



Department
for Transport

Government response to street and road works further reforms

May 2022

Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR



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Introduction

This report should be read in conjunction with the corresponding [consultation](#) 'Street and road works: further reforms'.

On 28 May 2021, the government carried out an 8-week consultation on further reforms to street and road works to improve communication between highway authorities (HAs) and utility companies, improve the information that would be available to road users, improve the operation of permit schemes and to the system of inspecting reinstatements that are put in place once works have completed.

The main proposals presented were:

- Introducing a new type of flexi permit that would cover a number of standard and minor works in a certain area for a period of time.
- Allowing phases within a permit so that up-to-date information on traffic management could be sent to street manager – the digital service for planning and managing works that is in use by every utility company and highway authority in England - and then published.
- Including notifications about road restrictions issued under Section 58 and Section 58A/Schedule 3A on the New Roads and Street Works Act 1991 in street manager.
- Requiring works start and stop notices to be sent within two hours at weekends; and requiring highway authorities to submit start and stop notices for their works so that up to date information can be provided via street manager to road users.
- Three changes relating to street works inspections: amending the way an inspection unit is calculated; using performance to calculate the number of sample inspections carried out each year so that poor performers are inspected more frequently; and consolidation of the fee that needs to be paid for re-inspections of reinstatements that have failed a previous inspection.
- Amending the list of reasons highway authorities can use to designate roads as traffic sensitive.
- Other amendments relating to: whether we should have additional information provided about works as part of the permit application covering, for example, traffic light heads placed on adjacent streets; an additional amendment to the definition of major works; and requiring highway authorities to notify a utility company via street manager that an overrun charge is being applied.

These proposals would require amendments to the following street and road works legislation:

- The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (the 2007 Noticing Regulations).
- The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009 (the 2009 Charges Regulations).
- The Traffic Management Permit Scheme (England) Regulations 2007 (the 2007 Permit Regulations).
- The Street Works (Inspection Fees) (England) Regulations 2002 (the 2002 Inspection Regulations).

The consultation sought views on regulatory amendments to secondary legislation, which would also result in consequential changes to the following statutory guidance: [code of practice](#) for the co-ordination of street works; [permit scheme](#) statutory guidance; and the [inspections code of practice](#).

In total, we received 118 responses to the consultation. Not all respondents answered all questions. The breakdown of those respondents is set out below:

| Type of organisation | Number who responded |
|------------------------------|----------------------|
| Utility companies | 28 |
| Highway authorities | 75 |
| Representative organisations | 5 |
| Other | 10 |
| Total | 118 |

The DfT published a follow-up paper on two issues - flexi permits and inspections – between 14th and 28th February 2022. This paper presented some different options in relation to these issues in response to comments made on the proposals in the original consultation. The response to this follow-up paper was as follows:

| | Percentage | Total |
|-------------------|------------|-------|
| Highway Authority | 45.58% | 67 |
| Utility Companies | 34.69% | 42 |
| Other | 20.41% | 21 |
| Total | 130 | |

This report summarises the overall responses to the consultation questions and sets out the government’s response.

Response to consultation questions

Question 1 flexi permits

The consultation document proposed amending the Traffic Management Permit Scheme (England) Regulations 2007 (the 2007 Permit Regulations) to allow any works promoters from utility companies and highway authorities to apply for a new type of flexi permit. This would be one permit that would cover a number of minor and standard works in a specified area (multiple USRNs (unique street reference number given to every street)) for a limited period of time. Regulations currently require one permit application per USRN.

The question was: should we create a new type of flexi permit to cover a number of minor and standard works in a limited area for a limited period of time?

| Q1 | | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 15 | 60 |
| Utilities (28) | 27 | 1 |
| Contractors (4) | 5 | 0 |
| Rep Groups (5) | 3 | 1 |
| Others (6) | 5 | 1 |
| Total responses | 118 | |
| Sub-totals (118) | 55 | 63 |
| % | 47% | 53% |

The majority of respondents did not support this proposal. Responses were polarised, with utility companies expressing strong support, whereas highway authorities were mostly against the introduction of this measure.

Concerns raised by HAs were many varied and included:

- Concerns that administration costs for HAs assessing flexi permit proposals would increase and the fee proposed in the consultation would not be enough to cover this additional work.

- HAs felt it could be challenging to coordinate works across multiple USRNs that were part of one flexi permit application, potentially undermining the aims of permit schemes and the additional benefits that they had brought.
- Concerns about a potential loss of control and oversight of some works.
- Some believed that the 5 days proposed in the consultation for the HA assessment of flexi permit applications was not enough time.
- Many believed the case for making these changes was not strong enough. For example, many felt that a risk of permits deeming was not enough of a reason.
- Road space could be overbooked unnecessarily.
- There were many questions about how, practically, flexi permits would work, and respondents said there would be a need for detailed operational guidance to be developed alongside any regulation.
- Some suggested that improving street manager so that, for instance, users could replicate a permit could ease some of the existing issues.
- There was distrust of some promoters and their current compliance records.
- Many thought that flexi permits should be for minor works only on minor roads.
- Some wanted to wait for the outcome of trials being taken forward by the Joint Authorities Group (JAG), some HAs, promoters and third-party suppliers.

In contrast, almost every utility company that responded was in favour of flexi permits:

- Many wanted them to cover larger areas, major works and more USRNs.
- They believed flexi permits would improve efficiency, particularly with high volume, short duration works.
- Flexi permits would reduce administration costs, levels of bureaucracy and micro-management of low impact activities.
- Respondents felt that flexi permits would enable better collaboration and joint works across the flexi permit area, fewer cancellations, early start requests, permit refusals and deemed permits.
- They would speed up broadband roll-out, especially in rural areas.
- Flexi permits and forward plans could include more information about non-registrable or non-permittable related activities, meaning HAs would get more information about these to help with coordination and planning.
- Some felt that flexi permits would only work for large volumes of the same types of works on streets where the working conditions are mirrored
- Respondents agreed that detailed operational guidance would need to be developed alongside any regulation.
- They also had detailed questions about how, practically, flexi permits would work in practice.

The DfT held two workshops to discuss these findings with representatives from HAUC (Highways Authority and Utility Committee) in autumn 2021 and to consider whether there might be a compromise solution that could deliver the benefits sought by utility companies but which could address the concerns raised by HAs, or which could minimise the risks they highlighted.

Following these discussions, the DfT put forward an amended proposal and asked some additional questions. The amended proposal would have meant that:

- Flexi permits could only be used for minor works on minor roads that were not on a bus route.
- The overall duration of a flexi permit would be for no longer than 4 weeks or 28 calendar days.
- A flexi permit could cover up to 10 streets/USRNs.
- Works included within a flexi permit would need to be no more than 500 metres apart and the total area for a flexi permit would be no more than 1.5 km.
- Flexi permits would need to be submitted 10 days in advance to give the HA enough time to carry out the assessment.
- A flexi permit could not be used for works where a Temporary Traffic Regulation Order is needed since, for example, road closures need to be time-bound/minimised.
- Other promoters could share a flexi permit for any joint works.
- There would be a requirement for promoters to submit a forward plan showing the programme of works to be carried out in an area at least 30 days before submitting a flexi permit.
- HAs would have a maximum of 7 days to respond given they may need more time to assess it.
- The maximum fee for a flexi permit would be the cost of an individual permit for a minor work multiplied by the number of works included in the flexi permit less a 30% discount.

The response to the questions in the follow-up paper was as follows:

| Would you support the introduction of the amended proposal for flexi permits? | | |
|---|------------|-------|
| | Percentage | Total |
| Yes | 46.15% | 60 |
| No | 53.85% | 70 |
| | 130 | |

| Do you think the amended proposal for flexi permits would deliver benefits and be worthwhile? | | |
|---|------------|-------|
| | Percentage | Total |
| Yes | 15.38% | 20 |
| No | 84.62% | 110 |
| | 130 | |

| Would you prefer to keep the one permit per USRN rule? | | |
|--|------------|-------|
| | Percentage | Total |
| Yes | 54.62% | 71 |
| No | 45.38% | 59 |
| | 130 | |

| Would you prefer to continue carrying out trials and to revisit the issue of flexi permits after those have been completed? | | |
|---|------------|-------|
| | Percentage | Total |
| Yes | 58.46% | 76 |
| No | 41.54% | 54 |
| | 130 | |

Comments made in response to the questions asked in the follow-up paper were similar to the original consultation and different groups did not change their views. Additional comments made included:

- HAs restated their concerns around the potential impacts on network management.
- Utility companies were concerned that the amended proposal was a dilution of the original proposal that they preferred.
- Other common themes included the potential for increased administration adversely impacting operations and the standardised approach not providing equal benefit to different sectors.
- Many respondents expressed a desire for more trials to take place before further evaluation of flexi permits.

Government response

The government has decided not to proceed with this proposal at this time. Many HAs are clearly opposed to the concept of flexi permits and have raised valid concerns and points of detail that need to be further considered and worked through. In contrast, utility companies clearly see benefits that could be had from flexi permits. We intend therefore to continue working where we can with the sector on the trials being taken forward and can reconsider this idea in light of their detailed findings.

Question 2 follow up – exclusions on flexi permits

To better understand respondents' views on the proposed scope of flexi permits, a follow up question addressing potential exclusions on flexi permits when working on certain traffic sensitive designated roads was included in the consultation.

The question was: if you have said yes to Question 1, do you think that we should:

A: exclude works on reinstatement category 2 roads that are designated as traffic sensitive; or B: include works on reinstatement category 2 roads that are designated as traffic sensitive but add a condition to the flexi permit that the work on that road needs to take place on certain dates within a flexi permit period?

| Question | Q2 | |
|------------------|-----|-----|
| Response type | A | B |
| HAs (75) | 21 | 6 |
| Utilities (28) | 0 | 25 |
| Contractors (4) | 1 | 4 |
| Rep Groups (5) | 1 | 3 |
| Others (6) | 2 | 2 |
| Total responses | 65 | |
| Sub-totals (118) | 25 | 40 |
| % | 38% | 62% |

The majority of respondents supported option B, although responses were again polarised with HAs supporting the exclusion of category 2 roads and utility companies in support of including them within flexi permits.

The main comments made are included in the discussion on Question 1 above, as is the Government's response.

Question 3 follow up – flexi permit framework

To allow opportunity for wider feedback on the proposed flexi permit framework, there was a further follow up question: if you have said yes to Question 1, do you have any comments on the proposed framework for how flexi-permits would work?

| Question | Q3 | |
|------------------|-----|-----|
| | Yes | No |
| HAs (75) | 23 | 7 |
| Utilities (28) | 22 | 5 |
| Contractors (4) | 3 | 1 |
| Rep Groups (5) | 4 | 2 |
| Others (6) | 4 | 0 |
| Total responses | 71 | |
| Sub-totals (118) | 56 | 15 |
| % | 79% | 21% |

The majority of respondents commented on the proposal.

The main comments made are included in the discussion on Question 1 above, as is the government's response.

Question 4 phasing within a permit

We sought views on amending the 2007 Permit Regulations and the 2009 Charging Regulations to allow phasing within a permit. A permit itself can last for a period of time but, for example, lane closures or traffic management equipment might only be in place for a period of time within the overall permit start and end dates. This change would mean that details of key events that would affect road users would be sent to the HA via street manager so that the information could help the HA with network management and road users could be better informed about when their journeys might be affected.

The question asked was: should we allow phasing within a permit so that more accurate information is provided for road users about when traffic management or road closures are in place?

| Question | Q4 | |
|------------------|-----|----|
| | Yes | No |
| HAs (75) | 70 | 4 |
| Utilities (28) | 10 | 16 |
| Contractors (4) | 1 | 3 |
| Rep Groups (5) | 3 | 1 |
| Others (6) | 4 | 2 |
| Total responses | 114 | |
| Sub-totals (118) | 88 | 26 |

| | | |
|---|-----|-----|
| % | 77% | 23% |
|---|-----|-----|

The majority of respondents supported this proposal. HAs were strongly in support and utilities more divided, with a majority of those against the idea. Other respondents were generally in favour.

Reasons for support included:

- There would be more accurate and real time information to support network management.
- It would support road users on traffic sensitive streets with more accurate information to subsequently adjust journeys.
- Supporting traffic management, in better determining the length of time it is required and planning around this.

Utility and contractor concerns were centred around the following themes:

- The potential for increased fines relating to traffic management due to the ability to provide accurate and timely updates.
- A potential increase in additional queries from the public.
- Many respondents said that this proposal should only apply to strategic routes.
- Some suggested trialling this proposal on reinstatement category 1 and category 2 roads.
- Many suggested that the scope for this proposal should be limited to major works, only (works durations of more than 10 days).
- Many agreed that this should not be applied for minor traffic management changes, especially relating to minor works.
- Potential for adverse administrative costs to be incurred.

Government response

The government has decided to proceed with this proposal, but it will only be applied to major works carried out on reinstatement category 0, category 1 and category 2 roads – essentially motorways and A roads. Rather than amending regulations, this proposal will be implemented via a new national permit condition for major works. We will work with HAUC England (Highways Authority and Utility Committee) to draft the condition.

We envisage the condition will require those promoters carrying out major works on category 0, 1 or 2 roads to provide updates no later than [7 days or whichever period of time HAUC recommends] on times and dates when, for example, a lane is closed or partially closed or traffic management is put in place. Further information about the sort of changes that need to be communicated can be included in the condition guidance.

This change will come into force in April 2023.

Question 5 Section 58/58A notifications

We proposed a change to better support sections 58 and 58A of the New Roads and Street Works Act 1991, which aims to protect a HA's investment in their road network and allows them to put in place restrictions on further works following, for example, resurfacing work or substantial street works.

We proposed that all relevant notices should be sent via street manager – the digital service in use by every HA and utility companies and their contractors in England. The aim of the proposal was to ensure that timely information is provided to all the statutory undertakers who need to be informed. It would also benefit both undertakers and HAs in terms of planning restrictions and scheduling works, as well as providing consistency and efficiency in terms of process and communications.

The question was: should it be mandatory to use street manager for notices relating to Section 58 and Section 58A/Schedule 3A road restrictions?

| Question | Q5 | |
|------------------|-----|----|
| Response type | Yes | No |
| HAs (75) | 73 | 2 |
| Utilities (28) | 28 | 0 |
| Contractors (4) | 4 | 0 |
| Rep Groups (5) | 3 | 1 |
| Others (6) | 5 | 1 |
| Total responses | 117 | |
| Sub-totals (118) | 113 | 4 |
| % | 97% | 3% |

There was a large majority of respondents who supported this proposal. Common reasons given for support:

- The proposal supports the data accuracy in street manager and will help facilitate standardised usage through mandatory notification.
- More accurate information and better access to potential Section 58 restrictions.
- Street manager functionality will help to reduce administrative burdens if this proposal was to be adopted.
- It has the potential to further encourage greater collaboration and better coordination on the network.

Government response

The government will amend regulations to make it mandatory to send all relevant notices relating to Section 58, Section 58A and Schedule 3A of the New Roads and Street Works Act 1991 via street manager. These amendments will come into force in April 2023, but it is possible now to submit this information voluntarily since the functionality is already available in street manager.

Question 6 exemptions from S58/58A road restrictions

There are exemptions from restrictions on works listed under section 58(5) of the 1991 Act and further exemptions listed in Regulation 11(8) of the 2007 Noticing Regulations. We proposed adding the exemptions listed under the 2007 Noticing Regulations to the 2007 Permit Regulations, as nearly every HA now applies a permit scheme. This proposal would reduce administration and help to streamline planning.

The question was: should the exemptions listed in the 2007 Noticing Regulations be added to the 2007 Permit regulations?

| Question | Q6 | |
|------------------|-----|----|
| | Yes | No |
| HAs (75) | 71 | 4 |
| Utilities (28) | 27 | 1 |
| Contractors (4) | 4 | 0 |
| Rep Groups (5) | 4 | 0 |
| Others (6) | 4 | 0 |
| Total responses | 115 | |
| Sub-totals (118) | 110 | 5 |
| % | 96% | 4% |

The vast majority of respondents supported this proposal. The common reasons given included:

- Many stated this proposal would help ensure greater consistency across the network, especially between permit and few remaining noticing schemes.
- The amendment will help to reduce administrative burdens.
- Lots of respondents stated that this would benefit works' planning.

Government response

The government will amend the 2007 Permit Regulations to include a requirement for permit schemes to include an exemption for immediate works (equivalent to that which applies to noticing areas under section 58(5)(a)) of the 1991 Act and [equivalents to] the exemptions listed in Regulation 11(8) of the 2007 Noticing Regulations. These amendments will come into force in April 2023.

Question 7 additional exemption – joint works

We proposed adding a new exemption to Section 58/58A restrictions to the 2007 Permit Regulations for works being carried out as a joint work with another works promoter to encourage collaboration, trench or permit sharing or use of service tunnels/shared ducts. This could have encouraged more joint works to take place.

The question was: should an additional exemption for joint works be included in the 2007 Permit regulations?

| Question | Q7 | |
|------------------|-----|-----|
| | Yes | No |
| HAs (75) | 18 | 57 |
| Utilities (28) | 27 | 1 |
| Contractors (4) | 4 | 0 |
| Rep Groups (5) | 3 | 1 |
| Others (6) | 4 | 0 |
| Total responses | 115 | |
| Sub-totals (118) | 56 | 59 |
| % | 49% | 51% |

Although the majority of respondents did not support this proposal, views were polarised with utility companies in support and a majority of HAs were against the proposal.

Concerns raised by HAs were:

- Coordination could be adversely impacted if further exemptions applied to Section 58.
- Many stated this proposal would help ensure consistency across the network, especially between permit and the few remaining noticing schemes.
- Public relations could be damaged from any works performed during a period of restriction.
- The level of protections for highways assets could be adversely impacted, due to increased works which can degrade the life of an asset.
- These contrasted with support for the exemption by utilities:
- Many stated that this exemption would support increased collaboration.
- Others pointed out that a potential increase in joint works which could result in less congestion on the network and reduction in costs.

Government response

The government has decided not to proceed with this proposal at this time due to the concerns raised by HAs.

Questions 8 and 9 start and stop notices

We proposed amending the 2009 Charges Regulations to require notices of when works have started or when they have been completed to be given within 2 hours on any day, including weekends, so that more accurate updates can be provided to authorities and to road users through street manager and its open data stream.

We also proposed amending the 2007 Permit Regulations to require HAs to submit notices of when works have started or when they have been completed for their own 'works for road purposes' in line with requirements for utility companies. This would mean that more comprehensive data will be submitted to HAs and road users and would bring parity of treatment to HAs.

Question 8 was: should the requirements for works start and stop notices also apply at weekends and Bank Holidays?

| Question | Q8 | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 56 | 19 |
| Utilities (28) | 2 | 26 |
| Contractors (4) | 0 | 4 |
| Rep Groups (5) | 5 | 1 |
| Others (6) | 2 | 2 |
| Total responses | 117 | |
| Sub-totals (118) | 65 | 52 |
| % | 56% | 44% |

Question 9 was: should the requirements for works start and stop notices also apply to 'works for road purposes' carried out by highway authorities?

| Question | Q9 | |
|------------------|-----|----|
| Response type | Yes | No |
| HAs (75) | 70 | 5 |
| Utilities (28) | 24 | 4 |
| Contractors (4) | 4 | 0 |
| Rep Groups (5) | 4 | 0 |
| Others (6) | 6 | 0 |
| Total responses | 117 | |
| Sub-totals (118) | 108 | 9 |
| % | 92% | 8% |

The majority of respondents support these proposals. The majority of utility companies did not support start and stop notices being sent at weekends.

The main reasons respondent gave in support of proposals were:

- This will help improve the accuracy of street and roads work information at weekends.
- It will aid HAs in decisions around making optimal use of the network.

Concerns raised by utility companies regarding start and stop notices at weekends included:

- The potential for increased operational costs.
- Utilities were concerned that they could see an increase in FPNs.
- A change in resourcing, including staffing hours would be required to cover weekend work.
- Many remarked that if implemented, a phased introduction would be necessary for businesses to adjust.

- Systems would require updates or new systems introduced to help facilitate this, if it was adopted.
- Additionally, HAs shared concerns around the following:
- Potential cost burdens increasing due to the need for extra resourcing.
- There were suggestions that permit fees could be increased to cover any adverse resourcing costs incurred.
- Many responded stating that a phased introduction and limits on FPNs would allow organisations to adjust to the change in operation.
- A majority of HAs and utility companies did support parity in terms of works start and stop notices with common themes being fed back including:
- Parity to the network, with requirements for both HAs and utility companies being the same.
- Better information for road users with a more comprehensive dataset available, which could also benefit other works promoters when planning their works.

Government response

The government has decided to amend regulations and require works start and stop notices to be sent in line with the table below. They would apply to any day, regardless of whether it is a weekday, weekend or Bank Holiday. The government has also decided that these requirements will apply to HAs through an amendment to the 2007 Permit Regulations.

| | |
|---------------------------------------|--|
| Works starting/closing 00.00am-7.59am | Notices to be sent by 10.00am the same day |
| Works starting/closing 8.00am-4.30pm | Notices to be sent within 2 hours after start or completion of works |
| Works starting/closing 4.31pm-11.59pm | Notices to be sent by 10.00am the next day |

In response to the comments made, these requirements will not come into force until April 2023 to allow time for systems and process changes to be made. Utility companies will also not be liable for any Fixed Penalty Notices (FPNs) for late submission of notices at weekends or on Bank Holidays. HAs are not liable for fines for non-compliance on any day. This will further allow time for the sector to adjust to providing the information road users need at weekends. We hope that HAs and utility companies will comply with the new requirements without the need for any further action from the government.

Question 10 inspections unit calculation

We proposed amending the 2002 Inspection Regulations to simplify the basis of calculating inspection units and to use street manager to automatically calculate inspection units based on a simpler definition that would be based on the dimensions of the reinstatement.

The question we asked in the original consultation was: should we use the methodology of 7.6m² per an inspection unit as a simplified inspection unit calculation?'

| Question | Q10 | |
|------------------|-----|-----|
| | Yes | No |
| HAs (75) | 32 | 41 |
| Utilities (28) | 2 | 24 |
| Contractors (4) | 0 | 3 |
| Rep Groups (5) | 0 | 4 |
| Others (6) | 3 | 1 |
| Total responses | 110 | |
| Sub-totals (118) | 37 | 73 |
| % | 34% | 66% |

The majority of respondents did not support of this proposal. Concerns raised by utility companies was centred on a few recurring themes:

- A potential for increased financial burden, due to potential significant increases in the total number of inspections units.
- This method was thought to be too complex to implement.

Concerns raised by HAs included:

- Numerous HAs suggested that works duration would be a better alternative means of calculation.
- Works duration would be simpler to implement than the proposal in the consultation, potentially reducing the risk of challenge.
- The Scottish Government has successfully implemented works duration as a method of calculation in Scotland and has a tried and tested system in place.

We asked a supplementary question 11: if you have responded 'yes' to question 10, should we include a coefficient based on either A: industry works type or B: permit type - major, standard, minor, immediate?

| Question | Q11 | |
|------------------|-----|-----|
| | A | B |
| HAs (75) | 20 | 8 |
| Utilities (28) | 3 | 3 |
| Contractors (4) | 0 | 0 |
| Rep Groups (5) | 0 | 0 |
| Others (6) | 2 | 0 |
| Total responses | 36 | |
| Sub-totals (118) | 25 | 11 |
| % | 69% | 31% |

In response to comments made, we included an alternative proposal on the follow-up consultation that we carried out in February 2022. This would mean that we would adopt

an inspections unit calculation based on the duration of the works. We asked the following questions:

| Would you support use of works duration as the method of calculating inspection units? | | |
|--|------------|-------|
| | Percentage | Total |
| Yes | 88.46% | 115 |
| No | 11.54% | 15 |
| | 130 | |

| Would you support Option A as the methodology: Duration of 15 working days or less should = 1 unit Duration of 15-30 working days should = 2 units Duration greater than 30 working days should = 3 units | | |
|---|------------|-------|
| | Percentage | Total |
| Yes | 59.23% | 77 |
| No | 40.77% | 53 |
| | 130 | |

| Would you support Option B as the methodology: Duration of 10 working days or less should = 1 unit Duration of 11-20 working days should = 2 units Duration greater than 20 working days should = 3 units | | |
|---|------------|-------|
| | Percentage | Total |
| Yes | 37.69% | 49 |
| No | 62.31% | 81 |
| | 130 | |

| Would you support Option C as the methodology: Duration of 3 working days or less should = 1 unit Duration of 4-10 working days should = 2 units Duration greater than 10 working days should = 3 units | | |
|---|------------|-------|
| | Percentage | Total |
| Yes | 31.54% | 41 |
| No | 68.46% | 89 |
| | 130 | |

A majority of respondents supported using works duration and the most supported methodology was Option A:

- Duration of 15 working days or less should = 1 unit
- Duration of 15-30 working days should = 2 units
- Duration greater than 30 working days should = 3 units

The main comments made in response to these follow-up questions were:

- Respondents stated that this proposal was more robust than the original metre squared proposition.
- Many mentioned that durations-based calculations are a fairer method than area of excavation.
- Parity with Scotland was raised as an added benefit by many when choosing the option A methodology.
- Many responded that an automated calculation via street manager will lead to a simpler process and a reduction in administration.
- A single source of data in a centralised location with a simpler calculation will bring benefits to all parties.

- Street manager methodology and approach to data integrity would be paramount to successful implementation.
- Others commented that they believe the implementation date should be pushed back to although for systems development within Street Manager.
- Furthermore, whilst widely supported, utility companies stated that the definitions defining the calculation were key in ensuring accurate reporting.

Government response

The government has decided to amend the method of calculating inspection units and use works duration. We will use the methodology set out above i.e.

- Duration of 15 working days or less should = 1 unit
- Duration of 15-30 working days should = 2 units
- Duration greater than 30 working days should = 3 units

We believe from our analysis it will be the most similar to the current methodology in the total number of inspection units. It was the most supported in the follow up consultation and it will mean consistency with the approach taken in Scotland. This change will come into force in April 2023.

Question 12 inspections yearly period

In support of the proposal to introduce a new calculation for inspections, we proposed moving the yearly period from the financial year to an annual period. This was to gauge whether there was any merit in this for both HAs and utility companies.

This question on inspections year to year reporting was: should we move the annual units of inspection calculation from April to March to January to December?

| Question | Q12 | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 4 | 69 |
| Utilities (28) | 3 | 22 |
| Contractors (4) | 0 | 2 |
| Rep Groups (5) | 0 | 3 |
| Others (6) | 4 | 0 |
| Total responses | 107 | |
| Sub-totals (118) | 11 | 96 |
| % | 10% | 90% |

A large majority of respondents did not support this proposal. The reasons given included:

- This proposal would make financial budgeting more difficult as it would no longer align with financial year.
- Under a new automated system in street manager, any potential perceived positive impacts derived from moving the reporting period would be negligible.

Government response

The government has decided not to proceed with this proposal at this time. Both HAs and utility companies were united in opposing this proposal as alignment with the financial year is most beneficial to business operations.

Questions 13 – 16 performance-based Inspections

In the original consultation, we set out our proposals for introduction of a performance-based sample inspections regime. The aim of this proposal was to ensure that poorer performers were inspected more than those who comply with the requirements set out on the Specification for Reinstating Openings in the Highway (SROH).

The longer term aims were to reduce the number of defective reinstatements, reduce the amount of failed inspections and improve quality and performance. It would help HAs target their resources to those who need it and reward those who spent time and money on compliance.

To gather feedback on our proposals to amend the 2002 Inspection Regulations, we asked a range of questions.

Question 13 was: should we introduce performance-based inspections?

| Question | Q13 | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 62 | 11 |
| Utilities (28) | 16 | 12 |
| Contractors (4) | 2 | 1 |
| Rep Groups (5) | 2 | 1 |
| Others (6) | 4 | 1 |
| Total responses | 112 | |
| Sub-totals (118) | 86 | 26 |
| % | 77% | 23% |

Question 14 was a follow up question: if you responded 'yes' to question 13, should we go ahead with the specific proposals for performance-based inspections?

| Question | Q14 | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 50 | 17 |
| Utilities (28) | 12 | 5 |
| Contractors (4) | 1 | 2 |
| Rep Groups (5) | 2 | 0 |
| Others (6) | 3 | 0 |
| Total responses | 92 | |
| Sub-totals (118) | 68 | 24 |
| % | 74% | 26% |

Question 15 was a further follow-up: if you have responded ‘yes’ to question 14, do you think performance should be reported either A: quarterly or B: monthly?

| Question | Q15 | |
|------------------|-----|-----|
| Response type | A | B |
| HAs (75) | 41 | 19 |
| Utilities (28) | 13 | 5 |
| Contractors (4) | 2 | 1 |
| Rep Groups (5) | 1 | 1 |
| Others (6) | 3 | 1 |
| Total responses | 87 | |
| Sub-totals (118) | 60 | 27 |
| % | 69% | 31% |

Question 16 was: should we remove the fixed ceiling of percentage sample allocations per category and allow HAs the flexibility to increase or decrease the percentage allocation per category, within the total sample allocation?

| Question | Q16 | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 67 | 7 |
| Utilities (28) | 5 | 23 |
| Contractors (4) | 3 | 0 |
| Rep Groups (5) | 1 | 2 |
| Others (6) | 1 | 2 |
| Total responses | 111 | |
| Sub-totals (118) | 77 | 34 |
| % | 69% | 31% |

The majority of respondents supported these proposals. However, there were concerns raised by utility companies. The reasons for support and concerns raised included:

- Support for the introduction of a performance-based sample inspections system was widespread, with benefits such as automatic performance monitoring and targeted support being the main drivers behind support for this proposal.
- Current management of the defect process is labour intensive and utilising street manager as a single source of truth will help reduce this resourcing burden.
- In contrast, clarity around baseline numbers was requested by numerous respondents.
- Many respondents were in favour of the clear incentive structure outlined in the proposals, which would ensure inspections are limited on those complying with the SROH and with lower failure rates.
- Quarterly reporting was widely favoured over monthly reporting. Many commented that this would benefit operational timescales as monthly intervention would not be a sufficient amount of time to see any results from any implementation of changes.
- However, some HAs remarked that monthly reporting would allow them to have better oversight of performance.

- Many respondents reported that the proposed dual performance-based system proposed in the consultation was overly cumbersome and complex.
- Utility companies raised concerns around the perceived lack of mitigations in place against the potential risk of revenue raising, with most against the removal of the fixed ceiling of sample inspections.
- Further concerns raised by utility companies included the inconsistency of accurate defective reinstatement reporting.
- Respondents stated that 'agreed' defects would be a beneficial safeguard.

In response to the feedback we received, we included a refined proposal within the follow-up consultation that we carried out in February 2022. This would mean a simpler performance-based inspections system. We asked the following questions:

| Do you support the amended proposal for performance-based inspections? | | |
|--|------------|-------|
| | Percentage | Total |
| Yes | 36.15% | 47 |
| No | 63.85% | 83 |
| | 130 | |

| Do you think that the reckonable unit calculation in April 2023 only should use the average of the previous 2 years' worth of data available in street manager? NB: It would revert to 3 years from April 2024 onwards. | | |
|---|------------|-------|
| | Percentage | Total |
| Yes | 75.38% | 98 |
| No | 24.62% | 32 |
| | 130 | |

| Do you agree that a minimum of 5% each of the sample rate for chargeable inspections should be set for Category A, B and C inspections, allowing the HA to target the rest at areas that need improvement? | | |
|--|------------|-------|
| | Percentage | Total |
| Yes | 89.23% | 116 |
| No | 10.77% | 14 |
| | 130 | |

| Do you agree with the proposed bands for use in a new performance-based inspections regime? | | |
|---|------------|-------|
| | Percentage | Total |
| Yes | 40.00% | 52 |
| No | 60.00% | 78 |
| | 130 | |

There was a mixed response to the updated proposals. The key themes made in response to these follow-up questions were:

- The removal of the dual system proposed in the original consultation was welcomed.
- Support for the introduction of a performance-based sample inspections system remained robust. However, there were specific concerns raised around street manager's capability to successfully implement such a system, with multiple respondents stressing the importance of street manager in underpinning the system.

- There was continued support for a system that rewards good performance. General feedback was that the ramp up for poor performers could be too steep.
- Concerns around the operational capability of HAs to increase inspections over a financial year.
- Some utility companies stated that the banding changes did not align with the current industry standard for inspection failures and wanted to see a return to the original banding proposal.
- National and multi-region operating utility companies said that they wanted the new system to encourage greater levels of consistency across HAs.
- Many HAs were in support of the performance system in place or alongside improvement notices, which many remarked did not provide robust incentive for improvement.
- There was plentiful support for the increased flexibility in inspections categories, with benefits including operational flexibility and specific targeting of inspections based on real time performance which, in turn, will save money.
- Many respondents stated that they would like to see training and accreditation frameworks updated to help standardise application of the new system if introduced.
- There was broad support for use of the 2 years' worth of reckonable units data in street manager.

Government response

The government has decided to proceed with the introduction of a performance-based sample inspection regime following widespread support. After reviewing feedback from the follow up consultation, we intend to introduce the following banding for failure rates that will be assessed each quarter of the year. Utility companies' inspection rates will then rise or fall or stay the same based on the agreed number of inspections they fail:

- 0%-9.99% failure rate will result in a decrease of 5% chargeable inspections in the following quarter. This reflects the widely acknowledged <10% failure rate equalling good performance across the three categories of inspections
- 10%-14.99% failure rate will result in no percentage change in chargeable inspections in the following quarter. This aligns with the assessment that the starting baseline rate of 15% and above is deemed as extremely poor performance
- 15%+ failure rate will result in a 5% increase in chargeable inspections in the following quarter

These amendments will come into force on 1 April 2023. Those with a failure rate in the previous 12 months of less 15% will be put into a starting band of 30% for the first quarter of that financial year. Those with a failure rate of more than 15% will be put into a starting band of 50%. Utility companies are able to take action now to reduce their number of defects to below 15%.

The previous 2 years' data in street manager will be used to calculate the number of inspection units at the start of April 2023. This will revert to using an average of the previous 3 years from April 2024.

There will be no cap on the percentage of inspections that can be carried out. If a company starts at the 50% rate, it will take 2.5 years to reach 100% and we would expect that the utility company would take action to improve compliance at a much earlier stage.

20% will be the lowest rate of inspections to ensure all utilities have some inspections carried out.

At least 5% of inspections must be carried out each of Category A (whilst works are taking place), Category B (within 6 months) and category C inspections (within 2 or 3 years). HAs will have greater flexibility to focus inspections on one particular category if a utility needs to improve these.

We will work with HAUC Inspections Working Group on a corresponding update to statutory guidance.

Question 17 single defect inspection fee

Following collaboration with HAUC's inspections working group, we proposed consolidating the three separate defect fees currently charges into a single defect fee. The aim of this change was to simplify the process of paying for the inspection of non-compliant reinstatements by only requiring a single payment, thereby reducing the administrative burden on HAs and utility companies and setting out a clear structure.

We asked: should we consolidate the defect fees into a single fee of £120?

| Question | Q17 | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 40 | 33 |
| Utilities (28) | 23 | 5 |
| Contractors (4) | 2 | 1 |
| Rep Groups (5) | 2 | 1 |
| Others (6) | 4 | 1 |
| Total responses | 112 | |
| Sub-totals (118) | 71 | 41 |
| % | 63% | 37% |

The majority of respondents supported this proposal. However, there were some concerns raised:

- Some HAs thought the consolidated fee figure was too low. Utilities thought it was too high.
- The defect fee scope should be widened to cover traffic management non-compliance.
- A robust escalation process alongside the defect fee would be beneficial.

In contrast, many utility companies and HAs were in support, noting:

- This cost adequately covers defect inspections.
- The consolidation would help to reduce conflict by setting out a clear structure and simplifying the process.
- Introduction of clear escalation processes following two defect cycles would help to support this.

Government response

The government has decided to proceed with consolidation of the three defect fees into a single charge of £120. This will be included in statutory guidance.

Questions 18 & 19 traffic sensitive criteria

We proposed amending the 2007 Noticing Regulations to ensure the traffic sensitivity designation is only used for the roads that carry the most traffic or where works could adversely affect traffic, including buses and freight deliveries, cyclists and pedestrians.

We asked whether we should require that two of the existing criteria needed to apply in order for a road to be designated as traffic sensitive. Or whether we should maintain the need for one criteria to apply but remove if a road: 'is designated by the HA as part of its winter maintenance programme'; 'is on a tourist route or within an area where major events take place'; and 'is covered by a congestion charge'.

Question 18 was: should the criteria for designating roads as traffic sensitive be amended?

| Question | Q18 | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 43 | 31 |
| Utilities (28) | 28 | 0 |
| Contractors (4) | 4 | 0 |
| Rep Groups (5) | 3 | 1 |
| Others (6) | 4 | 1 |
| Total responses | 115 | |
| Sub-totals (118) | 82 | 33 |
| % | 71% | 29% |

Question 19 was: A: Should the criteria for designating roads as traffic sensitive be amended so that at least two criteria need to apply? Or B: Should the criteria covering winter maintenance routes, part of a congestion charge zone or on a tourist route be removed?

| Question | Q19 | |
|------------------|-----|-----|
| Response type | A | B |
| HAs (75) | 27 | 8 |
| Utilities (28) | 3 | 23 |
| Contractors (4) | 1 | 1 |
| Rep Groups (5) | 1 | 2 |
| Others (6) | 2 | 1 |
| Total responses | 69 | |
| Sub-totals (118) | 34 | 35 |
| % | 49% | 51% |

The majority of respondents supported the main proposal. Views were divided over how to amend the regulations.

The main comments made in response were:

- Support for the criteria being amended was widespread due to the amount of time passing since the last review, with the current criteria deemed inappropriate, outdated and too wide in scope.
- HAs raised concerns about the financial cost of reviewing traffic sensitive roads.
- Clarity was required about when traffic sensitive reviews and consultations should take place.
- Respondents declared a desire for clear metrics to be developed to help define traffic sensitive roads.

Government response

The government has decided to proceed with this proposal and amend regulations to remove the criteria: ‘is designated by the HA as part of its winter maintenance programme’; ‘is on a tourist route or within an area where major events take place’; and ‘is covered by a congestion charge’. This change will come into force in April 2023 and will mean that a road cannot be designated as traffic sensitive if the only reason it was classed as such was for one of those reasons.

We will work with HAUC on a corresponding update to statutory guidance and will include in this, advice on what that means for HAs reviewing and updating their traffic sensitive designations for the roads that may be caught by this change.

HAs should note that routes that may no longer be designated as traffic sensitive will still be covered by their permit scheme, and permits can be used to control when works take place and the working times.

Question 20 additional information about works

We proposed amending the 2007 Permit Regulations to include a section within a permit application for additional information to be provided to the HA, with no additional fees applied, about activities related to the works covered by a permit or equipment placed on adjacent roads. This section would need no assessment or approval by the authority and would simply be for information to be noted by the HA. The aim would be to improve consistency, clarify requirements, support the HA’s ability to manage the network and reduce the current number of disputes. Activities would include, for example, traffic light heads placed on adjacent streets or parking bay suspensions near to the works.

The question was: should additional information be supplied by the works promoter to accompany the permit application covering, for example, traffic light heads on adjacent streets and other activities?

| Question | Q20 | |
|---------------|-----|----|
| Response type | Yes | No |
| HAs (75) | 58 | 17 |

| | | |
|------------------|-----|-----|
| Utilities (28) | 24 | 4 |
| Contractors (4) | 3 | 1 |
| Rep Groups (5) | 3 | 0 |
| Others (6) | 4 | 1 |
| Total responses | 115 | |
| Sub-totals (118) | 92 | 23 |
| % | 80% | 20% |

The majority of respondents supported this proposal. The main comments made in response were:

- This will help to reduce administrative activities for both HAs and utility companies.
- It is beneficial to have non-chargeable information only permits that will provide clarification on the guidance found in the coordination code of practice.
- Information to be captured on one permit to further reduce the adverse impact on operations.

Government response

The government has decided to proceed with this proposal. We will add a new requirement to the 2007 Permit Regulations for applicants to supply ancillary information on related activities that are known about at the time of the permit application. We will add a new national condition that should be included in all relevant permits that the works promoter should send in information on any ancillary works which become known about later.

We will work with HAUC England on drafting the new condition text. We will also amend statutory guidance to provide examples of ancillary information and the types of activities that would be covered by this requirement, for example, traffic light heads on adjacent roads or parking bay suspensions. This change will come into force in April 2023.

Question 21 major work's definition

We proposed amending the 2007 Noticing Regulations to deal with confusion around the amended definition of "major works" in regulation 3(1) and to remove the current subparagraph (a) below:

"major works" means:

[street works which would normally be planned or known about at least six months in advance of the date proposed for the works];

(b) street works, other than immediate works, where:

(i) the street authority has indicated to an undertaker; or

(ii) an undertaker considers,

that an order under section 14 of the 1984 Act (temporary prohibition or restriction on roads) is required; or

(c) street works, other than immediate works, the planned duration of which exceeds ten days;

This would mean that major works would be classified as such if they require a temporary traffic regulation order or that have a planned duration of more than 10 days. It would help to prevent works being incorrectly classified as major works – permits for major works have to be submitted 3 months' in advance and attract a higher permit fee.

The question was: should the major works definition be amended to remove ‘works which would normally be planned or known about at least six months in advance of the date proposed for the works?’

| Question | Q21 | |
|------------------|-----|-----|
| | Yes | No |
| HAs (75) | 47 | 28 |
| Utilities (28) | 28 | 0 |
| Contractors (4) | 4 | 0 |
| Rep Groups (5) | 3 | 1 |
| Others (6) | 4 | 1 |
| Total responses | 116 | |
| Sub-totals (118) | 86 | 30 |
| % | 74% | 26% |

The majority of respondents supported this proposal: The main comments made in response were:

- This change would help to reduce inconsistent approaches across different HAs.
- It offers greater clarity on the definition of major works with a focus on its impacts on the network.
- HA concerns were centred around a perceived loss of major works visibility and adverse impacts on early sight of works for coordination.
- Some HAs believed that this change could lead to poor programming and worsening standards of communications with the public.

Government response

The government has decided to proceed with this change. It will come into force on the 21st day after the day on which the statutory instrument is laid – this should be before September 2022. This is because this change will support the roll-out of broadband services.

Question 22 overrun charges

We proposed amending the 2009 Overrun Regulations to add a requirement for HAs to notify the utility company via street manager that an overrun charge is being applied. We would specify that the HA must notify the utility company by, for example, the end of day two of the overrun at the latest. This would be called a ‘works overrunning’ notice and would be sent in advance of the invoice. It would alert the utility company that an overrun charge is being applied so it can check and clear the site or the works as soon as possible to avoid any additional daily charges and to reduce any congestion or adverse impacts of the overrunning works. It would also improve consistency, fairness and clarity.

The question was: should it be a requirement for highway authorities to send utility companies an ‘intent to charge’ notice that an overrun charge under Section 74 of the 1991 Act is being applied in advance of them sending an invoice for the total charges?

| Question | Q22 | |
|------------------|-----|-----|
| | Yes | No |
| HAs (75) | 45 | 30 |
| Utilities (28) | 28 | 0 |
| Contractors (4) | 4 | 0 |
| Rep Groups (5) | 3 | 0 |
| Others (6) | 5 | 0 |
| Total responses | 115 | |
| Sub-totals (118) | 85 | 30 |
| % | 74% | 26% |

The majority of respondents supported this proposal. The main comments made in response were:

- The requirement was welcomed widely as it helps support the wider aims of reducing congestion on the network and in a more timely manner.
- It is beneficial to help utility companies limit accumulation of charges where they are not aware of certain factors at site.
- This proposal should be automated in street manager to help facilitate early engagement and consistent application of Section 74 charges.
- HAs concerns were focused on a potential change of onus from utility companies to manage their own works, to a HA to notify a utility company.

Government response

The government has decided to proceed with this proposal. The HA will be required to send an intent to charge notice within 2 days of identifying the overrunning works. It will come into force in April 2023.

Question 23 calculation of the reasonable period for permits

We proposed amending the statutory [guidance](#) on permit schemes to encourage HAs to provide written confirmation to statutory undertakers through street manager when they are granting permits that the HA agrees that the “reasonable period” under Section 74(1)(b) of the 1991 Act is the same as the period of time specified in the permit as the period during which specified works may be carried out in a specified street.

In other words, it would encourage HAs to “agree” for the purposes of Section 74(2) that the “reasonable period” was the same as the period of time specified in the permit as the period during which specified works may be carried out in a specified street. If the works promoter thought they were going to overrun, they would need to request a variation to the permit to avoid incurring an overrun charge.

The question was: should advice on the calculation of the reasonable period for permits be included in the permit scheme statutory guidance?

| Question | Q23 | |
|------------------|-----|-----|
| Response type | Yes | No |
| HAs (75) | 62 | 13 |
| Utilities (28) | 28 | 0 |
| Contractors (4) | 4 | 0 |
| Rep Groups (5) | 3 | 0 |
| Others (6) | 5 | 0 |
| Total responses | 115 | |
| Sub-totals (118) | 102 | 13 |
| % | 89% | 11% |

The majority of respondents supported this proposal. The main comments made in response were:

- Many respondents welcomed this proposal, stating that it will help reduce conflict and provide a clearer process to follow in future.
- It will help HAs and utility companies agree sensible approaches to setting reasonable periods for permits.
- Greater consistency in the setting of reasonable periods derived from the removal of any ambiguity.

Government response

The government has decided to proceed with this proposal. The statutory guidance will be amended to come into force in April 2023.

Question 24 implementation periods

We asked for views about the implementation period for the proposed amendments. Many respondents noted the need for systems and administrative changes to be made in advance of them coming into force, for statutory guidance to be updated, and for street manager to be updated where that is needed.

The Government has therefore decided the following implementation plan:

| | |
|---|-----------------------|
| Statutory instruments laid in Parliament | July 2022 |
| Change to major works definition comes into force | By September 2022 |
| Formal consultation on amendments to inspections code of practice and the coordination code of practice | Autumn 2022 |
| Changes to inspections regime comes into force | Saturday 1 April 2023 |

| | |
|---|---------------------|
| All remaining changes come into force | Monday 3 April 2023 |
| Updated statutory guidance comes into force | Monday 3 April 2023 |

The Government will work with HAUC and the various working groups on the updates needed to statutory guidance in preparation for an autumn consultation. No further consultation is needed on updates to the permit scheme statutory guidance and to the two new national conditions.

Summary of decisions

The Government has decided to proceed with the following proposals:

| Proposal | Decision |
|--|---|
| <p>Phasing within a permit - requiring updates to be sent when events affecting road users are in place, for example, lane closures and traffic management equipment in place.</p> | <p>The Government has decided to proceed with this proposal, but it will only be applied to major works carried out on reinstatement category 0, category 1 and category 2 roads – essentially motorways and A roads. Rather than amending regulations, this proposal will be implemented via a new national permit condition for major works. We will work with HAUC England (Highways Authority and Utility Committee) to draft the condition.</p> <p>We envisage the condition will require those promoters carrying out major works on category 0, 1 or 2 roads to provide updates no later than [7 days or whichever period of time HAUC recommends] on times and dates when, for example, a lane is closed or partially closed or traffic management is put in place. Further information about the sort of changes that need to be communicated can be included in the condition guidance.</p> |
| <p>Notices relating to Section 58/58A Schedule 3A road restrictions - requiring these to be sent via street manager</p> | <p>The government will amend regulations to make it mandatory to send all relevant notices relating to Section 58, Section 58A and Schedule 3A of the New Roads and Street Works Act 1991 via street manager. These amendments will come into force in April 2023, but it is possible now to submit this information voluntarily since the functionality is already available in street manager.</p> |
| <p>Exemptions from S58/58A road restrictions</p> | <p>The government will amend the 2007 Permit Regulations to include a requirement for permit schemes to include an exemption for immediate works (equivalent to that which applies to noticing areas under section 58(5)(a)) of the 1991 Act and [equivalents to] the further exemptions listed in Regulation 11(8) of the 2007 Noticing Regulations.</p> |

| | |
|---|---|
| <p>Works start and stop notices to be sent at weekends</p> <p>HAs to be required to submit works start and stop notices</p> | <p>The government has decided to amend regulations and require works start and stop notices to be sent within two hours of works starting and ending. They would apply to any day, regardless of whether it is a weekday, weekend or Bank Holiday. The government has also decided that these requirements will apply to HAs through an amendment to the 2007 Permit Regulations.</p> <p>In response to the comments made, these requirements will not come into force until April 2023 to allow time for systems and process changes to be made. Utility companies will also not be liable for any Fixed Penalty Notices (FPNs) for late submission of notices at weekends and on Bank Holidays. HAs are not liable for fines for non-compliance on any day. This will further allow time for the sector to adjust to providing the information road users need at weekends. We hope that HAs and utility companies will comply with the new requirements without the need for any further action from the government.</p> |
| <p>Method of calculating inspection units</p> | <p>The government has decided to amend the method of calculating inspection units and use works duration. We will use the methodology:</p> <ul style="list-style-type: none"> • Duration of 15 working days or less should = 1 unit • Duration of 15-30 working days should = 2 units • Duration greater than 30 working days should = 3 units <p>We believe from our analysis it will be the most similar to the current methodology in the total number of inspection units. It was the most supported in the follow up consultation and it will mean consistency with the approach taken in Scotland.</p> |

| | |
|--------------------------------------|--|
| <p>Performance-based inspections</p> | <p>The government has decided to proceed with the introduction of a performance-based sample inspection regime following widespread support. After reviewing feedback from the follow up consultation, we intend to introduce the following banding for failure rates that will be assessed each quarter of the year. Utility companies' inspection rates will then rise or fall or stay the same based on the <u>agreed</u> number of inspections they fail:</p> <ul style="list-style-type: none"> • 0%-9.99% failure rate will result in a decrease of 5% chargeable inspections in the following quarter. This reflects the widely acknowledged less than 10% failure rate equalling good performance across the three categories of inspections • 10%-14.99% failure rate will result in no percentage change in chargeable inspections in the following quarter. This aligns with the assessment that the starting baseline rate of 15% and above is deemed as extremely poor performance • 15%+ failure rate will result in a 5% increase in chargeable inspections in the following quarter <p>These amendments will come into force on 1 April 2023. Those with a failure rate in the previous quarter of less 15% will be put into a starting band of 30% for the first quarter of that financial year. Those with a failure rate of more than 15% will be put into a starting band of 50%.</p> <p>The previous 2 years' data in street manager will be used to calculate the number of inspection units at the start of April 2023. This will revert to using an average of the previous 3 years from April 2024.</p> <p>There will be no cap on the percentage of inspections that can be carried out. If a company starts at the 50% rate, it will take 2.5 years to reach 100% and we would expect that the utility company would take action to improve compliance at a much earlier stage. 20% will be the lowest rate of inspections to ensure all utilities have some inspections carried out.</p> <p>At least 5% of inspections must be carried out each of Category A (whilst works are taking place), Category B (within 6 months) and category C inspections (within 2 or 3 years). HAs will have greater flexibility to focus inspections on one particular category if a utility needs to improve these.</p> <p>We will work with HAUC Inspections Working Group on a corresponding update to statutory guidance.</p> |
|--------------------------------------|--|

| | |
|--|---|
| <p>Replacing three separate fees for follow up inspections of reinstatement defects with one fee.</p> | <p>The government has decided to proceed with consolidation of the three defect fees into a single charge of £120. This will be included in statutory guidance.</p> |
| <p>Criteria used for designating traffic sensitivity</p> | <p>The government has decided to proceed with this proposal and amend regulations to remove the criteria: 'is designated by the HA as part of its winter maintenance programme'; 'is on a tourist route or within an area where major events take place'; and 'is covered by a congestion charge'. This change will come into force in April 2023 and will mean that a road cannot be designated as traffic sensitive if the only reason it was classed as such was for one of those reasons.</p> <p>We will work with HAUC on a corresponding update to statutory guidance and will include in this, advice on what that means for HAs reviewing and updating their traffic sensitive designations for the roads that may be caught by this change.</p> <p>HAs should note that routes that may no longer be designated as traffic sensitive will still be covered by their permit scheme, and permits can be used to control when works take place and the working times.</p> |
| <p>Information only permits</p> | <p>The government has decided to proceed with this proposal. We will add a new requirement to the 2007 Permit Regulations for applicants to supply ancillary information on related activities that are known about at the time of the permit application. We will add a new national condition that should be included in all relevant permits that the works promoter should send in information on any ancillary works which become known about later.</p> <p>We will work with HAUC England on drafting the new condition text. We will also amend statutory guidance to provide examples of ancillary information and the types of activities that would be covered by this requirement, for example, traffic light heads on adjacent roads or parking bay suspensions. This change will come into force in April 2023.</p> |
| <p>Amending the definition of major works to remove the words 'and which are known about at least six months in advance'</p> | <p>The government has decided to proceed with this change. It will come into force on the 21st day after the day on which the statutory instrument is laid – this should be before September 2022. This is because this change will support the roll-out of broadband services.</p> |

| | |
|--|---|
| Intent to charge an overrun notice | The government has decided to proceed with this proposal. The HA will be required to send a works overrunning notice within 2 days of identifying the overrunning works. It will come into force in April 2023. |
| Calculation of 'reasonable period' in permit areas | The government has decided to proceed with this proposal. The statutory guidance will be amended to come into force in April 2023. |

The Government has decided not to proceed with the following proposals:

| Proposal | Decision |
|--|---|
| Introduction of flexi-permits | The government has decided not to proceed with this proposal at this time. Many HAs are clearly opposed to the concept of flexi permits and have raised valid concerns and points of detail that need to be further considered and worked through. In contrast, utility companies clearly see benefits that could be had from flexi permits. We intend therefore to continue working where we can with the sector on the trials being taken forward and can reconsider this idea in light of their detailed findings. |
| Additional exemption from S58/58A road restrictions for joint works | The government has decided not to proceed with this proposal at this time due to the concerns raised by HAs. |
| Using calendar year instead of financial year for calculating inspection units | The government has decided not to proceed with this proposal at this time. Both HAs and utility companies were united in opposing this proposal as alignment with the financial year is most beneficial to business operations. |

