authority will endeavour to resolve disputes without having to refer to any formal appeal procedure.

12.2 Incidence of Dispute Resolution

Two stages of the permits process provide for dispute resolution:

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

- A promoter who has been issued with a permit and has started work realises that it will no longer be able to comply with the original permit. It applies, therefore, for the permit or its conditions to be varied or extended. The two parties are unable to reach agreement on any variation or perhaps, on whether any variation should be allowed.

The permit authority will try, where ever possible, to resolve the disagreement with the activity promoter. However, it is recognised that occasionally this may not be possible.

12.3 Dispute Review

If an agreement cannot be reached locally on any matter arising under any part of the Permit Scheme the dispute will be referred for review on the following basis:

12.3.1 Straightforward issues

Where the parties concerned consider that the issues involved in the dispute are relatively straightforward, the matter shall be referred to impartial members of the regional HAUC (that is those not representing parties directly involved in the dispute) for review. That review should take place within five working days from the date of referral. It is recommended that both parties accept the result as binding.

12.3.2 Complex issues

If the parties concerned think the issues are particularly complex, the matter will be referred to HAUC (UK) in order 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 (UK) joint chairs.

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

The review would normally take place within ten working days from the date on which the issue is referred to HAUC (UK). It is recommended that all parties accept the advice given by the review panel as binding.

12.4 Arbitration

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

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

12.5 Adjudication

If agreement cannot be reached by the procedure above, for instance if one or more of the parties do not accept the ruling of the Regional HAUC or HAUC (UK) review as binding, the dispute will be referred to the independent adjudication provided that the parties agree that the decision of the adjudicator is deemed to be final. The cost of the adjudicator 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. Where the adjudication route is followed, the parties should apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from suitable recognised professional bodies.

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Appendix B – Dis-applied Sections from the NRSWA(1991)

Where The Permit Scheme applies, 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 regulations:

Promoters' duties - disapplied sections of NRSWA			
NRSWA Section		**Change**	**Permit Regulations – Revised Arrangements**
S 53	The street works register	Disapplied	Permit regulations prescribe similar provisions for permit registers.
S 54	Advance notice of certain works	Disapplied	Replaced by applications for provisional advance authorisation.
S 55	Notice of starting date	Disapplied	Replaced by applications for permits.
S 56	Power to direct timing of street works	Disapplied	Replaced by permit conditions and variations, including those initiated by the permit authority.
S 57	Notice of emergency works	Disapplied	Replaced by applications for immediate activities.
S 66	Avoidance of unnecessary delay or obstruction	Disapplied	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.

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Appendix C – Modifications to NRSWA (1991)

Where The Permit Scheme applies, Permit Regulations modify the following sections of NRSWA to accommodate the issuing of permits rather than the exchange of notices:

Promoters' duties – modifications to NRSWA			
NRSWA Section		**Change**	**Permit Regulations - Revised Arrangements**
S 58	Restriction on works following substantial road works	Modified	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	Modified	Schedule 3A is modified to work in conjunction with permits.
S 64	Traffic-sensitive streets	Modified	Permit regulations provide that permit applicant are notified of proposals to designate streets as traffic-sensitive streets.
S 69	Works likely to affect other apparatus in the street	Effectively extended	Permit regulations create an equivalent requirement on highway authority promoters.
S 74	Charge for occupation of the highway where works are unreasonably prolonged	Modified	Permit regulations make provision to operate in parallel with permits.
S 88	Bridge, bridge authorities and related matters	Modified	Modified to work in conjunction with permits.
S 89	Public sewers, sewer authorities and related matters	Modified	Modified to work in conjunction with permits.
S 90	Provisions as to reinstatement of sewers, drains or tunnels	Modified	Modified to work in conjunction with permits.
S 93	Works affecting level crossings or tramways	Modified	Modified to work in conjunction with permits.

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Appendix G – Application & Responses Times

This section has been included for information only. Reference should be made to the relevant legislation and Codes of Practice for full and up-to-date details.

The Permit Scheme application and response times for dealing with Provisional Advance Authorisation Permit applications and variation applications are set out in the table below.

The times in the table below are measured from the time that the application is received by the Permit Authority.

A 'response' is a decision to grant or refuse a Permit. Where there are reasons for not granting a Permit on the terms applied for, then the response to the applicant will explain the reason why the Permit will not be granted on those terms.

'Days' refer to working days as defined in the regulations.

Activity Type	**Minimum application periods ahead of start date**		**Minimum period before Permit expires for application for variation (including extensions)**	**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	

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Appendix L – Policy Statement: Permit Authority Review, Variation and Revocation of Permits

The Permit Authority may take the initiative to review, revoke and vary Permits; however the promoter should have a reasonable expectation that the road space will be available for the activity to be executed. It is also desirable for road users and public transport operators to have reliable information and to have an expectation that work will be executed as and when planned.

It is reasonable to expect that situations will occur, outside of the control of the Permit Authority, which may cause the Permit Authority to review the Permit and, or the conditions attached to a Permit. It is possible in some circumstances that the Permit Authority may need to change or revoke the Permit or the conditions.

It is the intended policy that the Permit Authority will avoid making such changes other than in exceptional circumstances and such changes will be based on an assessment of impact on road users. It is envisaged that in circumstances where unpredictable events occur, which result in the loss of capacity on the road network or where strategic diversion routes are required to be activated then planned activities may need to be revised, changed, postponed or cancelled.

If circumstances determine that such action is required then the Permit Authority will contact the activity promoter(s) as soon as possible to alert them to the situation and discuss the possible course of action.

If possible and practicable the Permit Authority will seek to agree changes with the activity promoter. The Permit Authority will then issue a revised Permit or the activity promoter may apply for a revised Permit.

It is anticipated that in most cases agreement will be reached, however if agreement cannot be reached and the Permit Authority issues a new Permit, the activity promoter will have the option of using the dispute resolution procedure.

The fee for revoking and varying Permits will not be charged when the Permit Authority initiates the action described above, unless the activity promoter applies for a variation which is not directly linked to the cause of the Permit Authorities initiating action.

The policy only applies to unforeseen circumstances and the actions that are reasonably necessary. It does not prevent the Permit Authority from reviewing, varying and revoking a Permit where the Permit Authority considers that an activity promoter is acting unreasonably and causing unnecessary or avoidable disruption.

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Appendix M – Policy Statement: Sanctions

It is a criminal offence to fail to obtain a Permit for specified activities, where a Permit is required, or to fail to comply with Permit conditions.

The Permit Authority will seek to resolve problems quickly and effectively by giving direction of what is required to achieve compliance to the relevant activity promoter.

If possible situations will be informally resolved. If a quick and informal resolution is not possible then the Permit Authority will serve notice on the activity promoter giving a clear description of the non-compliance and direction as to the required remedial action to be taken by the activity promoter, with timescale for the action.

If the activity promoter does not respond by taking the required action, within the required timescale, then the Permit Authority may carry out the required action and recover all costs reasonably incurred from the activity promoter.

If non-compliance is serious or persistent then the Permit Authority may issue a Fixed Penalty Notice or initiate legal proceedings against the activity promoter.

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