

Kent Permit Scheme

Traffic Management Act 2004



DOCUMENT SUMMARY

Document History

The Kent Permit Scheme submitted to the Secretary of State has been given Version 1.0. Any further developments as a result of the review process will be detailed below:

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The Kent Permit Scheme

1. INTRODUCTION

The Kent Permit Scheme (KPS), operated under the powers of the Traffic Management Act 2004 (TMA), has been introduced, to enable Kent County Council to better manage activities in the public highway. In particular it aims to improve Kent County Council's ability to minimise disruption from utility companies' street works and Kent County Council's own highway works, both of which are covered by the scheme.

The scheme provides a change from the 'notification system' of the New Roads and Street Works Act 1991 (NRSWA). Instead of informing the street authority about its intention to carry out works in the area, a utility company will need to book time on the highway through a permit, as would Kent County Council, its partners and agents, for its own works.

Under the scheme both utility companies' activities and Kent County Council's activities as highway authority are treated in the same way with regard to co-ordination and the setting of conditions.

This document describes the Kent Permit Scheme, its objectives, requirements and procedures. The scheme follows the Traffic Management Permit Scheme (England) Regulations (SI 2007/3372) and has been modified for compliance with The Traffic Management Permit Scheme (England) (Amendment) Regulations 2015 (S.I 958 / 2015). For consistency with the Statutory Guidance and Code of Practice, in the Kent Permit Scheme the term "promoters" is used where the sense includes both utility companies and highway authorities, and "activities" is used rather than "works", even though the scheme applies at present only to street works and highway works.

The Kent Permit Scheme does not require permits for all activities which are currently covered by the notification scheme in NRSWA, for example works by undertakers licensed under section 50 of NRSWA. Activities not requiring permits will continue to be subject to the NRSWA requirements as set out in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (SI 2007/1951) and The Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters Third Edition, published in 2007, any subsequent amended or replacement regulations and code of Practice.

The operation of the Kent Permit Scheme has been reviewed during its first 5 years and will be reviewed thereafter every 3 years from the date of the Kent County Council 2015 order.

A glossary of terms is provided in Appendix A.

2. OBJECTIVES AND PRINCIPLES

2.1 Objectives for the Kent Permit Scheme

2.1.1 Background

Kent County Council is responsible for a network of over 8,400km of roads across the county. The maintenance and management of that network is one of the Council's important responsibilities. The Council's approach to managing the network are set in the context of its Local Transport Plan for Kent 2006 – 2011 and spelt out in more detail in Kent Highway Services' Network Management Plan. The Local Transport Plan includes 11 objectives, of which the key one in relation to the Kent Permit Scheme is to "Keep Kent Moving – Kent County Council will manage and maintain the local highway network to maximise the safe and efficient use of road space and provide reliable journey times".

Kent Highway Services' Network Management Plan in turn describes the County's Plans and Policies for the network, including their approach to fulfilling their Network Management Duty under the Traffic Management Act, i.e. to ensure the expeditious movement of traffic, as far as reasonably practicable, on their own network and to facilitate the same on other authorities' networks. The Kent Permit Scheme is one element of the County's approach to managing the network and is identified in the Plan.

Kent has a number of distinct features which combine to make active management of the network especially important:

- There is no one major urban centre in Kent but a number of medium size towns. The inter-urban strategic network for which Kent County Council is responsible is not particularly good; it has limited capacity and limited alternatives;
- As an international gateway through the Channel ports and the Channel Tunnel, the roads in Kent carry high volumes of through traffic, especially at peak holiday times, but also carry a high proportion of freight traffic. While much of this traffic goes on the Highways Agency's motorways and trunk roads (in particular the M2 and M20), when incidents do occur on those roads, large volumes of traffic are cascaded onto the local roads, which cannot cope;
- The towns themselves have often developed around relatively dense central areas so focussing activity and the attendant traffic there, creating congestion in the peak hours;
- Successful developments at Ashford, Bluewater, Kings Hill and Kent Thameside, together with future developments based on the Channel Tunnel Rail Link, Thames Gateway, Dover Docks Westport and Kent International Airport, regeneration in Thanet and growth targets of 93,000 new houses, mean that pressure on the road network has been increasing and will continue to do so.

With the local road network under pressure the impact of any loss of capacity can quickly spread to have widespread and significant effects on road users. Activities by Kent itself and by utility companies can be the cause of such loss of capacity.

2.1.2 Managing disruption caused by activities on the network

All activities reduce the width of the street available to traffic, pedestrians and other users. They can also inconvenience businesses and local residents. The scale of disruption caused by this restriction will depend on the type of activity and how busy the street is. Works where the traffic flow is close to, or exceeds, the physical capacity of the street will clearly cause congestion and disruption. And even though small-scale works in a non traffic-sensitive street might bring only minimal delays to residents and delivery vehicles, the nuisance they cause is an aspect of disruption that can still be an issue for residents.

Effective co-ordination and management by the highway authority is therefore essential to minimise traffic disruption whilst allowing activity promoters the necessary time and space to complete their work. This is not intended to prevent activities necessary for the maintenance and improvement of the road network or the services running underneath it or to adjacent buildings but to achieve an appropriate balance between the interests of the various parties.

Small scale and short duration activities, particularly in non-traffic-sensitive situations, are unlikely to cause significant disruption. However, a cluster of such activities close to larger activities could cause serious disruption. Effective co-ordination therefore needs to take into account proposals of every scale and duration.

2.1.3 Specific objectives for the Kent Permit Scheme

The strategic objective for the Kent Permit Scheme is that taken from the Local Transport Plan mentioned above, namely

- to Keep Kent Moving - Kent County Council will manage and maintain the local highway network to maximise the safe and efficient use of road space and provide reliable journey times.

Under this overarching objective, the aim of the Kent Permit Scheme is to improve the management of the road network through the better planning, scheduling and management of activities so that they do not cause avoidable traffic disruption to any road user.

Achieving this aim will help Kent County Council in meeting its network management duty under the TMA. Co-ordination of activities through the Kent Permit Scheme will enable differences between those competing for space or time in the street, including traffic, to be resolved in a positive and constructive way. The TMA broadens the co-ordination and co-operation duties under NRSWA. The Kent County Permit Scheme is intended to make co-ordination more effective.

The specific objectives for the Kent Permit Scheme are

- to ensure safety – for those using, living or working on the street, including those engaged in activities controlled by the Scheme;
- to minimise inconvenience and disruption caused by activities to people using the streets, including
 - paying particular attention to providing for people with a disability,
 - minimising congestion and delay to traffic (all modes),
 - minimising other impacts on the community and the environment,
 - improving public satisfaction;
- to protect the structure of the street and the integrity of apparatus in it.

The “other impacts” in the second objective include more general quality of life factors related to the effect that activities have on the lives of local people. Work will always need to be carried out by the highway authority and undertakers but people will be more understanding if they perceive that the activities are being managed by Kent County Council as permit authority, and by activity promoters, in ways that minimise the impacts. These quality of life factors are of particular relevance on the minor, more residential roads.

2.2 Principles of co-ordination and co-operation

2.2.1 Key principles for promoters and Kent County Council

It is essential that everyone involved in activities on the highway takes both the Kent Permit Scheme objectives and the broader TMA objective of expediting the movement of traffic into account. To meet the above objectives Kent County Council and activity promoters must adhere to four key principles:

- the need to balance the potentially conflicting interests of road users and activity promoters’ and their customers;
- the importance of close co-operation and liaison between Kent County Council as Permit Authority

and activity promoters;

- acknowledge that activity programmes and practices may have to be adjusted to ensure that the statutory objectives of the co-ordination provisions are achieved;
- the provision of timely, clear, accurate and complete information between promoters and Kent County Council as Permit Authority.

The principles here apply equally to the activities that continue to be subject to the NRSWA notices regime; co-ordination, co-operation and liaison must extend to all activities, whichever regime they are under.

2.2.2 Principles for promoters

Planning and executing activities

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

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

Co-operation and flexibility

Activity promoters should be prepared to discuss their proposals with other interested parties, including frontagers, and to modify them where it is appropriate and practicable.

Timing of applications

The greater the disruption an activity is likely to cause, the sooner the application should be made. Promoters should recognise that statutory application periods are a minimum and whenever possible longer periods should be given. This benefits both the Kent County Council as Permit Authority and the promoter - if modifications are required, the earlier the Council informs the promoter, the easier it will be for them to comply.

Working space

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

2.2.3 Kent County Council's approach to permit decisions

In coming to decisions on permit applications, Kent County Council as Permit Authority will consider all aspects of the proposed activities and other influences that may affect traffic. These include but may not be limited to:

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

Kent County Council as Permit Authority will discuss difficulties that any proposed activity will or may cause, with the promoter and, where possible, agree an acceptable way forward. However, safety concerns, urgency or lack of co-operation, may make it necessary for Kent County Council to so condition a permit to ensure that the work is carried out in such a way as to minimise disruption and inconvenience.

Kent County Council will give favourable consideration to allowing early starts (i.e. proceeding before the end of the full application period set out in Table 3 in Chapter 5), if there are no objections.

Kent County Council will use the same approach, and take into account the same factors, for all promoters and activities, whether for utility companies or Kent's own highway teams.

Kent County Council will operate the permit scheme in relation to certain activities which are likely to be less disruptive in a way that conforms, as closely as practicable, to the way that a NRSWA notices regime would be operated if it applied to those activities. Definitions of the roads and activities concerned are given in Chapter 3, in particular in 3.2.5.

2.3 Co-ordination Principles and Processes

2.3.1 Principles of co-ordination

The co-ordination process has four phases:

- a) Information: Kent County Council needs accurate and timely information on what is proposed and when it is happening;
- b) Analysis: The Council needs a means of assimilating and analysing this information;
- c) Consideration: The Council must consider whether any changes are required to minimise disruption before it agrees to the proposals;
- d) Co-operation: All parties must co-operate with the Council to achieve the minimum disruption.

In some cases Kent County Council as Permit Authority and activity promoters will be able to co-ordinate effectively on a one-to-one basis. However, for the most part, regular meetings of dedicated groups will be needed. The Kent HAUC meetings provide the principal means of doing this, with involvement, as necessary, in the South East Highway Authorities and Utilities Committee (SEHAUC).

All promoters requiring permits for activities on Kent's roads are required to actively and constructively participate in the relevant co-ordination meetings.

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

- the sharing of information and consultation between interested parties at the earliest opportunity;
- regular input and attendance of relevant people (those empowered to take decisions) at co-ordination meetings;
- activity promoters and authorities sharing business development plans and replacement programmes for apparatus and highway assets with the coordinating authority;
- communication of decisions at the earliest opportunity so that promoters plans can be adapted, if necessary;
- cross boundary co-ordination between neighbouring authorities, utilities, and others, especially for all planned works and planned maintenance on strategic routes.

2.3.2 Local co-ordination

At a county level, co-ordination meetings will be chaired by the Manager accountable for Street Works (or a nominated deputy) of the Kent County Council. The meetings will be concerned primarily with direct co-ordination of individual schemes and dissemination of information. Co-ordination will cover all activities including those covered by both the Kent Permit Scheme and those being dealt with under the NRSWA notification regime.

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

- specific major activities with, wherever possible, fully-costed and assessed alternative routes for activity proposals and a full assessment of the preferred route;
- medium-term and annual programmes for all activity promoters; these must be submitted at least 21 days before the meeting, and showing a six-month rolling programme of work. This will allow the Kent County Council as Permit Authority to compile a co-ordinated schedule of activities;
- planned road closures for the next quarter and rolling year ahead, to allow all activities to be planned within such closures as far as possible;
- other significant events.

The following topics may also be covered, as appropriate:

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

Representatives from all major interests will be invited. This includes all promoters and the Highways Agency. Promoters must attend meetings if they have current or prospective activities on Kent County Council's roads. The representatives must be well enough informed to discuss major projects, individual proposals and medium-term and annual programmes that are relevant to them and have delegated responsibility to take decisions.

2.3.3 Liaison with other bodies

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

- the police, fire, ambulance and other emergency services;
- public transport operators;
- other appropriate representative bodies, e.g. organisations representing disabled people, pedestrians, motorists, and cyclists;
- the appropriate local district/borough planning and environmental health officers.

2.3.4 SEHAUC

Kent County Council is an active member of SEHAUC and expects all promoters with a significant regional interest to be represented there. Other promoters may be invited periodically to report on their activities.

SEHAUC may also facilitate dispute resolution procedures for the Kent Permit Scheme. Performance reviews of the Kent Permit Scheme may also be discussed at these meetings.

2.3.5 Technology

The day-to-day co-ordination of the majority of proposals can be achieved only through the use of technology, especially given the relatively short lead times for minor and standard works.

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

To increase the benefit of these changes, Kent County Council as the street authority will work toward the inclusion of National Grid References on other relevant documents, such as applications for skips or scaffolding on the highway.

2.3.6 Permit scheme register

Kent County Council will create and maintain an electronic permit register for the Kent Permit Scheme. Information about current and planned activities will be kept on the register and will be available electronically to promoters to assist them in planning and co-ordinating their own works at the earliest possible stage. Further details about the register is contained in Appendix B

2.4 Forward Planning of Activities

2.4.1 Forward planning information

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

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

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

2.4.2 Recording information

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

- take part in early co-ordination;
- consider joint working;
- consider trench sharing;
- highlight other activities which need to be co-ordinated with these activities;
- produce reports for the permit team co-ordinators.

The entry should give as much detail as possible. The minimum information needed is the street involved, the nature of the activity and the proposed dates - which may be just 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.

2.4.3 Entering information into the register

It is the Kent County Council's responsibility to enter forward planning information into the relevant section of the register. This will be made available alongside other information in the register.

Promoters should send forward planning information about works electronically. The information shown below in Table 1 should be provided. The Technical Specification for EToN defines a Forward Planning Information Notice. Promoters are encouraged to use this notice to supply information to Kent County Council as Permit Authority in a consistent way.

Table 1: Information to be Provided on the Register

Information to be provided	
Permit Authority	
Operational district	
Activity promoter	
Date of last update	If applicable
Activity promoter's reference	If applicable
Town	
Locality	
USRN	
Street name	
Road number	Road classification number
Grid reference (Easting)	Approximately the centre point of the proposed works
Grid reference (Northing)	Approximately the centre point of the proposed works
Activity promoter contact name	Name of person who can answer queries regarding the activity.
Activity promoter contact number	Telephone number of above
Activity description	
Activity position	When known. Carriageway = C. Footway = F. Verge = V.
Traffic management type	When known
Length of activity	When known
Width of activity	When known
Notes	

3. SCOPE OF KENT PERMIT SCHEME AND DEFINITIONS

3.1 Areas and Streets

3.1.1 Area Covered by Kent Permit Scheme

The area covered by the Kent Permit Scheme is the County of Kent excluding the Medway Council area; this is the “specified area” as set out in the regulations.

3.1.2 Streets Included in Kent Permit Scheme

All streets for which Kent County Council is the highway authority, i.e. publicly maintained by or on behalf of Kent County Council, are included in the Kent Permit Scheme; these are the “specified streets” as set out in regulations.

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

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

Street Gazetteer

The street gazetteer for Kent, produced and maintained by Kent County Council and used for NRSWA, will be used for the Kent Permit Scheme, including the Unique Street Reference Numbers (USRNs) and the Additional Street Data. Kent’s Street Gazetteer forms part of the National Street Gazetteer (NSG) – sometimes also referred to as the Nationally Consistent Street Gazetteer – held centrally on behalf of all local highway authorities by a concessionaire.

In relation to permits, the term “street” refers to an individual USRN. Details about the Street Gazetteer, and the Additional Street Data associated with each street on the Street Gazetteer, are contained in Appendix C.

Streets with special designations and controls

Streets with special controls designated under NRSWA as protected streets, streets with special engineering difficulty and traffic-sensitive streets, will have the same designations under the Kent Permit Scheme. Where those designations are revised, the criteria and procedures in Appendix D will be followed.

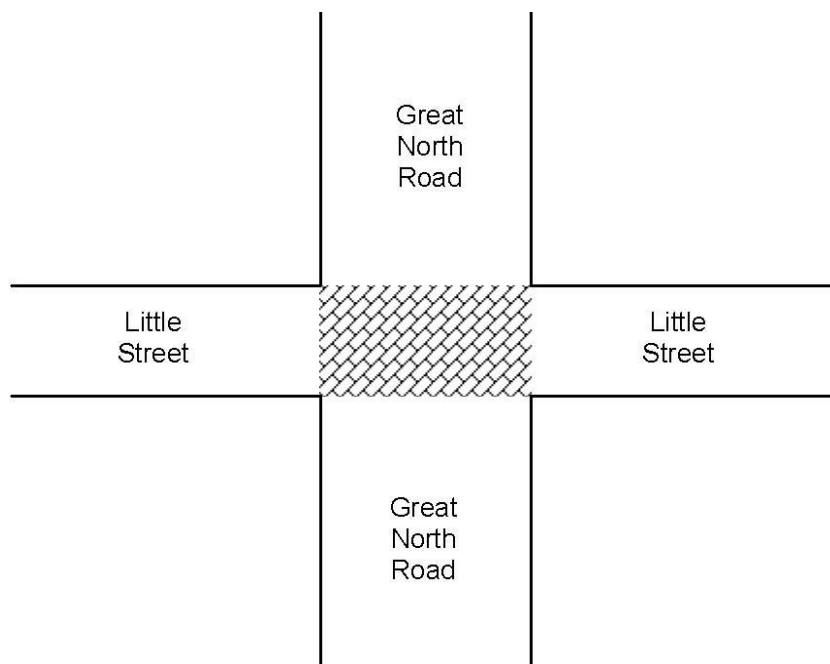
In addition to the designations carried across from NRSWA, Kent County Council as Permit Authority has designated on the Additional Street Data certain streets as especially vulnerable to traffic disruption and where an early warning of immediate activities on streets is required. In these cases, the promoter must telephone the authority’s specified number as soon as activities become necessary or, at the latest, as soon as they begin.

Reinstatement categories

Reinstatement categories of streets, where used in the Kent Permit Scheme, are the same as the reinstatement categories under NRSWA, as defined in the *Specification for the Reinstatement of Openings in the Highway*. If there are revisions to the definitions of category 0 – 4 streets in the Specification, these will be read across into the Kent Permit Scheme.

The road category, as given in the Additional Street Data must be treated as definitive. If Kent County Council has not entered road categories for streets on the NSG, the streets will all be treated as category 4 for the purposes of the Kent Permit Scheme and for overrun charges and other elements of NRSWA linked to the Kent Permit Scheme.

DRAWING 1: JUNCTION PLAN FOR MULTIPLE ROAD



When working or planning to work in any area, which could be regarded as belonging to more than one street, where the location has to be defined – for example in any application for a permit, PAA or variation – the location should be referenced to the street with the highest road category. This is of particular significance when working at a junction. For example, in the plan above, Little Street is a category 4 road and Great North Road is a category 2 road. If a promoter proposes an activity in the central area, marked in a herringbone pattern, the application should be made against Great North Road.

Main and minor roads

Kent Permit Scheme distinguishes between main roads and minor roads in certain circumstances.. The same groupings of roads into main roads and minor roads are used as are used within NRSWA, namely:

Main roads – all streets with reinstatement category 0, 1, or 2 and streets in reinstatement category 3 and 4 that are designated as traffic-sensitive for all or part of the time.

Minor roads – streets with reinstatement category 3 or 4 which are not designated as traffic-sensitive at any time.

3.2 Activities Covered by Kent Permit Scheme

3.2.1 Activities requiring a permit

Subject to the exemptions in 3.2.3 below, permits must be obtained from Kent County Council as Permit Authority by promoters for all registerable activities, where registerable activities are the same as registerable works under NRSWA. These are the “specified works” as set out in the regulations. These include:

- street works - work on plant and apparatus in the street by undertakers;
- works for road purposes - maintenance and improvement works to the road itself carried out by, or on behalf of, the highway authority; and
- major highway works.

Further details of what is covered by registerable activities, and where there are exemptions within NRSWA that are carried across into the Kent Permit Scheme, are given in Appendix E.

Except for immediate activities, promoters must obtain a permit before starting their activities. Kent County Council as Permit Authority will be able to attach conditions to the permits. Promoters must comply with the terms of the permits and any conditions attached.

One permit can only cover one activity on one street.

3.2.2 Activities not requiring a permit before they start

Immediate activities (see definition in Appendix E) do require a permit but, because 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 from Kent County Council as Permit Authority within 2 hours and comply with any conditions specified by Kent County Council, whether standard for such activities or particular to one activity.

3.2.3 Works and activities not requiring a permit at all

Works under a street works licence (under section 50 of NRSWA) do not require a permit but have to follow the normal NRSWA procedures through Kent County Council.

Although, street lighting works for Kent County Council as highway authority are works for road purposes and requires a permit, street lighting works and repairs for District and Parish Councils, acting on their own account and not on behalf of Kent County Council, do not require a permit but must follow the existing relevant procedures.

3.2.4 Categories of activities

Different requirements apply to different categories of activities, for example longer timescales apply to larger activities. The same categories – major, standard, minor and immediate – are used for the Kent Permit Scheme as are used for works categories in the 2007 Notices Regulations under NRSWA. Details of the definitions are given in Appendix E. If the definitions for works categories in the NRSWA regulations are subject to minor changes, then the Kent Permit Scheme will carry across those changes into its definitions of corresponding activity categories.

3.2.5 Permit activities treated in an equivalent manner to Notices

KCC as permit authority will operate the Kent Permit Scheme in a way that focuses attention on those activities where impacts are greatest. Certain activities are less likely to have significant impact. The permits for these activities will be treated by Kent County Council in a manner equivalent, as far as practicable, to Notices under NRSWA and no fee will be payable. (This is referred to as Notices Equivalent Treatment.)

This approach will apply to standard, minor and immediate activities (i.e. all except major activities) on

- minor roads; and
- those category 3 and 4 roads which are designated as traffic sensitive but where the activity is carried out wholly at non traffic sensitive times.

“Non traffic sensitive times” in the second bullet above includes:

- (a) at locations which are traffic sensitive at some times – outside of the traffic sensitive times;
- (b) at locations which are not traffic sensitive at any time – at any time.

Table 3 below summarises which activities will be subject to the full permit treatment (FPT) and those that will be subject to the notices equivalent treatment (NET).

Table 3 Treatment of Permits in Kent Permit Scheme

	Main roads			Minor roads
Reinstatement category of street	0, 1 and 2	3 and 4		3 and 4
Street designated as traffic sensitive or not	All streets	Traffic sensitive at some times/locations		Non traffic sensitive at any time or location
Time and location of activity	Any time and location	Any part within traffic sensitive times at traffic sensitive locations	Wholly within non traffic sensitive times/locations	Any time and location
Major Activity	FPT	FPT	FPT	FPT
Standard activity	FPT	FPT	NET	NET
Minor Activity	FPT	FPT	NET	NET
Immediate activity	FPT	FPT	NET	NET
Permit variation	FPT	FPT	NET * #	NET *

Notes

1. FPT – Full Permit Treatment - indicates those activities which will be subject to the full requirements for permits as described in the Kent Permit Scheme, including the payment of a fee.
2. NET – Notices Equivalent Treatment - indicates those activities which will be treated, as far as practicable, in an equivalent manner to notices under NRSWA and with zero fee.
3. # if a variation takes the activity into a traffic sensitive time then the relevant permit will be treated as FPT; the permit fee and the permit variation fee will both be charged.
4. * if a variation takes the activity into the major activity category the relevant permit will be treated as FPT; the permit fee and the permit variation fee will both be charged

3.3 Phasing of Activities

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

A promoter must clarify that an activity is to be carried out in phases on the application. Each phase will require a permit and, if a major activity, also a Provisional Advance Authorisation (PAA), which again will be cross referenced to the others.

Phased activities must relate to the same works. These could be a single or multiple-but-linked excavation, or a trench dug progressively along the street as part of a continuous operation. Or they could be where an interim reinstatement is made and the permanent reinstatement is done some time later.

3.3.1 New customer connections

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

3.3.2 Reinstatements

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

3.4 Linked Activities

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

Even if an activity involving more than one street forms part of one project in management and contractual terms, separate permits and Provisional Advance Authorisations must be obtained for each street or USRN.

3.4.1 Cross boundary activities

Where a project with activities in more than one street straddles the boundary between Kent and another Permit Authority, permit applications, including those for Provisional Advance Authorisation, should be submitted both to Kent County Council and to the other authority. Furthermore, the project reference should be included on both applications so that Kent County Council and the other authority can consider the impact and co-ordinate the activities together.

If a cross boundary project involves activities on a street of an authority operating a notice system under NRSWA, then the permit application to Kent County Council must identify the activity in the other authority so that Kent County Council can co-ordinate with them.

3.5 Remedial Works

Remedial works will require a new permit. In their applications for remedial works promoters must be cross-referenced to the permit for the original activity.

3.6 Interrupted Activities

If an activity is interrupted because, for instance, the promoter needs some specialist plant or apparatus, other than that originally planned, it is the promoter's responsibility to notify Kent County Council as Permit Authority.

If Kent County Council is content for the excavation to remain open whilst the missing equipment is obtained, then a permit variation will be required; but if Kent County Council decides that the road to be closed and returned to full traffic use then the promoter will need to apply for a further permit to complete the activity at a later date. If the activity is interrupted because the promoter, or their contractor, has caused third party damage, then it is the promoter's responsibility to seek the Kent County Council's approval to a variation to allow the third party damage to be repaired. The activity site remains the responsibility of the original promoter until they are able to issue a Works Clear or Works Closed notice.

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

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

3.7 Collaborative Working

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

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

3.7.1 Responsibilities - primary and secondary promoters

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

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

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

3.7.2 Issuing permits

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

3.8 Duration of Activities

The duration of an activity is the number of consecutive working days between the start and end of the activity, whether or not work is actually taking place on all those days, and where the activity includes all setting up and clearing of the site and all associated storage.

3.9 Working days

Working days are used for calculating certain time periods in the Kent Permit Scheme. The same definition of working days is used as for NRSWA. Note that permit start and end dates are not restricted to working days.

3.10 Restrictions on Further Activities

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

3.11 Charges for Over-running activities

Charges for over-running street works, under section 74 of NRSWA, will be made alongside the Kent Permit Scheme. The procedures are modified slightly to work with the permit scheme, in particular to integrate the establishing of the reasonable period into the permit application and issuing process. But the principles otherwise remain the same as under NRSWA, including the penalty charges. Details of the modified procedures are given in Chapter 10.

3.12 Relationship with NRSWA and Changes to Legislation

The Kent Permit Scheme will replace, in particular, that part of NRSWA dealing with notices under sections 54, 55 and 57 of that Act. Other elements of NRSWA, for example in relation to inspections, reinstatements and diversionary works, remain to operate in parallel with the Kent Permit Scheme, modified as necessary so the two, can operate effectively together.

The Order for the Kent Permit Scheme disapplies and modifies in relation to the scope of the Scheme all those elements of the NRSWA and associated regulations identified in Part 8 of the Permit Regulations, namely:

Sections of NRSWA disapplied –	s53, s54, s55, s56, s57, s66
Sections of NRSWA modified –	s58, s73A, s74, s88, s89, s93, s105, Schedule 3A
NRSWA Regulations modified –	The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 SI 2007/1951

The notification regime in NRSWA will continue to apply to activities (“works” in NRSWA terminology) where permits are not required. The Kent Permit Scheme, in line with the Statutory Guidance, contains key features which are the same as in the NRSWA notification regime which will allow the two regimes to operate effectively alongside each other.

4. HOW TO MAKE PERMIT APPLICATIONS

4.1 General

4.1.1 Requirement to obtain a permit

Any promoter of a registerable activity, as described in Appendix E, who wishes to carry out such an activity on a road in Kent for which Kent County Council is the highway or street authority must obtain a permit from the Kent County Council. The permit will allow the promoter to:

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

Any permit issued by Kent County Council as Permit Authority will include all of this information.

The intention is to better control activities to minimise disruption and inconvenience. It is not to prevent the legitimate right of undertakers and others to access their equipment, nor to prevent necessary maintenance to the highway itself by highway authorities.

Although the Kent Permit Scheme applies to all registerable activities on both main and minor roads, Kent County Council undertakes to operate the permit scheme for standard, minor and immediate activities on minor roads, and on traffic sensitive category 3 and 4 roads provided the activity is carried out at a non traffic sensitive time, with zero fee and in a way that is, as near as practicable, equivalent to the way those activities would have been treated if they were subject to the noticing regime under NRSWA. See 3.2.5.

4.1.2 Types of permit

The Kent Permit Scheme contains two types of “permit”:

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

4.1.3 Timing of Permit Applications

The timing of applications will vary according to the proposed activity. Larger activities and those taking place on busier roads, which thus have the potential to be more disruptive to road users, require more time and effort for co-ordination and planning and hence applications must be submitted earlier. Permit approvals will contain conditions under which the work may take place, so it is in the best interests of the promoter to contact the Kent County Council as Permit Authority early. That way conditions can be discussed and, if possible, an agreement can be reached so that the application is approved quickly. Early applications will improve the co-ordination process; it will enable the Council to better control all the activities that take place on the highway and will help promoters plan their works more effectively.

4.1.4 Address for applications

Contact details of the teams dealing with permit applications and questions associated with the Kent Permit Scheme in general, or particular activities, will be distributed and updated at Kent HAUC..

4.2 Method of Making Permit Applications

Permit applications (and applications for PAAs and variations to permits) must be made to the Kent County Council electronically unless there is a failure in the electronic system, or the applicant is a one-off promoter, whereby paper applications are acceptable.

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

4.2.1 System Failures

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

Failure lasting up to 24 hour duration

Kent County Council as Permit Authority will accept applications for permits for immediate works only by fax or e-mail following pre-agreement with Kent County Council. These applications must be accompanied by a telephone call to the appropriate contact number. Following recovery of service a copy of the application or notice should then be sent through EToN to ensure that the information on the works is correctly recorded in the register.

Failure lasting between 24 hours and 3 days

Kent County Council as Permit Authority will accept applications for permits for immediate works and works of Activity Type Minor only by fax or email following pre-agreement with Kent County Council. These applications must be accompanied by a telephone call to the appropriate contact number. Following recovery of service a copy of the application or notice should then be sent through EToN to ensure that the information on the works is correctly recorded in the register.

Failure lasting between 3 days and 7 days

Kent County Council as Permit Authority will accept applications for permits for immediate works, works of Activity Type Minor and Activity Type Standard only by fax or e mail following pre-agreement with Kent County Council. These applications must be accompanied by a telephone call to the appropriate contact number. Following recovery of service a copy of the application or notice should then be sent through EToN to ensure that the information on the works is correctly recorded in the register.

IN THE EVENT OF SYSTEM FAILURE, ANY PERMIT VARIATION APPLICATIONS OR TO SEEK FURTHER INFORMATION OR DISCUSSION SHOULD BE MADE BY TELEPHONE TO THE APPROPRIATE CONTACT NUMBER. THE OFFICER CONCERNED WILL ISSUE AN INDIVIDUAL REFERENCE NUMBER. THIS NUMBER MUST BE DISPLAYED ON AN ELECTRONIC APPLICATION THROUGH EToN FOLLOWING RECOVERY OF SERVICE TO ENSURE CORRECT CROSS REFERENCING.

4.3 Service of Permit Applications

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

Where, after three attempts to give an application or a notice by EToN (duly recorded by the person serving the application or notice), the application or notice cannot be given (for example because the distant server is down), notification should be given by telephone or fax for immediate activities with formal EToN application or notice following as soon as reasonably practicable. Other applications or notices may be given by other electronic means (e.g. e-mail or fax). Postal applications will only be accepted following pre-agreement with Kent County Council as Permit Authority.

Following recovery of service a copy of the application or notice should then be sent through EToN to ensure information on the works are correctly recorded in the register.

If applications or notices are sent by fax, it is assumed that they have been received when the transmitting equipment records satisfactory completion of the transmission. It is not guaranteed that applications or notices sent by first-class mail will be received the following day. Promoters should take this into account.

4.4 Format of Permit Applications

All applications must comply with the definitive format and content of electronic permit applications given in the Technical Specification for EToN.

The description of activities and other information should be in plain English without any industry specific jargon. Where possible, promoters should use consistent standard descriptions, with added text for exceptions. This will result in clearer information and quicker analysis, help Kent County Council to co-ordinate activities, and provide quicker decisions for promoters.

4.5 An Application Must Contain Only One Street

Each application must contain information about activities in only one street, where a street equates to a single USRN. To improve co-ordination, projects covering more than one street must cross-reference all related applications. This is particularly important when applying for Provisional Advance Authorisations. Fees for projects which involve several permits will be discounted for applications for PAAs or permits submitted together (see Chapter 9). Under no circumstances will an application containing activities in more than one street be acceptable. Promoters should be aware that projects in a street of some length will require multiple applications if the activities affect more than one USRN.

4.6 Applications Involving Other Interested Parties

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

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

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

Highway works promoters must follow equivalent processes for activities under the Kent Permit Scheme in such situations, and state that they have fulfilled the requirements of these sections in their applications.

4.6.1 Applications for activities in the vicinity of highway structures

Promoters should make themselves aware of the requirements for working adjacent to **highway structures**, set out in Appendix D of the Code of Practice for Permits, published in March 2008, or as subsequently amended.

4.6.2 Applications for activities in the vicinity of level crossings

Under the Kent Permit Scheme, the consultation requirements with **Network Rail** are the same as with the NRSWA regime. These are set out in Appendix C of the Code of Practice for Permits, published in March 2008, or as subsequently amended.

4.7 Provisional Advance Authorisation Applications – timing and content

The promoter shall apply to Kent County Council for a “Provisional Advance Authorisation” at least three months before the proposed start of major activities. This replaces the Advance Notice under section 54 of NRSWA. Each permit for a major activity must have an equivalent PAA, i.e. one PAA per street.

A Provisional Advance Authorisation lets the promoter know that their activity is approved and enables them to provisionally reserve occupation of the highway. Therefore an application for a Provisional Advance Authorisation must always specify proposed start and end dates. However, Kent County Council recognises that it may be difficult to be certain of the start date three months before the event, so the proposed start date is regarded as provisional and may be amended in the application for a final permit.

While it is anticipated that under the Kent Permit Scheme a granted PAA will normally carry through to a successful permit application, the granting of a PAA does not preclude Kent County Council as Permit Authority deciding not to grant a permit for the activity to which the PAA relates.

Permit regulations provide that failure to apply for a PAA can be used as a factor in deciding whether or not to grant a permit for a major activity. Under the Kent Permit Scheme the absence of an application for a PAA for a major activity will lead to a presumption against granting a full permit for that activity.

The same information can be provided for a PAA application as for a permit application. All the details will not necessarily be known at the PAA stage but, as a minimum, the following information must be provided in an application to Kent County Council as Permit Authority for a Provisional Advance Authorisation, with sufficient detail for Kent County Council to understand what is planned and its impact so that the authority can co-ordinate activities accordingly:

- location of activity;
- proposed start and end dates and, by inference, expected duration;
- an outline description;
- times of working, including hours of the day and any weekend provisions;
- the road space occupancy;
- method of working;
- traffic management.

These are set out in the Technical Specification for EToN.

Standard, minor and immediate activities do not require an application for a Provisional Advance Authorisation.

4.8 Timing of Permit Applications

4.8.1 Times for permit applications

The time requirements for submitting permit applications are set out in Table 3 (see section 5.3).

For Major Activities the promoter must apply for a Permit at least ten days before the activity is due to commence. If the proposed start and end dates are different from those in the Provisional Advance Authorisation, the application must include a full justification for the change.

For Standard Activities the activity promoter must apply for a permit at least ten days before the activity is due to commence.

For Minor Activities the activity promoter must apply for a permit at least three days before the proposed start of the activity.

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

4.8.2 Special requirements for immediate activities

In certain circumstances described below, where immediate activities are involved, the Kent Permit Scheme will require the promoter to telephone Kent County Council as Permit Authority before applying for a permit.

- Kent County Council as Permit Authority will designate streets that are particularly vulnerable to works-related congestion on the ASD, to indicate that the authority requires early warning of immediate activities on these streets (i.e. any registerable activity, irrespective of whether it would otherwise be minor, standard or major, that comes into the immediate category). Only those main roads (as defined in 3.1.2) that are most susceptible to unplanned disruption will be designated. Where such streets are identified by a flag on the ASD, promoters carrying out immediate activities must telephone the number specified by Kent County Council immediately after the activity has been identified.
- Even where routes that are not designated as described in the previous paragraph, any immediate activity can adversely affect traffic (including pedestrians) on the street with the activity and on other alternative routes onto which traffic may divert. Where an immediate activity is likely to cause significant disruption (as for example in the situations below), the promoter should telephone confirmation of the commencement of the activity at the earliest opportunity and in any event within 2 hours of the activity being identified. Examples of situations where significant disruption is likely to occur include: immediate activities on traffic sensitive streets in traffic sensitive times; on streets where traffic is likely to be diverted onto a traffic sensitive street at a traffic sensitive time; on streets that are already in use as a diversion route. Promoters should be especially alert in such circumstances.

In both the above cases the telephone call should be made prior to the application for a permit to the appropriate contact number. Upon receipt of a telephone call, the officer concerned will issue an authorisation code number for the immediate activity. Where such a number is given, this number must be included on the subsequent electronic permit application.

Permit applications for immediate activities, where the activity is identified within the normal working day (i.e. after 08.00 hours and before 16.30 hours), must be made as soon as reasonably practicable and in any event, within two hours of the activity starting. The application should be made to the contacts for the teams, or by 10.00 hours on the next working day if using EToN.

In the extended hours outside normal working hours, promoters should contact the Kent County Council Contact Centre, which will transfer the call to the duty on call officer.

Kent County Council as Permit Authority will give all promoters at least 1 month's notice, through Kent HAUC, of changes to the operational hours of the road works teams, and hence of the appropriate contact numbers to telephone, or to send a permit application to, at each time of day. The operational hours will also be displayed on Kent County Council's website.

4.9 Permit Start and End Dates and Activity Durations

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

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

On main roads, i.e. all category 0, 1 & 2 streets and category 3 & 4 streets that are traffic-sensitive for all or part of the time, the duration of the activity will exactly match the time from the start date to the end date. For example: start date Wednesday 1st June, end date Friday 10th June, duration eight (working) days. The permit start date will be the proposed start date of the activity. If the activity cannot begin on the permit start date, the promoter should inform the Kent County Council as Permit Authority on the previous day by telephone. There is no automatic extension of the permit in these circumstances. If the promoter thinks that they could still complete the work before the permit end date, then they could begin the activity on a subsequent day, submitting a start of works notice under section 74 of NRSWA.

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

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

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

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

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

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

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

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

4.10 Information Required in a Permit Application, Including PAA Applications

In deciding whether to attach any conditions to a permit, Kent County Council will consider the information that has been provided in support of the application. Kent County Council recognises that full information may not be fully known at the time an application for a Provisional Advance Authorisation is made. However, activity promoters should make every effort to provide the most accurate information available at each stage. Where the ETON Technical Specification provides fields and or codes for the different pieces of information, these must be used in the application. If not then text must be used in the appropriate fields. Text may also be needed to supplement other specified data.

In line with Kent County Council's intention as permit authority to treat less disruptive activities in a manner equivalent to notices (see 3.2.5), the Council would only expect the same level of information in the permit applications for the activities identified as Notices Equivalent Treatment in Table 2 (in section 3.2.5) as would be provided by a notice under NRSWA. This applies to standard, minor and immediate activities, both on minor roads and on traffic sensitive category 3 & 4 streets, if the activities are planned and carried out wholly in non traffic sensitive times/locations. In practice most of the information provided in a notice is the same as in a permit application, but illustrations would not normally be required for these activities and the level of detail of traffic management would be as for a notice.

4.10.1 Reference number

Each application must include a unique reference number. Details of the numbering system are given in the Technical Specification for ETon.

4.10.2 Description of activity

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

4.10.3 Location

Promoters must give the USRN and also an accurate location based on National Grid References (NGRs) and must also provide information about the space taken up by the activity in the street, where the space includes that required for working areas, safety zones and storage. The minimum location that must be provided is one NGR in the centre of the excavation for small excavations or a polyline, where there is a long trench, as set out in the Technical Specification for ETon.

This minimum on its own may not provide sufficient to indicate the space to be occupied (which could however be done with a polygon- also covered in the Specification), so Kent County Council as Permit Authority may seek additional information by way of text or illustration if not sent with the application.

Promoters applying for permits for immediate activities should do so only once they have begun excavation. Even if they find that the location in which they have started digging is not where the leak (or other emergency) actually is, a permit is still required because they have broken open the street. A permit variation must be obtained if the location has to be changed later so that:

- more than five separate excavations are required within a 100 metre length, as is the case with inspection visits under the Inspections Regime; or
- the further excavation is within 100 metres of a junction on a main road (i.e. category 0,1 or 2 street or traffic-sensitive category 3 or 4 street); or within 50 metres of a junction on a minor road (i.e. category 3 or 4 non traffic-sensitive street); or
- traffic management arrangements have to be significantly changed.

4.10.4 Timing and duration

Each application for a permit must include proposed start and end dates and a proposed duration in working days, where the duration is inferred from the start and end dates.

For traffic-sensitive streets, details of the times of day the activity is to be carried out must also be provided, including any proposal to work at night. If the activity promoter proposes to undertake activity on weekends or Bank Holidays to speed up the activity and reduce disruption, then they must also say so. Kent County Council will take all this information into account when determining permit dates and applying a condition on duration to the permit.

In line with Kent County Council's Notices Equivalent Treatment approach to the least disruptive activities, set out in 3.2.5, standard, minor and immediate activities on traffic sensitive category 3 and 4 streets planned and carried out in non traffic sensitive times/locations, will have a zero fee. In order to qualify for that zero fee, the intention to work wholly outside of traffic sensitive times/locations must be included in the permit application.

If, for a major activity, the dates on a permit application differ from those on the preceding PAA, the promoter must explain the reason(s) for the change.

4.10.5 Illustration

Activity promoters may need to provide an illustration of the activity. It is particularly important that an illustration is provided where the activity is significant in terms of potential disruption due to the position and size of the activity. This may include more than major activities - a small excavation at a critical junction may be more disruptive.

The illustration should include details of the activity, including for example whether it is likely to affect more than one lane of the street. Details of what this might consist of and how it should be transmitted can be found in the Technical Specification for EToN, but plans, digital photographs and similar will normally be required dependent upon the type of activity and the type of street. If possible, a disruption effect score should be given to indicate the level of disruption expected, where the relevant traffic flow information is available to promoters via the Kent County Council website. (Further detail of the disruptive effect score is given in Appendix G.)

Activities on those streets, or parts of a street, subject to a Special Engineering Difficulty (SED) designation will in any case require a plan and section or other specified information. Approvals for SEDs must be obtained before the full permit application is made.

4.10.6 Technique to be used for underground activities

Details of the planned techniques, such as open cut, trench share, minimum dig technique or no dig must be provided.

4.10.7 Traffic Management, Parking and Traffic Regulation Orders

Details of traffic management proposals will be required.

Any requirement for action by the local authority such as the need for Traffic Regulation Orders (TROs), lifting of parking restrictions and approval for portable light signals must be included, or referred to, in the permit or PAA application and allowance must be made for the additional costs associated with them.

For the requirements for TROs see 13.1. All activities requiring a TRO are categorised as major activities. **A separate application for a TRO must be made as well as the PAA or Permit Application.**

Under the Kent Permit Scheme, all uses of portable light signals require the agreement of Kent County Council following the SEHAUC Agreed Working Procedures for Portable Traffic Signals. Individual approval will be required (as has always been the case for portable light signals at activities across a junction) and requests for the use of portable light signals can be included in the permit application for the relevant activities. However, for minor activities the minimum approval time for portable light signals (7 days) exceeds the minimum time for permit applications and an earlier permit application or separate signals approval application will be needed if both time periods are to be met

Where parking bays are to be suspended, application must be made to the relevant parking authority, usually the District Council. This must be separate from any permit application. Evidence of the agreement of the relevant parking authority must be included in the permit application.

As indicated above, if the advance approval notice period required for any traffic management is longer than that required for a permit, traffic management can be applied for separately. If this happens it will be necessary to indicate that this is the case on a permit application, cross-referencing the earlier application for traffic management (including parking) by its unique application reference number.

It will be a condition of any permit where approval action by Kent County Council or other authority is required that the TRO is in place or approval has been given (as appropriate) before the activity, or that part of the activity for which the approval is required, starts on site.

4.10.8 Depth

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

4.10.9 Reinstatement type

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

4.10.10 Inspection units

The application must state the provisional number of estimated inspection units appropriate to the activity, in accordance with the rules laid down in the *Inspections Code of Practice* and associated regulations. Where there is trench sharing, only the primary promoter is required to give the inspection units (see section 3.7 on Collaborative Working).

4.10.11 Contact person

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

On permit applications (and on PAAs if the information is known at the time) the application should include the name of the main contractor carrying out the activity. This will help with Kent County Council's consideration of the application and with any discussions that need to take place before the permit can be agreed. If the promoter is to qualify for the Considerate Contractor Scheme fee discount, as set out in section 9.3.3, the name of the contractor must be included in the permit application.

4.11 Early Starts

An activity must not start before the expiry of the application period except where an early start has been agreed in writing with Kent County Council as Permit Authority, and any other interested parties.

A promoter may request an early start before or after applying for a Provisional Advance Authorisation or a permit application, as appropriate. Where an early start is agreed (in writing) after the permit has been issued, the promoter must submit a variation to the permit, or in the case of a Provisional Advance Authorisation include the revised dates on the application for the permit.

If an activity promoter requests an early start after the permit has been issued, and this is agreed in writing by Kent County Council as the Permit Authority, the Council will not charge for the associated permit variation.

4.12 Error Correction

Where Kent County Council 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, they should contact Kent County Council to discuss and agree the corrections to be made. If an error has been identified on an application, the promoter should submit a permit variation request by the end of the next working day following the agreement of the correction. This permit variation request should include the corrected data and the name of the person in the recipient organisation who agreed that the correction should be made. The error correction process is described in the Technical Specification for EToN.

This error correction procedure cannot be used without the prior agreement of both parties. Its purpose is simply to ensure that the information recorded in the register is correct and useful to the authority in carrying out its co-ordination duties. The system has been set up so that this error correction sits alongside the original information rather than overwriting it.

If the works originator identifies an error caused by Kent County Council and, having first discussed and agreed the action with the authority either the promoter or Kent County Council initiates a variation, no fee for the permit variation will be charged. If the error has been caused by the promoter and a permit variation is needed, then a variation fee will be payable.

5. ISSUE OF A PERMIT AND CONDITIONS ATTACHED

5.1 General

When considering applications for permits, including PAAs, and deciding the terms of a permit and of any conditions to be attached, Kent County Council will act reasonably and will not withhold a permit where the application meets the permit scheme requirements, for example:

- taking account of the proposed activity's potential to cause congestion and disruption;
- recognising the needs of other users of the highway, and the integrity of the highway itself;
- taking account of how feasible it is for the promoter to comply eg. given the area of occupancy and the restrictions imposed by the available industry resources and technical capabilities;
- allowing works to be carried out in compliance with statutory guidance and codes of practice especially in relation to safety (such as *Safety at Street Works and Road Works*).

The permit for an activity will specify the activity it allows in detail and will specify any conditions to be attached. Much of this information will be drawn from the application. As a minimum, any constraints in the original application will normally be reflected in conditions attached to the permit. For example, if the activity is in a street which is traffic-sensitive in some places and/or at some times and the application stated that the activity was to be outside the traffic-sensitive places and times, then this will be a condition of the permit; or if a minimum dig method is proposed then that would be a condition.

Conditions attached will comply with the Statutory guidance - Street works permit schemes: conditions - First published: 17 March 2015 or their successor statutory guidance.

In line with Kent County Council's approach to managing the least disruptive activities (see 3.2.5), the Council as Permit Authority will apply the same consideration and the same resources as they would have applied under NRSWA notices to co-ordinating and managing standard, minor and immediate activities, both on minor roads (i.e. non traffic sensitive category 3 & 4 roads) and on traffic sensitive category 3 & 4 streets where the activities are planned and carried out wholly in non traffic sensitive times/locations. For example, permits or conditions will not be granted in circumstances where directions under NRSWA would have been used or where co-ordination action by Kent County Council would have sought to change the timing of activities.

5.2 Issuing Approved Permits

When Kent County Council as Permit Authority is content with an application from a promoter, it will issue a permit. Each application will lead to a separate permit. The permit will contain the location and description of the activity, the start and end dates of the period for which the permit is valid and any conditions, including duration, imposed by Kent County Council. The permit will also include reference to any associated documentation such as drawings. The drawings themselves and other material will be accessible electronically through the permits register.

Kent County Council will issue permits electronically using the formats given in the Technical Specification for ETOn. If the electronic system is down or unavailable for any reason then permits will be issued by fax or post. Each permit will be given a unique reference, which must be displayed on the site information board for major and standard activities covered by the Full Permit Treatment approach set out in Table 2 in 3.2.5. (See under Consultation and Publicity in 5.9.1 for details.) Variations to permits will be denoted by the use of the same unique reference with a suffix to denote the variation. Cross-references to other linked permits will also be given on the permit.

Where other parties have expressed an interest in a street, and the application for a permit has been copied to them, the permit will also be copied to those parties by Kent County Council when it issues the permit to the promoter. The form of the permit is given in the Technical Specification for the ETOn system.

5.3 Response Times

As Permit Authority, Kent County Council intends to respond to all permit applications and PAA applications within the timescales set out in Table 3. That response will be to approve the permit, to refuse the permit, to discuss possible variations to the permit or to seek further information or clarification about the application. In the event that no response is received within the set timescales, the permit will be deemed to have been approved (see section 5.5 below)

For approved permits Kent County Council will respond by issuing the permit through the EToN system.

For refused permits Kent County Council will respond through the EToN system, but this will be in conjunction with a discussion of the reasons for refusal and what changes would be needed to achieve a successful application.

For discussions or further information Kent County Council will respond by telephone, email, in writing or by other means, as appropriate, and may arrange a meeting.

Table 3: Application and Response Times

APPLICATION AND RESPONSE TIMES (in working days)						
Activity Type	Minimum application periods ahead of proposed start date **		Minimum period before permit expires for application for variation (including extension)	Response times for Kent County Council for issuing a permit or seeking further information or discussion		Response times to applications for permit variations
	Application for provisional advance authorisation	Application for permit		Application for provisional advance authorisation	Application for permit	
Major	3 months	10 days	2 days or 20% of the original duration whichever is the longest	1 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	

*** note that if an activity requires approvals for TRO or temporary traffic signals or parking suspension then the relevant timescales for these need to be taken into account. See section 4.10.7*

5.4 Permit Applications not Approved

5.4.1 Refusing a permit

Kent County Council will refuse a permit application if elements of the proposed activity, as submitted, are not acceptable. In such cases Kent County Council will contact the promoter as soon as possible, and within the period specified in Table 3 (see section 5.3), to explain precisely why the application is not satisfactory and which aspects need modification.

Grounds for refusal

Grounds for refusing a permit may include the following. Kent County Council may in an exceptional circumstance, where a specific circumstance affects or will affect the Highway Network invoke other grounds for refusal.

Timing and duration

A promoter must ensure that the proposed duration of the activity takes into account both their legitimate need to complete the activity in an efficient and economic manner and the legitimate interests of other users of the highway. The Kent County Council as Permit Authority may query the proposed duration if it is deemed necessary on the grounds that:

- it can be completed more speedily or, that realistically, not enough time has been allowed; or
- the specific dates and times proposed may clash with other proposed activities or events which occupy road space, in such a way as to be likely to cause an unacceptable level of disruption.

Overlapping activities

Where other activities are scheduled to take place in the same street, or other streets affected by the proposed activity, at the same time, Kent County Council as Permit Authority may refuse a permit for the period requested but propose to grant it for different times. Information about other activities is available to the promoter through the permit register, so in such situations the promoter should contact the authority to discuss acceptable options before applying for a permit.

Location of activity

Kent County Council as Permit Authority may refuse to issue a permit due to the proposed location of the activity. Kent County Council will treat considerations of location in a similar way to the provisions under section 56A of NRSWA, i.e. where location of a proposed activity is unacceptable to the authority because the street in which the works are proposed is already heavily congested with underground services, or has an important traffic function, yet does not warrant protected street status. Such refusals will only apply:

- in relation to the installation of new apparatus - it cannot be used to require existing apparatus to be moved;
- when disruption would be reduced by installing the apparatus in an alternative street; and
- when it is reasonable to use an alternative street.

Kent County Council as Permit Authority will talk to the promoter to see whether another route would satisfy all the requirements.

If there is a dispute over permit terms or conditions, Kent County Council reserves the right not to issue a permit until this is resolved.

5.4.2 Requests for changes or for further information

If Kent County Council consider that the overall management of the network would benefit if changes were made to the PAA or permit application, Kent County Council will respond to the promoter, within the timescales in Table 3 in section 5.3 to discuss such changes.

If Kent County Council consider that insufficient or inadequate information has been provided in the application they will respond to the promoter, within the response periods in Table 3 in section 5.3, to explain what further information must be submitted.

5.4.3 Action following refusal of a permit or request for changes or further information

In the event of refusing a permit, or requesting changes or further information, Kent County Council will contact the promoter to discuss the application, as described above and will seek to agree an acceptable way forward. If agreement can be reached, the promoter must make a modified permit application. Where a modified permit application is submitted, the date of the original application will be used for reckoning time periods for permit applications.

If agreement cannot be reached in the time available, the Kent County Council as Permit Authority will refuse the permit and the promoter must make a new application, which would then be considered in the usual way.

5.4.4 Right of appeal

The promoter has a right of appeal if it is unable to reach agreement with Kent County Council over the terms of the permit or the conditions attached. In the case of immediate activities it may be that work has to stop until the issues are resolved. Kent County Council will decide on a case by case basis if that is necessary, but will always seek to discuss the situation with the promoter and will take into account all the relevant factors in coming to a reasonable decision. For full details of dispute procedures, refer to Chapter 8 (Dispute Resolution) of this document.

5.5 Permit Application deemed to be approved

If Kent County Council as Permit Authority fails to reply to a permit application (approving or refusing the permit, or seeking further discussion, information or clarification regarding the application) within the response times given in Table 3 in section 5.3, the permit will be deemed to be granted in the terms of the application. The proposed start and end dates, description, location, duration, traffic management etc will be carried across into the permit and associated conditions for that activity. Those permit terms and the conditions attached will then be binding on the promoter as they would for a permit actively issued by Kent County Council; breaching them will be an offence.

5.6 Time when permit is valid

5.6.1 Effect of road category

A permit is valid only for the period between the start date and end date (inclusive) on the permit.

On main roads (i.e. category 0, 1, and 2 streets and category 3 and 4 streets that are traffic-sensitive for all or part of the time), the start and end of the permit period will match the start and finish dates for the activity. The promoter must not carry out any activity, including delivery and storage of materials on site, outside of these times without applying for and obtaining a permit variation from Kent County Council.

Activities on minor roads (i.e. category 3 and 4 streets that are non traffic-sensitive streets at any time) will be less disruptive. On these streets the promoter will be allowed some flexibility in the start date – up to 5 working days later than the permit start date for major and standard activities and 2 working days for minor activities.

The permit will allow for this flexibility by re-setting the start and end dates based on the actual start date. Once the activity has started the permit end date cannot be changed except by the promoter applying for a variation.

5.6.2 Days of permit validity and days of working

The permit start and end dates will be in calendar days. This will prevent ambiguity as to whether the permit is valid, even at weekends or on Bank Holidays.

The permit conditions will always include the duration of the activity i.e. the number of consecutive working days that the activity can take place.

If the permit allows working at weekends or on Bank Holidays, then the permit start and end dates will accommodate that, even though those days will not count towards the activity duration or, on category 3 and 4 non traffic sensitive streets, the starting window.

5.7 Location and description

The permit will contain the location of the activity, including national grid reference(s) and a description of the activity. This information may be drawn directly from the application or based on that information.

5.8 Contact details

Contact details for the promoter will be included on the permit.

Kent County Council will provide its contact details, including the out of hours contact information, on the its website.

5.9 Conditions attached to permits

In line with Kent County Council's approach to managing activities on minor roads and at non traffic sensitive times/locations on category 3 and 4 traffic sensitive streets (see 3.2.5), the Council as Permit Authority will apply a lighter touch to the use of conditions for the Notices Equivalent Treatment activities as shown in Table 2 (in section 3.2.5). However, Kent County Council will use conditions where, had the activities been subject to the NRSWA notices regime, discussion with the promoter (which will still take place) or the use of directions would have achieved the same result.

Conditions attached will comply with the Statutory guidance - Street works permit schemes: conditions - First published: 17 March 2015 or their successor statutory guidance.

Work promoters must ensure that site operatives are made aware of the conditions attached to permits and the Traffic Management agreements that are in place

5.9.1 Condition types

The following types of conditions will be used in the Kent Permit Scheme:-

- Date, timing, and duration of activity.
- Material and plant storage.
- Road Occupation Dimensions.
- Traffic Space
- Traffic management provisions .
- . Methodology for carrying out activities.

- Consultation and publicity.
- Environmental conditions.
- Conditions as to progress

5.10 Conditions for Immediate Activities (Permit not required before work start)

Under the Kent Permit Scheme, Kent County Council as Permit Authority is able to specify conditions, of the types set out above in section 5.9, that it will apply to immediate activities for the period before a permit is issued for the activity. These conditions may be defined to apply generally, for example to display an information board showing who is working on site..

As Permit Authority, Kent County Council requires promoters who are about to carry out immediate activities on streets which are indicated on Kent's street gazetteer as being particularly susceptible to disruption, to telephone Kent County Council immediately after identifying the activity. See 4.8.2 and also Appendix D5.

Under the Kent Permit Scheme, Kent County Council is also able to set specific conditions of the above types for individual immediate activities, for example, as a result of a site meeting once work has started. Written confirmation of the decisions taken at such a meeting will be provided before a permit is issued. In the period before a permit is issued each immediate activity may have an authorisation code number which will have been issued by the permit team co-ordinator or the 24 hour road works officer (accessed through the 24 hour contact centre) on receipt of the requisite telephone call (see 4.8.2). Any conditions attached to the activity will be recorded against that unique reference number in order to avoid ambiguity.

Until a permit is issued following an application for a permit for an immediate activity, a promoter will be required to work within the terms of their application; for example if the application refers to specific working hours then the promoter must work within those hours. If, however, any of the application terms are in contradiction with any conditions set by Kent County Council as Permit Authority, then the Kent County Council conditions will take precedent. Kent County Council will seek to discuss any such conflict with promoters as soon as possible after receiving the application.

As with conditions for other activities, Kent County Council's approach as Permit Authority to the use of conditions for immediate activities on minor roads (category 3 and 4 non traffic sensitive streets), and on traffic sensitive category 3 and 4 streets at non traffic sensitive times/locations, will apply a lighter touch. This is in line with the Notices Equivalent Treatment approach described in 3.2.5. Kent County Council will, however, use conditions where, had the activities been subject to the NRSWA notices regime, discussion with the promoter (which will still take place) or the use of directions would have achieved the same result.

6. VARIATIONS TO PERMITS

6.1 General Principles

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

- the promoter might request the change if new information, events or discoveries on site mean that they need to alter their original plans. The promoter must submit an application for a permit variation and, if approved, Kent County Council will issue a new permit incorporating the variations; or
- Kent County Council may take the initiative if, for instance, an unexpected event affects the network so that planned activities, or even those under way, have to be reconsidered. Kent County Council will discuss with a promoter whether the promoter will submit a permit variation application or whether Kent County Council will issue a new permit incorporating any changes.

The Kent Permit Scheme provides for permits and the attached conditions to be varied. Permits and permit conditions can be varied at any time after the permit has been issued and even during the activity itself.

A **Provisional Advance Authorisation (PAA)** cannot be varied. If a full permit has not yet been issued, and the promoter needs to make changes, then the promoter must inform the Kent County Council as Permit Authority of the proposed changes and make a revised application for a Provisional Advance Authorisation or permit. If Kent County Council requires changes to the PAA then, after discussion with the promoter, Kent County Council will issue a new PAA. The promoter will not have to make a new application, unless there are significant consequential changes that are easier for the promoter to set out in a new application, but in either case no fee will be charged.

It is important that variations are sought whenever changes are needed, as working without a permit or outside the conditions is a criminal offence.

Where the promoter has to seek a variation or an extension to a permit, the Kent County Council as Permit Authority will reserve the right to have a further opportunity to review and amend the conditions, if the circumstances justify it.

6.2 Variations Initiated by the Activity Promoter

6.2.1 Reasons for a variation – by promoters

From time to time an activity promoter may need to apply for:

- a justifiable variation to a permit and/or its conditions, including an extension of the agreed duration;
- a variation resulting from the proposal in the original application, which is the basis of the permit, being inaccurate or unrealistic.

The purpose of the Kent Permit Scheme is not to prevent necessary activity, so an application for a justifiable variation is likely to be granted, although Kent County Council will consider the wider network implications of the changes and other relevant factors, and will be able to vary the terms of the variation application and any conditions attached to the original permit, or add new conditions.

Even where variations are the result of inaccuracy or unrealistic proposals (as in the second bullet above) Kent County Council will give due consideration to the variations applied for, but Kent County Council reserves the right to vary the terms or conditions of the permit in other ways consistent with its objectives.

6.2.2 Extensions

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

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

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

6.2.3 Fees for promoter initiated variations

The requirement for fees follows the Notices Equivalent Treatment approach set out in 3.2.5 reflecting the degree of disruption caused by activities. Fees are payable for applications for permit variations initiated by promoters:

- for all activities on category 0, 1 and 2 streets;
- on traffic sensitive category 3 and 4 streets, for major activities and for standard, minor and immediate activities if any part is carried out at traffic sensitive times/locations;
- on non traffic sensitive category 3 and 4 streets, for major activities.

Fees are not payable for standard, minor and immediate activities planned and carried out on minor roads (non traffic sensitive category 3 and 4 streets), or on traffic sensitive category 3 and 4 streets where the activities are wholly in non traffic sensitive times/locations unless the variation moves the activity into the major category or takes any part of the activity into a traffic sensitive time/location, in which case a fee will be payable.

For current fee charges refer to Appendix H.

6.2.4 Applying for a variation

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

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

Kent County Council as Permit Authority will respond to the request within two days of receipt.

If electronic systems fail, then applications may have to be sent another way, such as fax or post. The procedures in chapter 4 will apply.

The authority may need to investigate before granting a variation, so it is strongly recommended that all requests for permit variations are made as soon as it becomes clear that the activity will overrun or otherwise cannot be completed within the terms of the original permit. Prior discussion by promoters with Kent County Council is also recommended so that variation applications can be dealt with quickly.

Where a promoter applies for a variation, the application must contain sufficient information to show precisely the nature and implications of the changes. Providing insufficient or inadequate information will lead to delays as Kent County Council as Permit Authority will need to go back to the promoter to obtain further information or clarification. In all circumstances the application must include the proposed dates and duration of the activity, whether or not they have changed.

Applications for permit variations must follow the procedures for permit applications outlined in Chapter 4, including copying the application to parties which have expressed an interest in that street. The format of applications must follow the Technical Specification for ETon.

6.2.5 Multiple excavations

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

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

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

If the promoter cannot contact Kent County Council by telephone they should record that and send the message electronically.

6.3 Variations Initiated by Kent County Council as the Permit Authority

6.3.1 Policy for a variation by Kent County Council

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

Kent County Council's policy is that such changes should happen only when the new circumstances could not have been reasonably predicted and where the impact is significant. An example would be if extra traffic was diverted onto the road for which the permit has been issued due to another road being closed by floods, burst mains or a dangerous building. Another example could be if it was clear that the conditions attached to the permit were not working effectively to meet the Kent County Council's objectives in relation to the Kent Permit Scheme.

6.3.2 Procedures for reaching agreement

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

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

If agreement cannot be reached, Kent County Council may require a revised permit application on the terms it considers reasonable, but the promoter would have the option of invoking the dispute resolution procedure.

6.3.3 Fees for authority-initiated variations

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

6.4 Reviewing, Varying or Revoking Permits by Kent County Council as Permit Authority

6.4.1 Reviewing and varying a permit

The preceding paragraphs in this chapter outline the circumstances in which Kent County Council will review and vary permits and the conditions attached to permits on its own initiative

6.4.2 Suspending or postponing an activity

There is no mechanism in the TMA or permit Regulations for formally suspending or postponing a permit, only for varying or revoking them. If the Kent County Council as Permit Authority intends to suspend or postpone an activity for which it has already given a permit but which it intends should happen at a later date, it will use the permit variation provisions, as described above, to change the dates.

6.4.3 Revoking a permit

If a promoter no longer requires a permit they should use the cancellation procedure outlined in section 6.5 to initiate the cancellation/revocation.

There may be circumstances, however, where Kent County Council as Permit Authority will want to initiate the revocation of permit.

This could arise, in particular, if the Council considers that a promoter is failing to comply with the conditions of a permit, invoking the powers in regulation 10(4) which are incorporated into the Kent Permit Scheme

Kent County Council will use this power sparingly and only when the Council judges it to be the best option available in the individual circumstances. Before revoking the permit, will first contact the promoter to warn them of their intention and discuss the situation with them. . This may be followed by the intervention process described in section 11.2 of the Kent Permit Scheme stemming from the powers in regulation 18. If the promoter fails to take the appropriate action then the Council may consider that revoking the permit is the most appropriate action. There may also be circumstance where, when all the relevant factors are considered, Kent County Council will decide to move to straight to revoking the permit; but the Council will still contact the promoter before taking action,

6.5 Cancelling a permit or withdrawing a permit application

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 notice containing the relevant number (see Technical Specification for EToN for more details). . Alternatively, if agreed with the promoter, Kent County Council as Permit Authority will cancel the permit using the same procedure.

There is no cancellation fee. Where a permit has been issued, the fee for the cancelled permit will normally remain payable as Kent County Council as Permit Authority will have carried out coordination and planning work. However if a permit is cancelled through no fault of the promoter, the fee will be credited back to the promoter.

An activity promoter will be committing an offence if it works or continues to work after cancelling a permit.

7. CONFLICT WITH OTHER LEGISLATION AND LEGAL LIABILITY

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

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

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

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

8. DISPUTE RESOLUTION

8.1 Introduction

In order to achieve its objectives for the Kent Permit Scheme and its wider network management duty Kent County Council will operate its permit scheme in a manner that will encourage dialogue between Kent County Council and activity promoters. In many cases this will lead to the setting of terms of permits and conditions by agreement, but at times this may be at Kent County Council's direction. Kent County Council recognises that on occasions there will be disagreements. Kent County Council as Permit Authority will always use their best endeavours to resolve disputes without having to refer them to a formal appeals procedure.

8.2 Incidence of Dispute Resolution

The dispute resolution procedures described below will be used where there are disagreements that cannot be resolved by informal discussion over requirements of the Kent Permit Scheme, including the need for a permit, the terms of a permit or the conditions attached to a permit. This could be in relation to an application for a permit (including a PAA) or a permit variation (whether initiated by the promoter or Kent County Council) and could arise before a permit is issued, when the terms and conditions are still proposed, or after the permit has been issued.

8.3 Appeals Procedure

8.3.1 Dispute Review

If agreement cannot be reached locally on any matter arising in relation to the Kent Permit Scheme, the dispute will be referred for review on the following basis:

Straightforward issues

Where Kent County 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 SEHAUC (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. Kent County Council will accept the result as binding.

Complex issues

If Kent County Council and the promoter(s) involved in the dispute think the issues are particularly complex, HAUC (UK) 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 (UK) joint chairs.

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

The review would normally take place within ten working days from the date on which the issue is referred to HAUC (UK). Kent County Council will accept the conclusions of the review panel as binding.

8.4 Adjudication

If agreement cannot be reached by the procedure above, the dispute can be referred to independent adjudication. Adjudication within the Kent Permit Scheme will only be used if Kent County Council and the promoter(s) agree in relation to the matter under dispute, that

- the decision of the adjudicator is 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.

Where the adjudication route is followed, Kent County Council and the promoter(s) will apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from a suitable recognised professional body.

8.5 Arbitration

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

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

9. PERMIT FEES

9.1 Introduction

Kent County Council has set its permit fee charges in accordance with the Permit Regulations and statutory guidance.

9.2 Fee levels

Permit fees

The approved figures for permit and PAA fees for different categories of streets and activities are given in Appendix H and on the Kent County Council website.

Permit Variation Fees

Fees for variations to permits are given in Appendix H of this document and on the Council's website.

If a permit variation moves an activity into a higher fee category, the promoter must pay the difference in permit fee as well as the permit variation fee. This includes where a variation moves an activity from the Notices Equivalent Treatment approach, where no fee is payable, into the Full Permit Treatment approach (see 3.2.5 and 6.2.3).

No fee is payable if a permit variation is initiated by Kent County Council as Permit Authority.

9.3 Waived and Reduced Fees

There is the opportunity for a works promoter to take advantage of various discounts that are offered as part of the Kent Permit Scheme and these discounts relate both to the Provisional Advanced Authorisation and the permit. However, with the exception of the discounts offered to the members of the Kent HAUC Council Considerate Contractor scheme (5% or 10% depending on performance – see below), a promoter may only claim the highest allowable discount offered. Considerate Contractor discounts may be claimed alongside one other discount.

9.3.1 Where no fee is payable

A promoter will not be charged a fee:

- if the promoter is a highway authority or is carrying out activities on behalf of a highway authority (see examples below);
- if the permit or permit variation is for a standard, minor or immediate activity on a minor road (i.e. category 3 or 4 street that is not traffic sensitive at any time);
- if the permit or permit variation is for a standard, minor or immediate activity on a traffic sensitive category 3 or 4 street but the activity is proposed in the application, and carried out in practice, at a non traffic sensitive time/location;
- if a permit is deemed to be granted because the authority had failed to respond to an application in the time required;
- if a permit variation is initiated by the Kent County Council as Permit Authority unless, at the same time, the promoter seeks variations which are not the result of the circumstances causing Kent County Council's action. In the latter case a variation fee would be payable.

In addition:

- Where the Permit Authority has to revoke a permit through no fault of the promoter there will be no charge for a new one. If there is no subsequent replacement application, the original fee will be credited to the promoter.
- If a works promoter requests an early start after a permit has been issued, and this is agreed in writing by Kent County Council as the Permit Authority, the Council will not charge for the associated permit variation.

As indicated in the first bullet above there will be no fee payable where works carried out are “works for highway purposes” or “major highway works” as described in Section 86 of the New Roads and Street Works Act 1991. Some examples are as follows, but a works promoter must make sure that the description of an activity in the application for a permit is sufficiently clear for Kent County Council to be able to determine that the activity falls within the definitions in section 86.

- a) works for the maintenance of the highway;
- b) any works under powers conferred by Part V of the Highways Act 1980 (improvement) for example the erection, maintenance, alteration or removal of:
 - street seats,
 - pedestrian signs,
 - street name plates,
 - tourist signs/maps,
 - litter bins/facilities;
- c) the erection, maintenance, alteration or removal of traffic signs on or near the highway;
- 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;
- e) the initial supply, erection, connection and maintenance of a street light for Kent County Council. Maintenance of the utility electrical connection and supply are not works for highway purposes;
- f) the initial supply, erection, connection and maintenance of a pay and display parking machine. Maintenance of the electrical or telecom connection and supply are not works for highway purposes;

If any promoter is carrying out activities that they believe to be works for highway purposes, they should apply for a permit in the normal way, making it known that the activities are for highway purposes. Kent County Council as Highway Authority will make the final decision on whether these are activities which meet the criteria for works for highway purposes as laid down within the New Roads and Street Works Act 1991.

There will be no fee applicable for the maintenance of fire hydrants carried out by the fire service or a contractor designated by the fire service to carry out this work on their behalf.

9.3.2 Reduced fees

When Kent County Council is satisfied that applications for two or more permits (including PAAs)

- are submitted within 3 working days of each other, beginning with the day on which the first permit application is received; and
- are the result of the applicant or applicants working together so as to produce the least impact for users of the its streets

There will be a reduction of 30% from the permit or PAA fee. All applications, including the first to be received, must indicate that they are being submitted together (within 3 days).

Examples of such situations could be

- Where a promoter submits several permit applications at the same time for activities which are part of the same project but which are carried out in more than one street. The term “project” does not cover area-wide activities but activities of a scale which could be carried out in one street, but which happen to cover two or more streets.
- Where 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 also require a permit each so that the authority knows who is working there. If in these circumstances one of the promoters is Kent County Council as highway authority, the utility company promoters will be eligible for the reduced fee.

Where an activity promoter applies for a permit and guarantees that they will work an extended working day between 7am and 7pm (07.00 – 19.00), where this is permissible by the Permit Authority, there will be a reduction of 30% from the permit fee.

9.3.3 Discounted fees

Where the organisation working on site, whether the direct labour organisation of the promoter or a contractor working on behalf of the promoter is a Member of the Kent HAUC Considerate Contractor Scheme, there will be an automatic discount of 5% from the cost of the permit, PAA or permit variation.

There will be a further 5% discount offered to Members of the Kent HAUC Considerate Contractor Scheme whose sites, inspected as part of the Considerate Contractor site safety survey, all pass the survey requirements over the continuous 12 month period for which results were reported at the last quarterly Kent HAUC meeting prior to the application for the relevant permit or PAA.

In both the above cases, the discount will only be payable if the name of the organisation that will be working on site is included in the permit application

9.4 Fee Reviews

Kent County Council as Permit Authority will review fees annually to satisfy themselves that overall fee income does not exceed allowable costs, in line with the Permit Regulations. Future fees will be reported to Kent HAUC and adjusted as necessary.

10. OVERRUN CHARGING SCHEME

10.1 Introduction

Kent County Council intends to run a scheme for overrun charging under section 74 of NRSWA to operate alongside the permit scheme. The requirements for overrun charging are set out in the regulations made under section 74 of NRSWA (the section 74 regulations). The section 74 regulations may be subject to change from time to time in which case the amended or replacement regulations will apply. The description that follows therefore concentrates on the interaction with permits. For details of the section 74 operation, reference must be made to the regulations current at the time.

The section 74 regulations current at the time will continue to apply but the operation of the overstaying regime is modified under the Kent Permit Scheme to incorporate the process of setting and modifying the duration of the activity (or “works” in section 74 terms) through the permit application, approval and variation processes.

Activities carried out by an activity promoter on behalf of a highway authority or by the highway authority themselves are not subject to section 74 overrun charges. However, under the Kent Permit Scheme, promoters of such activities will be required to follow the same procedures as promoters who are undertakers. KPIs as described in Chapter 14 provide an indication of performance in relation to over-running.

10.2 Section 74 - Charges for Unreasonably Prolonged Occupation of the Highway

Section 74 of NRSWA enables Kent County Council as highway authority to charge undertakers if their activities in the publicly maintainable highway are unreasonably prolonged.

The relevant regulations apply to every maintainable highway other than:

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

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

If the activities are prolonged due to reasonable circumstances, such as unforeseen weather or ground conditions, the Kent County Council will discuss the circumstances with the promoter and may agree an extended duration.

10.3 Exempt Activities

In addition to activities carried out by or on behalf of a highway authority, certain types of activities are exempt from section 74 charging. Details are given in the section 74 regulations but may include:

- activities in non traffic-sensitive streets that require opening the highway, but not breaking it up;
- replacing manhole or chamber covers - that do not involve breaking up the street;
- replacing poles, lamps, columns or signs in the same location where that does not involve breaking up the street;

- pole testing that does not involve breaking up the street;
- bar holes.

If one of the exemptions applies, the promoter must record the appropriate charge exemption in the permit or permit variation application and Works Clear/Closed notices - see the Technical Specification for ETOn.

10.4 Prescribed Period

The “Prescribed Period” is the period during which no overrun charges can be levied. It is set by the Secretary of State in regulations, in number of days, starting on the day activities begin. The prescribed period does not relate to the time required to carry out any particular type of activity. Therefore Kent County Council will not use it to judge the duration of proposed activities.

10.5 Duration of Works for Section 74 Purposes

All permit applications must include proposed start and end dates so that the duration can be calculated. Kent County Council may challenge the dates and duration using the application and response processes described in previous chapters. The reasonable period for section 74 purposes will be the same as the duration of the activity given in the permit conditions in the initial permit for the activity and will be recorded as such on the permit.

However, the process used to assess whether the activity has overrun for section 74 purposes, taking account of setting up the site, completion of the activity and any necessary reinstatement, will follow the requirements of the section 74 regulations current at the time.. The notices to be given by the promoter as part of this process are detailed below.

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

Further activities to complete the reinstatement, for example the replacement of road markings where delay is permitted by the reinstatement specification, should be indicated by using the appropriate site status, such as ‘interim reinstatement’. This includes circumstances where other materials are permanent. The replacement of road markings will be a separate phase if carried out at a separate time from other reinstatement activity.

10.6 Actual Start (Sections 74(5B) and 74(5C) of NRSWA)

Although the permit start date is also the proposed start for the activity, the actual start date may differ. For Category 3 and 4 non traffic-sensitive streets a flexible starting window is explicitly provided for – see section 4.9. On category 0-2 and traffic-sensitive streets, although they do not have the same flexibility, there may be occasions when activities cannot start when proposed. Therefore notification of the actual start for the activity must be given to begin the reasonable period, as well as to inform Kent County Council of what is happening on the network. Activity must not begin before the start date of the permit; to do so would be committing an offence.

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

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

10.7 Revised Reasonable Period and Duration Estimate

Unforeseen circumstances can delay the completion of activities. A promoter must apply for and obtain a variation of its permit, and/or conditions, if the activity is likely to extend beyond the permit end date or the activity duration set in the conditions is likely to be exceeded. Such an application must provide full justification for the extension. Previous chapters have described the process for obtaining variations to permit and the timing of applications. This same process must be used for making any changes to the reasonable period for section 74 purposes, which will usually be the same as the duration given in the permit conditions.

As with the original application Kent County Council reserves the right to challenge an application for an extension to the permit end date or activity duration. If it does, Kent County Council will first discuss with the promoter with a view to reaching an agreed way forward, if possible. There could be circumstances where the agreed activity duration and reasonable period are not the same following a permit variation. For example, Kent County Council might consider that the promoter had not expedited their work and an extension to the reasonable period was therefore not justified, but that the wider network management circumstances meant that it was better to let the activity finish. In that case a longer duration could be allowed in order to avoid the promoter working illegally outside the conditions of a permit, even though the reasonable period was not extended. If the duration and/or reasonable period are changed, the revised figures will be incorporated in the new permit that Kent County Council will issue following the variation.

10.8 Works Clear (Section 74(5C))

A Works Clear Notice is used following interim reinstatement. The Works Clear Notice must be given in accordance with the section 74 regulations and in the manner specified in the EToN specification. Where the activity is completed in different phases such as interim and permanent reinstatement, there must be separate permits for each phase. In no circumstances should permits be sought for more than one phase.

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

10.9 Works Closed (Section 74 (5C))

A Works Closed Notice is used following permanent reinstatement. The Works Closed Notice must be given in accordance with the section 74 regulations and in the manner specified in the EToN specification.

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

If temporary road markings have been used, then the activity is not complete until the permanent markings are applied and the activity duration must also cover this period or a separate permit will be required for later placing of road markings.

10.10 Charging Regime

Charges vary according to the type of activity, the road category and whether the street is traffic-sensitive.

The charges are set in the section 74 regulations.

Kent County Council as Highway Authority will take care to ensure that the facts used for proposing charges are accurate, along with the activity type and category of road. Where there is evidence that the dates given in section 74 notices are incorrect the charges will be based on the evidence.

If incorrect information has been given in a notice Kent County Council may issue a FPN if it considers that an offence has been committed.

The *Code of Practice for Inspections* in relation to street works that is current at any time will set out the arrangements for inspections in relation to section 74. The same rules apply to section 74 when applied in conjunction with the Kent Permit Scheme as would apply under a noticing regime under NRSWA. .

10.11 Remedial Works

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

Any overrun on remedial works will be charged at the rate appropriate to the activity category, as set out in the section 74 regulations.

10.12 Keeping Accounts

Section 74 overrun charges and permit fees will be kept in separate accounts.

11. USE OF SANCTIONS FOR PERMIT OFFENCES

11.1 Introduction

Kent County Council will work with promoters to try to minimise congestion and disruption on the road network. As far as possible this will be done on a collaborative basis, involving consultation, dialogue and improvement, but Kent County Council recognises that at times it may need to invoke sanctions to ensure the effective management of activities on the network. There are three types of sanction available to Kent County Council:

- an intervention power;
- criminal proceedings; and
- power to revoke a permit

11.2 Intervention and Remedial Action Powers

The regulations empower Kent County Council to issue a notice requiring remedial action within a set timeframe if a promoter is working without a permit or in breach of any conditions. Kent County Council as Permit Authority will use this power if it considers it necessary.

The remedial action could include removing the activity, remedying the breach of conditions or discontinuing any obstruction. Kent County Council will set out in the notice the reasonable steps the promoter must take and the timeframe.

Where a promoter is a statutory undertaker and does not take the remedial action within the specified timeframe, Kent County Council will take such steps as it considers appropriate to achieve the outcome in the notice, and, may recover any reasonable costs from an undertaker.

11.3 Permit Offences

The permit regulations create two offences which apply to statutory undertakers. In the context of the Kent Permit Scheme these are:

1. where a statutory undertaker carries out registerable activities on the street without a permit, except where the Kent Permit Scheme allows immediate activities to take place before a permit is issued, provided a permit is applied for within 2 hours of the activity starting;
2. where a statutory undertaker carries out registerable activities on the street in a way that contravenes any of the conditions attached to a permit, or the conditions that are applied to an immediate activity before a permit is issued for those activities.

These offences can be dealt with by the issue of a Fixed Penalty Notice (FPN) (see Chapter 12) or by prosecuting the offences through the courts, following the usual processes. Kent County Council will decide in each case whether an offence will be dealt with by FPN or through the courts.

11.4 Working without a Permit

Once a permit has been issued it will be placed on the permit register. This will include when Kent County Council as Permit Authority fails to respond to an application within the prescribed timescales, in which case a permit will be issued in the terms of the application and placed on the register. Kent County Council as Permit Authority will check against the register for the existence of a valid permit.

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

A permit cannot be varied once it has expired. If a variation is necessary the promoter must apply in good time (see chapter 6).

11.4.1 Immediate activities – exemption from permits

A promoter can begin immediate activities without a permit and will therefore not be committing an offence of working without a permit. Where the street is particularly susceptible to disruption and marked as such on the NSG, the promoter must telephone the Permit Authority to give details of the work at the earliest opportunity and in all cases the promoter must apply for a permit within two hours of starting work (see 4.8.2). The promoter can then continue working within the terms of any conditions that apply and its application, for example regarding working hours. Kent County Council as the Permit Authority will issue a permit within two days of the activity starting. Once issued, the promoter is bound by the terms of the permit and the attached conditions. This supersedes the terms in the application and any previous conditions set by the authority. For further details of conditions for immediate activities, please refer to section 5.10 within this document.

11.5 Breaching the Conditions of a Permit

11.5.1 Recording conditions attached to permits

The conditions attached to a permit will be recorded in the Kent Permit Scheme permit register. If a permit is varied a new permit will be issued and any new conditions will be included and recorded. Therefore the status and substance of the conditions will be clear at any point in time.

Kent County Council will seek to ensure that conditions are precise so that both Kent County Council as Permit Authority and the promoter can easily check performance on site against the approved conditions.

11.5.2 Immediate activities – conditions

The requirement to display information boards will apply to immediate activities for the period before a permit is issued. Following discussions with the promoter, Kent County Council may decide to impose additional conditions for individual immediate activities before a permit is issued. These will be recorded on the register against the reference number given to those activities (see section 4.8.2.).

11.6 Revoking a permit

Regulation 10(4) of the Permit Regulations provides a power to revoke a permit where it appears to Kent County Council that the conditions attached to a permit have been breached. Kent County Council will use this power where it considers it appropriate but before doing so will discuss the situation with promoter. Kent County Council's policy in relation to the use of this power is set out in section 6.4.3.

11.7 Kent County Council's Policy on the Use of Sanctions

11.7.1 General Points

Decisions on the prosecution of alleged offences are for Kent County Council as Permit Authority and each offence will be individually dealt with. Prosecution will not necessarily be the preferred option and other options will be considered depending on the seriousness and persistence of offences.

Kent County Council as Permit Authority will pursue the following policies on how sanctions will be employed. The steps will be followed as set out below, at the Permit Authority's discretion, with reference to the Traffic Management Permit Scheme (England) Regulations 2007.

1. If a non compliance occurs a notice will be issued under regulation 18(1) proposing the remedial action to be taken within a defined timeframe.
2. If action is not taken within the timeframe given in the notice, or subsequently agreed timeframe, Kent County Council under regulation 18(3) will take actions as appropriate to the original non compliance at the cost of the undertaker.
3. Kent County Council will normally raise a Fixed Penalty Notice but may choose to prosecute the offence through the courts, for example in relation to persistent offenders, in accordance with regulations 19 and 20 of the Permit Regulations.

Kent County Council's approach to managing standard, minor and immediate activities on minor roads and on traffic sensitive category 3 and 4 streets if the activities are wholly outside traffic sensitive times/locations on an equivalent basis, as far as practicable, as would apply if these activities were subject to a NRSWA notices regime (see 3.2.5), will apply to the use of sanctions. Kent will not normally use FPNs for breaches of conditions for these activities but in circumstances where equivalent NRSWA offences could have been invoked e.g. for s66, s54, s55 offences, then permit FPNs may be used where appropriate.

11.8 Other NRSWA Offences

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

12. FIXED PENALTY NOTICES

12.1 Introduction

This chapter provides information about the Fixed Penalty Notice (FPN) scheme for permit schemes introduced by the Permit Regulations under section 37(6) of the TMA.

The permit regulations provide for two offences in those regulations to become fixed penalty offences. This means that they can be dealt with by FPNs, although prosecution through the Magistrates' Courts remains an option for Kent County Council.

As with the offences to which they relate, FPNs apply only to statutory undertakers and not to highway authorities, but Kent County Council as Permit Authority will monitor highway activities to ensure equal treatment across promoters. Situations will be recorded where highway activities would have been subject to a FPN, had they been carried out by an undertaker. The results of this monitoring will be reported to HAUC alongside the FPNs issued to undertakers.

12.2 Time Periods

All time periods in relation to FPNs for the Kent Permit Scheme are in calendar days, unless otherwise stated.

12.2.1 Giving a FPN

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

12.2.2 Payment

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

12.2.3 Expiry of time for payment

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

12.3 Use of Permit FPNs by Kent County Council

12.3.1 Basic principles

Kent County Council as Permit Authority will give FPNs where they have the most benefit. Kent County Council will act reasonably and apply the same due process for giving an FPN as it would in taking the undertaker to the Magistrates' Court.

Only one FPN will be given per offence.

12.4 The Fixed Penalty Notice

The Fixed Penalty Notice will be given in the form prescribed in the regulations and included below. The notice is divided into two parts:


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


The penalty is:

- £500 for working without a permit, discounted to £300 if payment is made within 29 calendar days. Kent County Council as Permit Authority may extend this period at its discretion in any particular case;
- £120 for working in breach of a condition, the discounted amount is £80. If the last day of the discounted period does not fall on a working day, the period for discounted payment is extended until the end of the next working day.
- The penalty amounts above will be the current levels as may be determined in national legislation.

The fixed penalty notice will follow the form given in the FPN regulations. Drawing 2 shows in general terms how Kent County Council as Permit Authority will complete the FPN and where information needs to be provided by promoters.

DRAWING 2: FIXED PENALTY NOTICE FOR PERMIT OFFENCES

	<p align="center">FIXED PENALTY NOTICE</p> <p align="center">Regulations 21-26 of the Traffic Management Permit Scheme (England) Regulations 2007</p>	<p align="center">FIXED PENALTY NOTICE Number:</p>
<p align="center">PART A</p>		
Contact Tel No: 	Works Ref No: Street Authority No:	
TO:		ISSUE DATE:
ADDRESS:		
OFFENCE CODE:		
LOCATION:		
DATE OF OFFENCE:		
DETAILS OF OFFENCE:		
<p>1. I am giving you this notice, in accordance with Regulation 21(1) of the Traffic Management Permit Scheme (England) Regulations 2007, to offer you the opportunity of discharging any liability to conviction for this fixed penalty offence by payment of a penalty.</p> <p>2. This means that no legal proceedings will be commenced for the offence if, subject to paragraph 3, the penalty of £[xxx] is paid (See Part B for instructions on methods of payment) within the period of 36 days beginning with the day on which this notice was given. <i>(NB: The street authority may extend this period in any particular case if they consider it appropriate to do so (See paragraph 4(3) of Schedule 4B)).</i></p> <p>3. Instead of paying the amount referred to in paragraph 2, liability to conviction for the offence may also be discharged if the discounted amount of £[yyy] is paid within the period of 29 days beginning with the day on which this notice was given. <i>(NB: If the last day of this period does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day (See paragraph 5(3) of Schedule 4B)).</i></p> <p>4. If the discounted amount is not paid within the period set out in paragraph 3, as extended where relevant, liability to conviction for the offence may only be discharged thereafter by payment of the penalty of £[xxx] within the period set out in paragraph 2, as extended where considered appropriate. It you then fail to pay the penalty within that period, legal proceedings for the offence may be commenced against you.</p> <p>5. Any representations that you wish to make in relation to this notice may be addressed to Ian Lancefield, Road Works Teams, Ashford Highway Depot, Javelin Way, Henwood, Ashford, Kent, TN24 8AD, identifying the fixed penalty notice number stated above.</p>		
AUTHORISED OFFICER NAME: (in block capitals)		SIGNATURE:
DATE:		

PART B		
	INSTRUCTIONS ON METHODS OF PAYMENT	FIXED PENALTY NOTICE Number:
<p>ELECTRONICALLY – by the Bankers Automated Clearing Services (BACS). Payment should be made to Kent County Council, Nat West Bank, Sort Code 60-60-08, Account Number 86037900. Payment must be supported by the timely submission of a list of the fixed penalty notice numbers covered by the payment and the amount being paid in relation to each number. To, Ian Lancefield, Road Works Teams, Ashford Highway Depot, Javelin Way, Henwood, Ashford, Kent, TN24 8AD.</p>		
<p>"ON LINE" – Not Available at this time.</p>		
<p>BY POST – by making your cheque payable to, Kent County Council, and sending it to, To, Ian Lancefield, Road Works Teams, Ashford Highway Depot, Javelin Way, Henwood, Ashford, Kent, TN24 8AD. Payment must be accompanied by a list of the fixed penalty notice numbers covered by the payment and the amount being paid in relation to each number. A receipt will be sent on request.</p>		
<p>IN PERSON – Not Available at this time.</p>		
<p>BY TELEPHONE – Not Available at this time.</p>		
<p>OTHER METHODS –</p>		
<p>OFFENCE CODES AND DESCRIPTION (By reference to the Traffic Management Permit Scheme (England) Regulations 2007)</p>		
CODE	OFFENCE	BRIEF DESCRIPTION
TBD	An offence under Regulation 19	Undertaking works without a required permit.
TBD	An offence under Regulation 19	Carrying out works in breach of permit conditions.

12.4.1 Giving the Fixed Penalty Notice

Kent County Council will use electronic FPNs where possible because they can be processed more easily, but other methods will be used if necessary.

Electronic FPNs

Undertakers must give the authority an electronic address, such as email address, fax number or method linked to the EToN system if they want to receive FPNs electronically. Kent County Council will use this address.

Kent County Council will ensure that the FPN meets the three conditions set out in Regulation 39(4) of *The Traffic Management Permit Scheme (England) Regulations 2007*, namely:

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

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

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

Non-electronic FPNs

In all other circumstances, including system failures or if Kent County Council as Permit Authority has tried to use electronic means but cannot do so, Kent County Council will give the FPN by alternative methods such as:

- delivering it to the person to whom it is addressed;
- leaving it at his proper address ;
- sending it by first class post; or
- any other agreed means.


In these circumstances the 'proper address' is the postal address given by the undertaker to Kent County Council for this purpose; the registered or principal offices of a corporation; or the last known address of such person.

The permit regulations include provisions (equivalent to Section 98 (2) of NRSWA) whereby a FPN given after 16:30 on a working day is deemed to have been given on the next working day. Please note that the time of 16:30 is significant only for reckoning Notice periods and does not mark the 'end' of the day for any other purposes.

12.4.2 Withdrawing a Fixed Penalty Notice

If Kent County Council as Permit Authority considers that a FPN ought not to have been given it will withdraw the FPN using a 'Notice Withdrawing Fixed Penalty Notice'. See Drawing 3 below. Any penalty already paid will be refunded.

DRAWING 3: NOTICE WITHDRAWING FIXED PENALTY NOTICE

	<p align="center"><u>NOTICE WITHDRAWING FIXED PENALTY NOTICE</u></p> <p align="center"><u>[Kent Permit Scheme Order]</u> REGULATION 27 OF THE TRAFFIC MANAGEMENT PERMIT SCHEME (ENGLAND) REGULATIONS 2007</p>	<p align="center">FIXED PENALTY NOTICE Number:</p>
<p>TAKE NOTICE that the fixed penalty notice numbered as above is hereby WITHDRAWN.</p>		
<p>AUTHORISED OFFICER NAME: <i>(in block capitals)</i></p>	<p>SIGNATURE:</p>	
<p>DATE:</p>		

12.5 Guidance for Undertakers

12.5.1 Basic principles

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

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

12.5.2 Payment of the fixed penalty notice

Part B of the FPN sets out the methods by which the penalty may be paid. Appendix I gives more information about the arrangements for payment.

12.6 Representations

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

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

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

Kent County Council may extend the full payment period while representations are being considered. It is NOT able to extend the discounted payment period.

12.7 Application of Penalty Charges by the Kent County Council

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

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

It is NOT the aim of Kent County Council in utilising the FPN sanctions to generate an additional source of income for the authority.

13. RELATED MATTERS

13.1 Road Closures and Traffic Restrictions

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

There are two procedures

- (a) Where urgent action is needed Kent County Council as traffic authority may issue a **‘temporary notice’** imposing a short-term closure or restriction. Prior notice is not necessary.

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

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

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

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

In extraordinary circumstances, the Road Traffic Act 1991 section 49(4A), allows the police to suspend designated street parking places temporarily to prevent or mitigate traffic disruption, or danger to traffic. This could prove useful to promoters carrying out emergency works.

13.1.1 Procedure

Temporary notices

This procedure will normally only apply to immediate activities.

The promoter will inform Kent County Council as traffic authority as soon as practicable if a closure or traffic restriction is needed. Kent County Council will consult with the police and all relevant parties, and confirm, as soon as possible, whether or not a notice will be made.

Kent County Council must state in the notice:

- the reason for issue;
- its effect;
- alternative routes (where applicable); and
- the date and duration of the notice.

Kent County Council must also notify the emergency services and any other traffic authority with roads that may be affected. This should be done on, or before, the day the notice is issued.

Temporary orders

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

Kent County Council must also notify the emergency services and any other traffic authority with roads that may be affected. This should be done on, or before, the day the order is issued. These bodies should be consulted, as well as notified, if the closures are expected to last for more than 18 months.

A temporary traffic order is generally needed for planned activities in the street (except where the order follows a closure notice). If a closure order is needed, the promoter should notify Kent County Council as traffic authority at least **three months** in advance. This will allow Kent County Council time to consult, and to obtain approvals and advertise the order. Activities that required a temporary traffic order are automatically classed as major and require **at least three months notice for applying for a PAA, initially, and a temporary traffic order.**

The promoter must submit all the information needed to justify a road closure with the application for an order.

It will be a condition of a permit where a temporary traffic order is required that the order will be in place before the activity, or the relevant part of the activity, starts on site.

Continuation of closures and restrictions

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

If the original estimate of the duration of the activity changes, a request for a permit variation will be necessary.

There will be cases where works will unavoidably overrun the temporary notice period. Where this is apparent from the beginning, promoters must inform the traffic authority. The authority will take the necessary follow-up action, without delay, to enable the activity to continue uninterrupted.

If the overrun becomes apparent only after the activity has started, the promoter should immediately inform the authority that either a further notice or an order will be required. This may be needed before the request for a permit variation is made.

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

Subject to the time limit for temporary orders, see above, a closure or restriction imposed by a temporary order may be continued by a further order. If this is required, the promoter should notify the traffic authority immediately, giving, wherever possible, at least one month's notice.

13.1.2 Policy guidance

When a notice or order has been made, the promoter must comply with the requirements of the Kent County Council as traffic authority and the police for the closure of the road.

13.1.3 Charges

Section 76 of NRSWA allows for traffic authorities to recover the costs of issuing temporary notices or making temporary traffic regulation orders (TROs). Upon receipt of an application for a TRO, Kent County Council can provide utilities with the estimated cost. Invoices will be itemised, for example:

- a) cost of order;
- b) advertising in local papers;
- c) administration.

There may also be charges made for erecting and maintaining the on-site notices that are required.

13.2 Maintenance of Undertakers' Apparatus

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

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

Thus Kent County Council and all promoters have a shared interest in the proper maintenance of apparatus in the street.

As with reinstatements, Kent County Council will report any apparatus in an unsatisfactory condition quickly and accurately to the apparatus owner, including the level of severity of the problem. The owner must respond and carry out any necessary remedial works within the reasonable timescales agreed with Kent County Council as the street authority.

13.2.1 Practical considerations

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

Kent County Council as street authority will immediately notify the undertaker if surface apparatus is found to be defective or the cause of significant surface irregularity, or where an unexplained subsidence or other disturbance of the road surface occurs. This will be done in accordance with the protocols set out in the Technical Specification for EToN, or by other procedure agreed with Kent County Council. Kent County Council may arrange a site meeting by agreement with the undertaker.

If the fault identified by Kent County Council is for or as a result of previously un-attributable activities by undertakers, and an undertaker subsequently accepts responsibility for that activity, the undertaker must apply for a permit for any registerable activity required to rectify the problem. The undertaker must use its own activity reference, rather than that generated by the street authority.

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

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

Dangerous

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

Examples include:

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

Notwithstanding the above, Kent County Council as street authority may execute any emergency action needed to safeguard the public, for example, by fencing off the location from traffic and the general public.

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

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

Examples may include:

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

Note: The decision on whether an occurrence is Dangerous or Non-dangerous will, by necessity, have to be made on site. Kent County Council will make the decision objectively. It should not be challenged unreasonably.

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

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

Permit applications for any necessary remedial work that is a registerable activity must be made following the rules in chapter 4 and using the protocols set out in the Technical Specification for EToN.

If the Kent County Council as street authority has opened the street or exposed the undertaker's apparatus in an emergency, or in the circumstances described above, the undertaker will assist the authority by jointly inspecting the problem, within a reasonable time agreed between them, to agree a remedial plan and timescale. The reasonable costs incurred by Kent County Council may be charged to the undertaker.

13.3 Working Near Rail Tracks

Particular attention must be given to the possible effects of activities taking place at or in the vicinity of level crossings. Promoters planning works in such locations must refer to Appendix C of the Code of Practice for Permits, published in March 2008 or as subsequently amended, which sets out Network Rail's requirements.

13.4 Vehicle Parking at Street and Road Works

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

13.4.1 Vehicle within activity site

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

13.4.2 Vehicle outside activity site

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

13.4.3 Implications

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

13.4.4 Parking restrictions

A Traffic Regulation Order imposing parking restrictions on a particular street should already contain an exemption allowing for activities to take place in a parking bay. Promoters should check whether any further dispensation is required well before the works are due to start. See also 4.10.7.

It will be a condition of a permit where parking restrictions or suspension is required that the necessary order or approval will be in place before activity, or the relevant part of the activity, starts on site.

13.5 Storage of Materials

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

13.6 Apparatus belonging to others

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

13.7 Assessing the Impact of Activities

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

13.7.1 Disruption Effect Score

The Disruption Effect Score is based on a measure of congestion resulting from a restriction on the highway. It is derived from a number of simple factors that should be easily established for any given activity.

The nature of traffic flow and the relationship between flow, capacity, and delay are highly complex and subject to a variety of factors. However three specific factors can be used to provide an indication of congestion: the total width of a road; the extent to which the activities reduce the available width; and the traffic flow. Details of the calculations are given in Appendix H.

13.7.2 Impact assessments

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

13.7.3 Use of impact assessments

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

13.8 Environmental Issues

Activity promoters are strongly advised to liaise with the authority's arboricultural consultants and other environmental officials along with any necessary borough or district council officers when drawing up their proposals. This should ensure that wherever possible, and at reasonable cost, their requirements can be met.

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

14. KEY PERFORMANCE INDICATORS FOR THE KENT PERMIT SCHEME

14.1 Background

One requirement for permit schemes is to ensure that authorities apply a consistent approach to all activities and activity promoters.

Kent County Council is the Permit Authority for the Kent Permit Scheme but Kent County Council is also a promoter of its own maintenance and other highway and traffic activities in its role as highway authority.

14.2 Parity of Treatment

Kent County Council as Permit Authority will demonstrate parity of treatment for all activity promoters, particularly between undertakers and its own activities as highway authority. The issue of equal treatment is emphasised in the *Guidance on the Network Management Duty* introduced under the TMA.

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

14.3 KPIs for Kent Permit Scheme

Kent County Council will use the four KPIs shown in Table 4 to demonstrate parity of treatment of promoters across the scheme. The first two indicators are those identified in the Statutory Guidance for Permits; the other two are selected from the list in the Code of Practice for Permits of March 2008.

The results of these KPIs will be published on an annual basis but will be transparent and available to any promoter at other times. The KPIs will be provided and discussed at the quarterly co-ordination meetings and other regular meetings held with promoters.

Kent County Council will make the KPI data available to Government and other regulatory bodies

Table 4: Key Performance Indicators for the Kent Permit Scheme

KPIs for permit schemes
1. The number of permit and permit variation applications received, the number granted and the number refused
<p>This will be measured by the promoter and shown as:</p> <ul style="list-style-type: none"> 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.
2. The number of conditions applied by condition type
<p>This will be measured by promoter and shown as:</p> <ul style="list-style-type: none"> 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. <p>Specific conditions will be grouped into a single category that may be analysed more fully if required.</p> <p>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.</p>
3. The number of approved extensions
<p>This will be measured by promoter and shown as:</p> <ul style="list-style-type: none"> 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.
4. Number of inspections carried out to monitor conditions
<p>This will be broken down by promoter and shown as:</p> <ul style="list-style-type: none"> 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.

APPENDIX A - GLOSSARY

Section and paragraph references (e.g.2.2. and 2.2.1) are references to the Kent Permit Scheme.

Term	Explanation
Activity	Covers both utilities' street works and highway authorities' own works. See Appendix E for details.
Activity promoter	See Promoter.
Additional street data ("ASD")	Additional Street Data ("ASD") refers to other information about streets held on the NSG concessionaire's website alongside the NSG. See Appendix C.
Adjudication	See section 8.4
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 activity promoter and Kent County Council as Permit Authority about the terms and conditions of a permit or PAA, the promoter may appeal against the Council's decision using the procedure in section 8.3.
Arbitration	As defined in section 99 of NRSWA, "any matter which under this Part is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers".
Bank holiday	As defined in section 98(3) of NRSWA, "bank holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated".
Bar hole	A bar hole is used to detect and monitor gas leaks. See Appendix E.
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street).
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".
Bridleway	As defined in section 329 of the HA 1980, "bridleway means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway".

BS7666	British Standard number 7666 relating to gazetteers.
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".
Code of Practice for Permits	As published by Department for Transport March 2008.
Critical gyratory or roundabout system	A gyratory or roundabout system where, in the absence of street works or works for road purposes, no less than 5 per cent of peak hour vehicles on average are delayed by more than 20 seconds.
Critical signalised junction	A traffic signal junction at which, in the absence of street works or works for road purposes and at times when the exit is not blocked, no less than 5 per cent of peak hour vehicles on average fail to clear the junction on the first green signal.
Culvert	A structure in the form of a large pipe or pipes, box or enclosed channel generally used for conveying water under a road.
Cycle track	As defined in section 329 of the HA 1980, "cycle track means a way constituting or comprised in a highway, being a way over which the public have the following, but not other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot".
Day	In the context of the duration of activities, a day refers to a working day, unless explicitly stated otherwise.
DfT	Department for Transport.
Disability	As defined in section 105(5) of NRSWA, "Section 28 of the Chronically Sick and Disabled Persons Act 1970 (power to define "disability" and other expressions) applies in relation to the provisions of this Part as to the provisions of that Act".
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".
EToN	Electronic Transfer of Notices, the system defined in the Technical Specification for EToN for passing notices, permit applications, permits and other information between promoters and the Permit Authority.
Excavation	"Breaking up" (as defined above).

Fixed Penalty Notice (FPN)	As defined in schedule 4B to NRSWA, "fixed penalty notice means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty".
Footpath	As defined in section 329 of the HA 1980, "footpath means a highway over which the public have a right of way on foot only, not being a footway".
Footway	As defined in section 329 of the HA 1980, "footway means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only".
Frontager	A person or body occupying premises abutting the street.
Full permit treatment (FPT)	The approach to managing activities which are subject to the full requirements of the Kent Permit Scheme and where Kent County Council as Permit Authority will apply more attention and resources commensurate with the higher level of proactive management of activities required under a permit scheme. Fees will be charged for these activities.
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.
HAUC(UK)	The Highway Authorities and Utilities Committee for the UK.
Heavy commercial vehicle	As defined in section 138 of the Road Traffic Regulation Act 1984, "heavy commercial vehicle means any goods vehicle which has an operating weight exceeding 7.5 tonnes".
Highway	As defined in section 328 of the HA 1980, "highway means the whole or part of a highway other than a ferry or waterway".
Highway Authority	As defined in sections 1 and 329 of the HA 1980.
Highway works	"works for road purposes" or "major highway works".
Immediate activities	As stated in Appendix E2.4, immediate activities are either emergency works as defined in section 52 of NRSWA or urgent works as defined in <i>The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007</i> .
In	As defined in section 105(1) of NRSWA, "in, in a context referring to works or activities, apparatus or other property in a street or other place includes a reference to works or activities, apparatus or other property under, over, along or upon it".
Land	As defined in section 329 of HA 1980, "land includes land covered by water and any interest or right in, over or under land".
Local authority	As defined in section 270(1) of the Local Government Act 1972 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.
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 Appendix E2.1, major activities are activities which have been identified in a promoter's annual operating programme, or if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the activity; or activities, other than immediate activities, where (i) the authority has indicated to the promoter, or (ii) the promoter considers, that an order under section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction on roads) is required; or activities, other than immediate activities, which have a planned duration of 11 days or more".
Major bridge works	As defined in section 88(2) of NRSWA, "major bridge works means works for the replacement, reconstruction or substantial alteration of a bridge".
Major highway works	As defined in section 86(3) of NRSWA, "major highway works means works of any of the following descriptions executed by the highway authority in relation to a highway which consists of or includes a carriageway - (a) a reconstruction or widening of the highway; (b) works carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts); (c) substantial alteration of the level of the highway; (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway; (e) the construction or removal of a road hump within the meaning of section 90F of the Highways Act 1980; (f) works carried out in exercise of the powers conferred by section 184 of the Highways Act 1980 (vehicle crossings over footways and verges); (g) provision of a cattle-grid in the highway or works ancillary thereto; or (h) tunnelling or boring under the highway".
Major transport works	As defined in section 91(2) of NRSWA, "major transport works means substantial works required for the purposes of a transport undertaking and executed in property held or used for the purposes of the undertaking".

Minor activities	As stated in Appendix E2.3, minor activities are those activities other than immediate and major activities where the planned duration is 3 days or less.
Minor roads	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.
National Street Gazetteer (NSG) –also referred to as <i>Nationally Consistent Street Gazetteer</i>	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.
Notices equivalent treatment (NET)	The approach to managing certain activities likely to be less disruptive where, notwithstanding that a permit will be required for these activities, Kent County Council as Permit Authority will apply resources and attention equivalent, as far as practicable, to that which would have been used under the NRSWA notices regime.
Network management duty	As stated in Part 2 of TMA.
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.
Ordnance Survey Grid	A spatial location based on the geospatially referenced national grid owned by the Ordnance Survey.
Order	A document signed by a person authorised by the Permit Authority to give effect to, vary or revoke a permit scheme
Pedestrian Planning Order	This refers to an order made under section 249(2) or (2A) of the Town and Country Planning Act 1990(6).
Permit	The approval of a permit authority for an activity promoter to carry out activity in the highway subject to conditions.
Permit application	See Chapter 4. The application that is made by a promoter to the authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (section 55 of NRSWA) given under the Co-ordination regime.
Permit Authority	A local authority or other "highway authority" which has been given approval by the Secretary of State to operate a permit scheme on all or some of its road network.
Permit Management System	A computer based system to record permit applications and consents.

Permit Scheme	A scheme previously approved by the Secretary of State now by KCC order 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. In the Kent Permit Scheme promoters will be either statutory undertakers or Kent County Council as highway or traffic authority.
Prescribed	As defined in section 104 of NRSWA, "prescribed means prescribed by the Secretary of State by regulations, which may (unless the context otherwise requires) make different provision for different cases".
Protected street	As stated in Appendix D 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 (PAA)	The early provisional approval of activities in the highway. See 4.7.
Provisional street	As stated in Appendix C, a provisional street is a street that does not yet have an entry in the NSG. Typically these will be newly created and/or private streets.
Public sewer	Public sewer has the same meaning as in the Water Industry Act 1991.
Railway	As defined in section 105(1) of NRSWA, "railway includes a light railway other than one in the nature of a tramway".
Reasonable period	As defined in section 74(2) of NRSWA, "a reasonable period means such period as is agreed by the authority and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question".
Registerable	As stated in Appendix E, registerable activities correspond to specified works in the regulations.
Reinstatement	As defined in section 105(1) of NRSWA, "reinstatement includes making good".
Relevant authority	As defined in section 49(6) of NRSWA, "references in this Part to the relevant authorities in relation to any works in a street are to the street authority and also (a) where the works include the breaking up or opening of a public sewer in the street, the sewer authority; (b) where the street is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, that authority; and (c) where in any other case the street is carried or crossed by a bridge, the bridge authority".
Remedial work	As stated in Appendix E, remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and regulations.
Road	"highway".

Road category	This means one of the road categories specified in paragraph 1.3.1 of Chapter S.1 of the code of practice entitled "Specification for the Reinstatement of Openings in Highways" dated June 2002 and approved by the Secretary of State for Transport on 30th June 2002, as revised or re-issued from time to time.
Road works	Works for road purposes.
SEHAUC	South East regional group of the Highway Authorities and Utilities Committee.
Sewer	Sewer as defined in the Water Industry Act 1991 " includes all sewers and drains (not being drains within the meaning given by this subsection) which are used for the drainage of buildings and yards appurtenant to buildings".
Sewer authority	As defined in section 89(1)(b) of NRSWA, "sewer authority, in relation to a public sewer, means the sewerage undertaker within the meaning of that Act in whom the sewer is vested".
Special Engineering Difficulties (SED)	As stated in Appendix G 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 and major 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 works	As defined in section 48(3) of NRSWA, "street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street".

Street works licence	As stated in section 50(1) of NRSWA, "the street authority may grant a licence (a "street works licence") permitting a person (a) to place, or to retain, apparatus in the street, and (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).
TMA	The Traffic Management Act 2004.
Traffic	As defined in section 105(1) of NRSWA, "traffic includes pedestrians and animals".
Traffic authority	As defined in section 121A of the Road Traffic Regulation Act 1984: "(1)(a) The Secretary of State is the traffic authority for every highway in England for which he is the highway authority within the meaning of the Highways Act 1980. (1A) Transport for London is the traffic authority for every GLA road. (2) In Greater London, the council of the London borough or the Common Council of the City of London are the traffic authority for all roads in the borough or, as the case may be, in the City that are not GLA roads and for which the Secretary of State is not the traffic authority. (3) In England and Wales outside Greater London, the council of the county or metropolitan district are the traffic authority for all roads in the county or, as the case may be, the district for which the Secretary of State is not the traffic authority.
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works".
Traffic flow	The number of vehicles using the particular street at specified times of the day and year, measured in accordance with DfT guidelines.
Traffic Regulation Order (or Traffic Order)	This means an Order made under section 1, 6, 9 or 14 of the Road Traffic Regulation Act 1984.
Traffic-sensitive street	This means a street designated by a street authority as traffic-sensitive under section 64 of NRSWA. In a case where a limited designation is made under section 64(3) any reference to works in a traffic-sensitive street shall be construed as a reference to works to be executed at the times and dates specified in such designation.
Traffic sign	As defined in section 105(1) of NRSWA, "traffic sign has the same meaning as in the Road Traffic Regulation Act 1984"
Traffic sensitive time	In relation to a traffic-sensitive street, means - <input type="checkbox"/> The times or dates specified in the case of limited designation; and <input type="checkbox"/> Any time in any other case.

Transport authority	As defined in section 91(1)(a) of NRSWA, "transport authority means the authority, body or person having the control or management of a transport undertaking".
Transport undertaking	As defined in section 91(1)(b) of NRSWA, "transport undertaking means a railway, tramway, dock, harbour, pier, canal or inland navigation undertaking of which the activities, or some of the activities, are carried on under statutory authority".
Trunk road	As defined in section 329 of the HA 1980, "trunk road means a highway, or a proposed highway, which is a trunk road by virtue of section 10(1) or section 19 above or by virtue of an order or direction under section 10 above or under any other enactment".
Type 1 (or 2, or 3) gazetteer	As defined in the British Standard BS7666.
Undertaker	As defined in section 48(4) of NRSWA, "undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be".
Unique street reference number (USRN)	As defined in the British Standard BS7666.
Urgent activities	As stated in Appendix E urgent activities are (a) activities (not being emergency activities) whose execution at the time they are executed is required (or which the person responsible for the activity believes on reasonable grounds to be required) (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker; (ii) to avoid substantial loss to the undertaker in relation to an existing service; or (iii) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and (b) Includes activity that cannot reasonably be severed from such activities.
Working day	As defined in section 98(2) of NRSWA, "for the purposes of this Part a working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and a notice given after 4.30 p.m. on a working day shall be treated as given on the next working day".
Works	Street works or works for road purposes.
Works clear	A works clear notice is used following interim reinstatement.
Works closed	A works closed notice is used following permanent reinstatement.
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".

APPENDIX B - PERMIT REGISTER

Introduction

Kent County Council will maintain a register of each street covered by the Kent Permit Scheme. The register will contain information about all registerable activities on those streets. The permit register will also include forward planning information about activities and other events which could potentially affect users of the streets and promoters of activities in those streets.

The Kent County Council as Permit Authority will still retain a register under section 53 of NRSWA for street information. This will cover those streets that are not part of the permit scheme, i.e. non-maintainable streets.

The Kent County Council will maintain the two registers in such a way that they can effectively be treated as one and information can be accessed seamlessly, where necessary, to aid the co-ordination of activities and to provide information to road users.

Form of Registers

Kent County Council's permit register and street works registers will be kept on an electronic system and 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.

Kent County Council will provide the Unique Street Reference Number (USRN) definitions and attribution as defined in BS7666, while the geometries will be recorded by referencing the road centreline objects in the digital map base. All data will follow the principles of the Digital National Framework.

Content of Registers

The permit register held by Kent County Council as Permit Authority will record:

1. copies of all Provisional Advance Authorisation, permit and permit variation applications submitted to the Permit Authority relating to registerable activities in any street;
2. 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;
3. copies of all revoked permits, refused Provisional Advance Authorisations and refused permits, together with the reasons for such refusals;
4. copies of all notices, consents and directions served by a street authority under section 58 or 58A of NRSWA;
5. copies of all notices served by a promoter under sections 58 and 58A of NRSWA;
6. copies of all notices given under section 74 of NRSWA;
7. description and location of activities for which plans and sections have been submitted under Schedule 4 of NRSWA (streets with special engineering difficulties);

8. particulars of notices given by any relevant authority under Schedule 4 of NRSWA;
9. 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 licences;
10. information under section 70(3) and (4A) of NRSWA as to completion of reinstatements;
11. particulars of apparatus notified to the street authority under section 80(2) of NRSWA;
12. every notice of works pursuant to section 85(2) of NRSWA;
13. details of every street for which the Kent County Council is the street authority;
14. details of every street which is prospectively maintainable by Kent County Council;
15. details of every street of which Kent County Council is aware over which the Kent Permit Scheme would operate, which is a highway but for which it is not the highway authority;
16. details of every street which is a) a protected street; b) a street with special engineering difficulties; c) a traffic-sensitive street;
17. the road category of each street;
18. details of every street where early notification of immediate activities is required.
19. Access to Registered Information.

B4.1 Access to registers

Kent County Council as Permit Authority will publish their register on their public website in order that the information is available 24 hours a day, seven days a week, except for those occasional times when it will be unavailable due to upgrade and maintenance. Upgrading and maintenance will, wherever possible, be done outside normal office hours.

B4.2 Restricted information

Restricted information is anything certified by the Government as a matter of national security, or information which could jeopardise the promoter's commercial interests such as details of a contract under negotiation. The promoter must indicate restricted information on the relevant permit or PAA application.

Restricted information will not be shown on highway authorities' websites.

B4.3 Retention of information

Information about activities provided by means of or in relation to any permit application under the TMA (including for a PAA or permit variation) or notice under NRSWA will be retained on the register for at least six years after completion of the guarantee period of the activity referred to in the application or notice. Information about other activities will be retained on the register for at least six years after completion.

APPENDIX C - THE STREET GAZETTEER AND ADDITIONAL STREET DATA

C.1 The Street Gazetteer

Kent County Council as local highway authority produces a Local Street Gazetteer (LSG) and a copy is held centrally by the National Street Gazetteer (NSG) Concessionaire. The gazetteer contains the information, required by and defined in the Technical Specification for the Electronic Transfer of Notices (EToN), about the streets in Kent County Council's area.

C.1.1 Creating and updating the Street Gazetteers

A street gazetteer for Kent will be created, maintained and published at Level 3 by the Kent County Council as local highway authority (as defined in BS 7666). The gazetteer will include data for all streets within its geographical area, whether or not Kent County Council is the street authority for any particular street.

C.1.2 Referencing

Information held in permit registers will be referenced to the USRN which relates to the Type 1 or Type 2 street entry given for each street in the street gazetteer.

C.1.3 Provisional streets

A provisional street is a street that does not yet have an entry in the NSG. Typically, these will be new and/or private streets. Kent County Council will register private streets on the street gazetteer. Once a private street is adopted and is therefore publicly maintainable, the street will be covered by the Kent Permit Scheme and permits will be required for all specified activities.

A permit application, or Provisional Advance Authorisation application, should be submitted against a provisional street only if an activity promoter is certain that the street concerned is not in the NSG. Kent County Council as local highway authority will allocate a USRN, notify the activity promoter, and create a level 3 entry in the LSG and NSG website. The promoter must then use this USRN in all further permit applications and notifications relating to the activity.

Under section 87 of NRSWA, the Kent County Council as highway authority will make a declaration that a street is likely to become a maintainable highway. The declaration will be registered as a local land charge.

C.2 Additional Street Data (ASD)

ASD refers to other information about streets held on the NSG Concessionaire's website alongside the NSG data.

Kent County Council as the local highway authority will provide the following information for the ASD for each street:

- the street authority responsible for maintaining the street;
- whether the street is publicly maintainable, prospectively publicly maintainable, or private;
- whether the street, or part of the street, is covered by the Kent Permit Scheme or the NRSWA notification regime, who the Permit Authority is or street authority is, and details of shared streets where this applies;

- any other authorities and activity promoters with an interest in the street;
- the street reinstatement category;
- designations of protected streets;
- designations of streets with special engineering difficulty;
- designations of traffic-sensitive streets;
- whether the street is subject to early notification of immediate activities;
- where possible, streets on which it might be expected that conditions relating to the non use of that street for new apparatus, but not the maintenance of existing apparatus, may be used;
- other features of the street, such as structures, environmental areas, licensed areas, parking restrictions, priority lanes, special surfaces, standard surface and special construction needs etc.

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

C.2.1 Responsibility for creating and updating ASD

The Kent County Council as local highway authority and street authority creates and updates the ASD together with the NSG Concessionaire.

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 will be entered into the ASD maintained by the Kent County Council as highway authority. The NSG Concessionaire will administer this process.

C.2.2 Procedures for creating and updating ASD

The Kent County Council as relevant authority will forward additions or amendments to the ASD to the NSG Concessionaire using the formats in the Technical Specification for EToN.

APPENDIX D - STREETS SUBJECT TO SPECIAL CONTROLS

D1 Introduction

The Kent Permit Scheme balances the need to reduce the bureaucracy involved in managing activities in the highway with the importance of minimising delay and inconvenience to road users, whilst protecting the integrity of the street and any apparatus in it. 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; and
- streets subject to early notification of immediate activities.

The first three of these categories are carried across for each street from the designations under NRSWA; the fourth is specific to the Kent Permit Scheme.

D2 Protected Streets

D2.1 Background

By virtue of section 61 of NRSWA, all “special roads” as defined in the Highways Act 1980 are protected streets.

D2.1 Designation

Streets are designated as protected only if they serve, or will serve, a specific strategic major traffic need with high and constant traffic flows. There will also be a reasonable alternative route in which undertakers can place the equipment which would otherwise lawfully have been placed in the protected street. This includes services to existing or proposed properties in the street, or trunk supply routes passing through the street.

D2.3 The implications of designation

Once a street has been designated as protected, the activities of all promoters will be severely restricted.

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

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

Activity promoters must apply for a permit for any registerable activities in a protected street covered by the Kent Permit Scheme; the giving of a permit has superseded the notice provisions of NRSWA. However, Kent County Council as Permit Authority will highlight the protected street rules in approving and issuing permits, and in general it is unlikely that permits will be given for new activities.

Promoters should therefore discuss their proposals for activities in a protected street with the Kent County Council as Permit Authority before making an application.

D2.4 Existing streets

Given the possible financial implications for activity promoters, designation will be contemplated only when essential.

The decision will be taken only after consultation and after other means of reducing delay and inconvenience have been explored.

Kent County Council will fully justify the need for designation and:

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

D2.5 New streets

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

D3 Streets with Special Engineering Difficulties

D3.1 Background

Under section 63 of NRSWA, the term 'special engineering difficulties (SED)' relates to streets or parts of streets associated with structures, or streets of extraordinary construction where activities must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure, with attendant danger to persons or property.

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

D3.2 Scope of designations

The designation of streets with SED will be used only where strictly necessary. Circumstances where designation may be appropriate include:

Bridges

A street may be designated as SED if the Kent County Council as bridge authority is concerned about the impact of activities in the street on the strength, stability and waterproofing of the bridge, or access for maintaining it, or for any other purpose. In general, the designation would relate to the whole of the bridge structure, but it will only be necessary to designate the area adjacent to the bridge and not the whole length of the street.

Retaining walls

Retaining walls may be designated where they give support to the highway and bridge abutments, and where the foundations are sufficiently shallow for excavation to affect the integrity of the structure. Where foundations are piled, designation is likely to be necessary only if excavation could alter the degree of support given to the piles by the soil.

In many cases, it will be necessary to designate only the adjacent area and not the whole width of the street. A distinction will be made, where possible, between areas appropriate for excavations no deeper than 1.2 metres, and areas where further restrictions are needed if an excavation is deeper.

Cuttings and embankments

Areas adjacent to cuttings and embankments will be designated if excavation could lead to slides or slips of the soil, or could affect special construction features such as earth reinforcement systems or lightweight fills. The whole width of street, or specific areas similar to those for retaining walls, may be designated.

Isolated structures

Examples of isolated structures include high-mast lighting columns and large sign gantry supports. Where excavation could affect stability, areas immediately around the supports will be designated, again distinguishing between excavations up to 1.2 metres deep and those that are deeper.

Subways and tunnels at shallow depth

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

Culverts

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

Undertaker's apparatus

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

Pipelines

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

Engineering problems

Streets may be designated if they pose extraordinary engineering problems in the event of excavation, for example, a weak road, which may have been constructed using a continuously reinforced concrete slab or geo-textiles and is founded on unsound ground, such as where chalk mines had existed with the potential problems created by dene holes.

D3.3 Designation on request

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

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

The Kent County Council as Permit Authority will consider any request carefully. It may then make the designation, with or without modifications, or decide not to do so. The Kent County Council as Permit Authority will carefully consider the arguments for and against the proposed designation and shall always act reasonably in coming to its decision.

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

D3.4 Cellars

Owners of cellars must notify the Kent County Council as highway authority under section 180 of the Highways Act 1980, if they wish to carry out works. Kent County Council will in turn notify interested activity promoters before any activity begins.

Activity promoters wishing to carry out work in areas where they know, or might reasonably be expected to know, of the existence of cellars should notify the cellar owners or frontagers when they intend to carry out:

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

D4 Traffic-Sensitive Streets

D4.1 Background

Under section 64 of NRSWA the Kent County Council as street authority may designate certain streets (or parts of streets) as "traffic-sensitive" if they meet specific criteria, or by agreement with the majority of undertakers known to have apparatus in the street concerned.

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

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

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

D4.2 The criteria for designation

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

One or more of the following criteria will apply before Kent County Council as permit authority will designate a street as traffic-sensitive:

- the street is one on which at any time the street authority estimate traffic flow to be greater than 500 vehicles per hour per lane of carriageway, excluding bus or cycle lanes;
- the street is a single carriageway two-way road, the carriageway of which is less than 6.5 metres wide, having a total traffic flow of not less than 600 vehicles per hour;
- the street falls within a congestion charges area;

- traffic flow in both directions contains more than 25% heavy commercial vehicles;
- the street carries in both directions more than eight buses per hour;
- the street is designated for pre-salting by the street authority as part of its programme of winter maintenance;
- the street is within 100 metres of a critical signalised junction, gyratory or roundabout system;
- the street, or that part of a street, that has a pedestrian flow rate at any time of at least 1300 persons per hour per metre width of footway;
- the street is on a tourist route or within an area where international, national, or significant major local events take place.

D.5 Streets Where Early Notification of Immediate Activities is Required.

Certain streets are especially sensitive to disruption and of such traffic importance that immediate activities can cause significant problems even before a permit can be applied for and issued. Providing Kent County Council with the earliest possible information about the activity will enable initiation of traffic management arrangements and the provision of information to motorists that will mitigate the impact of the activity.

Kent County Council has the infrastructure and procedures in place for this, including a 24 hour contact centre and a manned control centre with the ability to adjust traffic signals and/or variable message signs to provide information to motorists in real time.

Kent County Council therefore requires the promoter to contact the authority by telephone immediately the activity is identified, for any registerable immediate activity in the streets which are designated in this way. This will be a condition applying to such activities in these streets.

Kent County Council as Permit Authority will set conditions which apply where a permit is not required i.e. for immediate works, to cover the period before a permit is issued.

Information about such conditions is recorded in the NSG/ASD and Kent County Council will notify to promoters in the same way as for other streets with traffic-sensitive designation. Designation of such streets will follow the same consultation process as for traffic-sensitive streets.

D.6 Procedure for Making Designations

Before making any designation, the Kent County Council as Permit Authority will give a notice which:

- specifies a period of not less than one month, when objections may be made; and
- for designations of streets as traffic-sensitive, identifies the criteria that are met.

To:

- every activity promoter known to the authority to be working in its area or who has given the authority notice of its intention to commence working in its area;
- every other local authority for the street to which the proposed designation relates;
- the chief officer of police, chief executive of fire and rescue authority, the chief executive of the National Health Service ambulance trust and other emergency services;

- Passenger Transport Executives and other transport authorities, for instance light rail operators;
- any other person who has submitted a written request to be given notice of a proposed designation. This may include other street authorities such as the Highways Agency or Network Rail;
- for the designation of streets as protected, the occupiers of properties fronting the street concerned.

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

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

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

When a designation is made, Kent County Council as highway authority will submit the relevant ASD to the NSG Concessionaire.

D.7 Procedure for Withdrawing Designations

Kent County Council will review its designations regularly.

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

Kent County Council can withdraw a designation at any time, subject to the following provisions:

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

Where a withdrawal is made, the Kent County Council as highway authority will submit the relevant ASD to the NSG Concessionaire in the next regular gazetteer submission.

D.8 Other Features of the Street

Features

Many features of a street can affect the planning and co-ordination of activities. These may be subject to restrictions imposed by legislation other than NRSWA or TMA. To enable best practice, information about such features are held as Additional Street Data in the NSG.

Environmentally sensitive areas

These include such areas as Sites of Special Scientific Interest and Ancient Monuments. The Special Designation Description indicates the type of sensitive area.

Licensed Areas

These include areas of the highway where licences have been granted for the placing of temporary street furniture or goods on the highway.

Structures (not designated as being of Special Engineering Difficulty)

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

Special surfaces

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

Pipelines

Government and private sector oil or gas pipelines

Priority lanes

These include cycle routes and bus lanes. The Special Designation Description indicates the type of priority lane.

Level Crossing Precautionary Areas

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

Special construction needs

This description indicates the extent and type of special construction.

Parking bays and restrictions

This Special Designation Description indicates streets with parking meters and residents' parking bays, parking restrictions such as red routes and other permanent parking restrictions. This assists in alerting activity promoters to plan any necessary action such as applying to the local authority to have parking suspended.

Pedestrian crossings and traffic signals

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

Speed limits

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

Transport authority critical apparatus

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

APPENDIX E - ACTIVITY CATEGORISATION

E1 Registerable Activities

E1.1 Registerable activities definition

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

- 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, carried across from the NRSWA regulations definitions for registerable works, are non registerable:

- a) Traffic Census Surveys
- b) Pole testing

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

- c) Fire service vehicles

In the event that the NRSWA definitions of registerable works are amended, the Kent Permit Scheme will adopt the equivalent definition for registerable activities under the Scheme

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 section 70 (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 must be made within two hours of the commencement of any other registerable immediate activity (i.e. excavation, or any other activity defined above) associated with the bar holes or longer period if not an immediate activity. 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, a permit for which must be sought following the rules in chapter 5 and Table 3 (see section 5.3).

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

Street lighting

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

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

E2 Activity Categories**E2.1 Major activities****Definition**

Major activities:

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

Application periods

The Kent Permit Scheme requires that promoters must apply for both a Provisional Advance Authorisation at least three months in advance of the activity and a permit ten days before the activity is due to start. The requirement for a PAA does not apply to remedial works that are large enough to be major activities.

E2.2 Standard activities**Definition**

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

Application period

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

E2.3 Minor activities**Definition**

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

Application period

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

E2.4 Immediate activities

Definition

Immediate Activities are either:

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

- urgent activities, which are defined in the regulations as activities:

(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):

1. to prevent or put an end to an unplanned interruption of any supply or service provided by the promoter;
2. to avoid substantial loss to the promoter in relation to an existing service; or
3. 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
4. includes works that cannot reasonably be severed from such works.

Application period

Permit applications for immediate activities, where the activity is identified within the normal working day (i.e. after 08.00 hours and before 16.30 hours), must be made as soon as reasonably practicable and in any event, within two hours of the activity starting.

Kent County Council will operate a 24 hour service and therefore where immediate activities are identified and undertaken outside the normal working day, the permit application should be made within 2 hours to the dedicated out of hours officer or by 10.00 hours on the next working day.

On certain roads which will be identified in the ASD, Kent County Council must be alerted of immediate activities as soon as they are identified and before a permit application is made. In other cases promoters are encouraged to contact the Council before the application where significant disruption is likely. Details of the requirements are given in 4.8.2.

Applications for permits for immediate activities must explain why they fall within the definition.

Burden of proof

If Kent County Council as Permit Authority disputes whether an activity, or part of an activity, is immediate, the promoter must demonstrate conclusively that it is. Those elements of the activity, which could be subject to the normal application period, cannot be included in the 'immediate' category.

Severable works

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

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

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

If the promoter leaves site after dealing with the immediate problem, including carrying out an interim reinstatement and closing down the site, and returns later for further activities - it is clear that these are “severed”. However, even where activities are continuous, the later stages are not necessarily part of the immediate activity.

E3 Remedial Works

E3.1 Definition

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

E3.2 Application requirements

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

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

- if the reinstatement is dangerous, the promoter should take the necessary action and seek a permit for immediate activities from the authority; or
- for all other remedial work, the promoter should agree the scope of the activity and timings with the Kent County Council as highway authority, before applying to the authority for a permit.

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

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

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

The promoter is encouraged to make the interim reinstatement of the original works permanent while carrying out remedial works.

APPENDIX F - RESTRICTIONS ON FURTHER ACTIVITIES

F1 Introduction

Provisions in NRSWA allow authorities to restrict works in all or part of a street in order to avoid streets being dug up repeatedly by different bodies with no apparent co-ordination, or within months of resurfacing. The restrictions can be imposed following:

- Substantial Road Works (section 58); and
- Substantial Street Works (section 58A)

These powers also apply to streets covered by permit schemes and Kent County Council intends to exercise its powers under section 58 and section 58A of NRSWA in conjunction with the Kent Permit Scheme. The process for managing other activities, which promoters decide that they need to carry out before the restriction comes into effect, is modified from NRSWA to reflect the fact that under a permit scheme activities are controlled through permits. Restrictions apply only to the length of the street on which such substantial road or street works have been carried out. Under the Kent Permit Scheme the same requirements in terms of notices and applications, and the same restrictions and exemptions on activities once the restriction is in place, apply to all activities and all promoters covered by the scheme.

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

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

F2 Substantial Works - Definition

F2.1 Substantial Road Works

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

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

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

F2.2 Substantial Street Works

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

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

F3 Creating a Restriction

F3.1 Identifying potential activities to complete before a restriction

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

- (a) Identify other activities it already knows about that should also be completed before the restriction comes into force;
- (b) Publish a notice of its intention to create a restriction on its website. Where the restriction is following substantial street works or substantial road works, Kent County Council will give at least 3 months notice, prior to works commencing. The notice will describe the proposed activity and give the proposed start date; state the duration of the proposed restriction and the part of the highway that it will affect; and require any other promoters proposing activities who have not already applied for a permit, to do so within the 20 days (or more) period which will be specified in the notice;
- (c) Copy the notice to:
 - the highway authority;
 - any sewer, transport or bridge authority with an interest in the street;
 - anyone who has given advance information of intended works;
 - anyone with apparatus in the street;
 - anyone who has registered an interest in that street;
 - the occupiers of any premises which have a frontage onto the street in question.
- (d) Place a copy of the notice on the register.

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

Following the notice period no other activity promoter may begin any activities (other than exempted activities or those to which an authority has given consent) in that part of the street until the restriction ends.

Activity promoters of both utility street works and Kent County Council's own highway works must reply to such notice received from Kent County Council as Permit Authority within the 20 days (or longer if specified) notice period. In the case of section 58A processes, the failure of a promoter to make an application in response to the notice can be taken into account by the Kent County Council as Permit Authority in deciding whether to issue a permit, i.e. if the promoter could have applied but does not do so, they run the risk of not obtaining a permit, if they apply later.

F3.2 Activities before the restriction is imposed

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

Kent County Council as Permit Authority will co-ordinate these activities in discussion with the promoters, informing each of the promoters when their activity can start.. Permits will still be required by promoters so they may need to submit a revised application if the dates have changed.

F3.3 Imposing the restriction

If the substantial activity (substantial works as defined in F3.2) which triggered the restriction was substantial road works and these have not started within six months of the proposed date, or within six months of the completion of any other activities, such as utility street works, that were carried out as a result of the notice, the notice ceases to be valid. A restriction will not be created, as the process would need to be repeated.

Once the substantial activity is completed, the Kent County Council as Permit Authority will give a further notice to all the parties whom it gave its original notice stating that the activity has been completed and that the restriction is in force. This action will be prompted by the works closed notice for the substantial activity. The Council will place a copy of the restriction notice on the LSG using the next available ASD update.

Once the restriction is in force, no activities – whether for utility companies or Kent County Council as highway authority - may be undertaken in the street, except as detailed in 'Activities During a Restriction' below.

F4 Duration of Restrictions

Durations of restrictions depend upon the type of activity carried out and the impact it has on the travelling public and the local neighbourhood. Longer restrictions will apply where streets, or parts of streets, have been newly constructed, reconstructed or resurfaced. Table F1 sets out the maximum durations of restrictions that Kent County Council will apply for the different categories of streets and activities. Unless there are special factors in a particular case Kent County Council will expect to apply the longest restrictions for the street concerned.

Table F1: Duration of Restrictions

Duration of Restrictions		
Street (Including Footway, Cycleway etc)		
	Reinstatement Category 0, 1 & 2 or Category 3 & 4 traffic-sensitive	Reinstatement Category 3 & 4 Non traffic-sensitive
1: Reconstructed	5 years	5 years
2: Resurfaced including level change	3 years	3 years
3: Other substantial road or street works	1 year	6 months
Combination of 1 or 2 plus 3	Higher of figures	Higher of figures
Customer connections	20 working days	

Definitions used:

Reconstruction is the removal of some or all of the various layers that make up a road pavement and their replacement, and is used to strengthen the road pavement.

Resurfacing is the removal of the running surface and its replacement to restore surface integrity and skid resistance.

Other substantial road or street works refers to the effects of substantial street works and substantial road works, such as drainage provision, which leave similar reinstatements to those after undertakers' works.

F5 Activities during a Restriction

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

F5.1 Exempt activities and reduced restrictions

Activities which are exempt or subject to reduced restrictions are:

- minor activities that do not involve breaking up or excavating in the highway;
- immediate activities;
- customer connections;
- works to comply with either an improvement notice or prohibition notice issued by the Health and Safety Executive under sections 21 or 22 of the Health and Safety at Work Act 1974;
- works carried out under regulation 16(3)(b) of the Gas Safety (Installation and Use) Regulations 1998;
- works carried out to comply with approved programme permitted under Regulation 13A of the Gas Pipelines Safety Regulations 1996 (SI1996/825, as amended by SI2003/2563) that could not have been identified before the restriction began;
- activities required to expose equipment covers and manhole covers buried during the substantial street or road works.

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

F5.2 Customer connections

If an undertaker receives a request for a new customer connection after the period for response to a section 58 or section 58A notice of restriction, and it is not possible to carry out the necessary works before the restriction comes into force - then an embargo on carrying out those works shall apply for 20 working days immediately following the completion of the substantial street or road works.

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

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

F5.3 Exemption by consent

There may be circumstances where activities that are not covered by the exemptions are required to be carried out during a period of restriction. Kent County Council will consider each application on its own merits. If the promoter had been informed of the pending restriction when it was first notified but not applied to carry out its activities at the time, then the regulations allow that decision to be taken into account by the permit authority in deciding whether or not to grant a permit during a restriction.

Under the Kent Permit Scheme, there will be a presumption against granting a permit in such circumstances unless there are overwhelming counter arguments.

F5.4 Permit applications during restrictions

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

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

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

In (b), an application for consent should be made, specifying, in addition to the normal activity information, the grounds upon which consent is sought.

Once consent is granted, an application for a permit must be made in the usual way. The Kent County Council as Permit Authority will then deal with this, again in the usual way. If the Permit Authority refuses consent then the promoter may appeal if it considers this to be unreasonable.

F6 Guidance

A restriction under section 58 or section 58A cannot be made if substantial activities have started, on the basis of an issued permit, without a notice under section 58 or section 58A having been given.

If a street in which a promoter proposes to carry out activities has been newly constructed, recently reconstructed or resurfaced, even if the promoter is not aware of a restriction, the promoter is strongly recommended to approach the Kent County Council as Permit Authority to establish whether a restriction is in force. Activity promoters should not assume that they can automatically break open that street but should check with Kent County Council. It may be that the ASD entry has not yet been posted or that a particular activity promoter was not sent the relevant notice under section 58 or section 58A and there may be a restriction in force.

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

F7 Dispute Resolution

Disagreements that cannot be resolved between the activity promoter and the Kent County Council as Permit Authority will be resolved by means of the dispute resolution procedures. Details of these procedures can be found in Chapter 8 of this document.

F8 Revocation of Restrictions

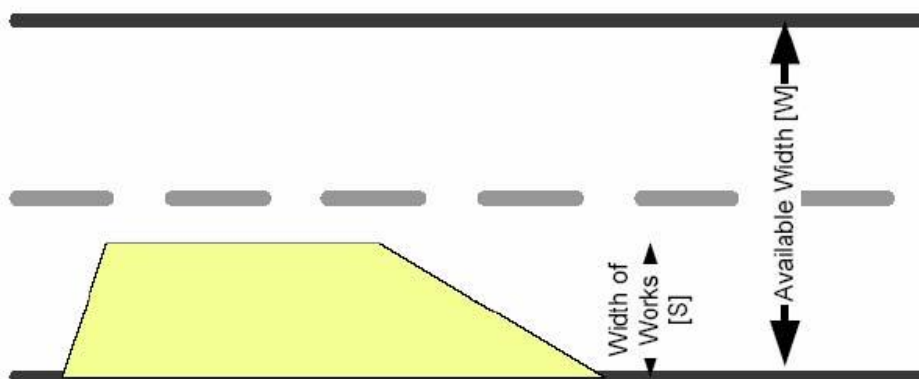
Restrictions may be revoked by the Kent County Council as Permit Authority at any time. The Kent County Council as Permit Authority will do this by sending a cancellation notice to the promoter(s) concerned, informing them that the original restrictions are now revoked. In issuing restrictions the Kent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

APPENDIX G - DERIVATION OF DISRUPTION EFFECT SCORE

G1 Input Factors

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

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



G2 Calculation of Disruption Effect Score

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

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

G3 Use of Disruption effect Score

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

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

G4 Impact Assessment

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

G5 Impact on General Traffic

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

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

G6 Impact on Buses

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

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

G7 Impact on Pedestrians

The impact assessment for pedestrian traffic is derived as follows:

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

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

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

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

APPENDIX H - PERMIT FEES

H1 Table I1: Current Permit Fees

	Main roads			Minor roads
Reinstatement category of street	0, 1 and 2	3 and 4		3 and 4
Street designated as traffic sensitive or not	All streets	Traffic sensitive at some times/locations		Non traffic sensitive at any time or location
Time and location of activity	Any time and location	Any part within traffic sensitive times at traffic sensitive locations	Wholly within non traffic sensitive times/locations	Any time and location
Provisional Advance Authorisation	£87	£87	£87	£73
Major Activity	£225	£225	£225	£146
Standard activity	£130	£130	£0	£0
Minor Activity	£65	£65	£0	£0
Immediate activity	£57	£57	£0	£0

H2 Permit Variation Fees

For Permit Variations Kent County Council as Permit Authority will charge:

£0 for standard, minor and immediate activities on category 3 and 4 non traffic-sensitive streets;

£0 for standard, minor and immediate activities on category 3 and 4 traffic-sensitive streets where the activities are wholly at non traffic-sensitive times/locations;

£35 for major activities on category 3 and 4 non traffic-sensitive streets;

£45 for major activities on category 3 and 4 traffic-sensitive streets;

£45 for all activities on category 0, 1 and 2 streets and on category 3 and 4 traffic-sensitive streets.

If a permit variation moves an activity into a higher fee category, the promoter will be required to pay the difference in permit fee as well as the permit variation fee. This applies even where the Notices Equivalent Treatment approach would normally involve no fee, namely:

- If a permit variation on a category 3 and 4 traffic sensitive street but at a non traffic sensitive time moves any part of the activity into a traffic sensitive time, the promoter will be required to pay the whole appropriate permit fee as well as the permit variation fee.
- Similarly, if the permit variation for a standard, minor or immediate activity on a category 3 and 4 non traffic sensitive street moves the activity into the major category, again the promoter will be required to pay the whole major permit fee and the variation fee.

No fee is payable if a permit variation is initiated by the Kent County Council as Permit Authority.

H3 Reduction in Fees

Information about reductions in fees is given in chapter 9.

Note: That in line with Kent County Council's policies and procedures, the above fees will be reviewed on an annual basis. The review will take into account ongoing scheme costs and current inflationary rates. The fees will not exceed the maximum charges as set by the Department for Transport.

All activity promoters will be notified of any changes.

APPENDIX I - PAYMENT METHODS FOR PERMIT FEES AND FPNs

Utility companies will be required to pay fees for permits to Kent County Council as Permit Authority and may have to pay a penalty to the Council if they receive a Fixed Penalty Notice for a permit related offence. Although Kent County Council will keep the permit fees and FPN penalties separate for accounting purposes it is expected that utility companies will use the same means of paying for both. In most cases utility companies will already have arrangements in place for payments to Kent County Council in relation to NRSWA e.g. for inspection or for section 74 overrun charges and these arrangements can be used for permit fees and FPNs provided there is transparency over precisely which permit or which FPN a payment is for.

In any event, Kent County Council provides flexibility over how payments are made. Although electronic payments are the preferred option, other means are possible. The range of options is:

- electronic payment using the Bankers Automated Clearing Services ("BACS"): utility companies must contact the Kent County Council, Finance Department via the contact centre for the necessary details;
- via the Kent Council Council authority website: www.kent.gov.uk;
- by telephone, via the Kent County Council Contact Centre
- by post to Kent County Council, Finance Department.

While the use of electronic payment methods is strongly encouraged, if a utility company normally uses that method and there is a system failure, paying by any of the other options is possible.

The utility company must set up payment facilities, provide contact details and agree methods of payment with the Finance Department of the Kent County Council and clarify what arrangements for payment will apply. The Department can be contacted through the Contact Centre. If the utility company wishes to pay using a credit/debit card, they need to contact Kent County Council in good time to confirm that their card is accepted

It is important that the authority is informed which FPNs or permit fees are being paid. This will not only provide an audit trail but will also ensure that payments can be made quickly and with the minimum of queries.

Therefore:

- For BACS, the utility company must support payment with details of the Permit or FPN numbers covered by the payment and the amount being paid in relation to each (including, for FPNs, the discounted or full amount).
- When paying by telephone or via an e-payment system, the utility company must quote full details of the Permit or FPN numbers covered by the payment and the amount being paid in relation to each (including, for FPNs, the discounted or full amount).
- When paying by post, the payment must be accompanied by a list of the Permit or FPN numbers covered by the payment and the amount being paid in relation to each (including, for FPNs, the discounted or full amount).

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