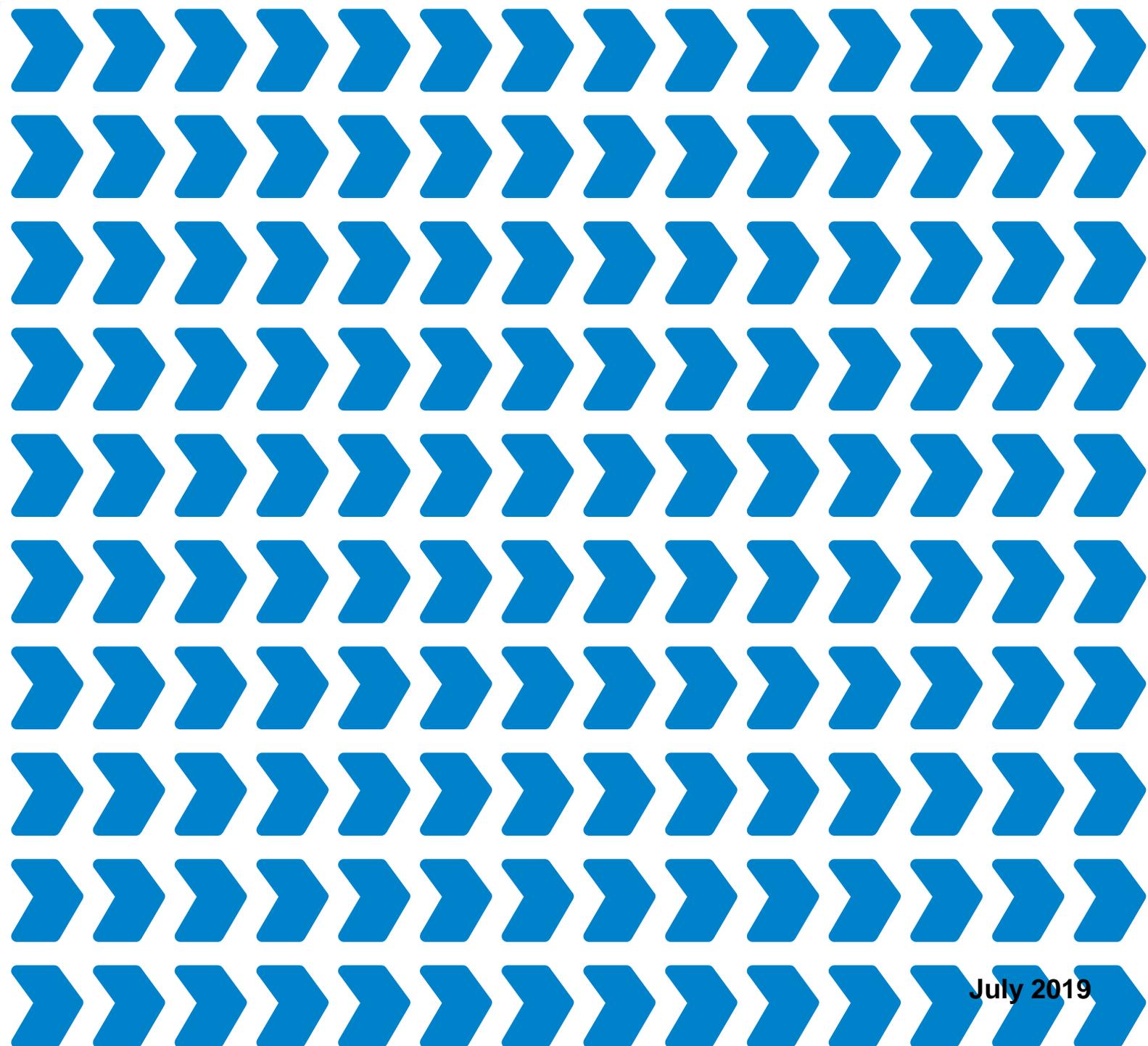




Department  
for Transport

# Street and road works: Street Manager and updates to permit schemes

Moving Britain Ahead



July 2019

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

Department for Transport  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR  
Telephone 0300 330 3000  
Website [www.gov.uk/dft](http://www.gov.uk/dft)  
General enquiries: <https://forms.dft.gov.uk>



© Crown copyright 2019

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos or third-party material) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

# Contents

Foreword	4
Executive summary	5
How to respond	7
Freedom of Information	7
1. Street Manager	8
The current landscape	8
Street Manager and the future of road works	9
Proposed amendments to legislation	10
2. Permit schemes	19
Introduction	19
Permit scheme national conditions	19
3. Road restrictions	22
Introduction	22
4. Impact Assessment	24
5. Consultation Questions	28
6. What will happen next	29

# Foreword



I know how important it is that we do whatever we can to ensure that we make the best use of our transport and road network. We need to consider and deliver ways to improve the millions of journeys that people make every day. Our local road network is vitally important for our local and national economies and we all rely on it to travel around and deliver goods as well as receiving the services that are essential to us such as gas, electricity, water and telecommunications.

We estimate that the English local road network is subject to around 2.5 million road works each year. These can cause significant disruption to people's journeys and congestion which we estimate costs the economy around £4 billion. The Government is working with local authorities and utility companies on a range of measures to help ensure that road works are managed and co-ordinated as effectively as they can be, to reduce the time it takes to carry out works, return the road to the required standard and to make accurate and up-to-date information available to road users.

As part of this work, we are investing up to £10 million in the development of a new digital service called Street Manager. This will transform the planning, management and communication of street and road works, and it will provide up-to-date, accurate and open data on live and planned works. As part of this development and to support implementation of the service, we need to amend legislation. This consultation document presents these and asks for your views, especially on the proposals relating to the timing of transition to the new service.

In addition, we are taking this opportunity to present some other amendments to the national conditions that apply to permit schemes. I am keen to hear what you think of these proposed changes.

**Michael Ellis MP**

**Minister of State for Transport**

# Executive summary

- 1 We estimate that there are around 2.5 million road works carried out in England each year. These can cause significant disruption to people's journeys and congestion which we estimate costs the economy around £4 billion. Street works are carried out by utility companies (water, gas, electricity and telecommunications) to install, repair or maintain the vital services on which we all rely. Road works are carried out by the local highway authority (LHA) to maintain the roads or, for example, to install cycle or bus lanes. This document uses the term road works to cover both types of works.
- 2 The Government is working across the sector on a range of measures to help ensure that road works are planned, managed and co-ordinated as effectively as they can be, to reduce the time it takes to carry out works, to make accurate and up-to-date information available to road users. We need to ensure that the most modern and effective methods possible are being used by local authorities, utility companies and their contractors to plan and manage works. This is not just to minimise the impact that works have on congestion, but we also need to ensure that that our systems are fit for the challenges of the future, including the digital transport agenda, that they support innovation and that they are able to deal with the rising demands for transport services and for utility infrastructure.
  - The Government is working with the sector to develop the street manager project and is investing £10 million in a new digital service that will transform the planning, management and communication of street and road works through open data and intelligent services to minimise disruption and improve journeys for the public.
  - The existing system that has been used in various forms since the 1990s is known as the Electronic Transfer of Notifications or EToN.
  - Street works are governed by Part III of the New Roads and Street Works Act 1991 (the 1991 Act), and Part III of the Traffic Management Act 2004 (the 2004 Act) where permit schemes are in place.
  - The management and communication of street works, including the use of EToN, is governed by various sets of regulations and guidance documents including, for the purposes of this consultation, the following:
    - 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); and
    - the Street Works (Fixed Penalty) (England) Regulations 2007 (the 2007 FPN Regulations).

This consultation presents amendments to these regulations to support the delivery and implementation of street manager.

- 3 We are also consulting on an amendment to the deadline for "actual start of works notices", "works closed notices" and "works clear notices" required under regulation 6 of the 2009 Charges Regulations. The proposed amendments will help to support more real-time updates for the benefit of road users.
- 4 We are taking the opportunity of this consultation to consider a number of other amendments to regulations and statutory guidance that will improve the administration of permit schemes, which are the main way of managing works on the local road network. These relate to the national conditions that can be applied and are aimed at reducing congestion and the impact of works.
- 5 Finally, we also want to consult on the timeframe for road restrictions that can be applied under Section 58 of the 1991 Act. Restrictions on further works can be put in place after roads have been re-built or resurfaced and a framework is set out in regulations. This framework has not been considered since 2006/2007 and we would like to seek views on whether or not it needs to be updated.
- 6 A consultation impact assessment is being published with this consultation and can be found on the website here: <https://www.gov.uk/dft#consultations>
- 7 This consultation relates to England only and to the local road network managed by English Local Highway Authorities (LHA).

# How to respond

The consultation period began in July and will run until **Friday 13th September 2019**. Please ensure that your response reaches us before the closing date.

Please complete and submit the on-line response form that can be found at <https://www.gov.uk/dft#consultations>

If you need to print out and send in any written responses, please send them to:

Ann Morley

Department for Transport

3/29 Great Minster House

33 Horseferry Road

London SW1P 4DR

Or email them to: [streetmanager@dft.gov.uk](mailto:streetmanager@dft.gov.uk) When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

## Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

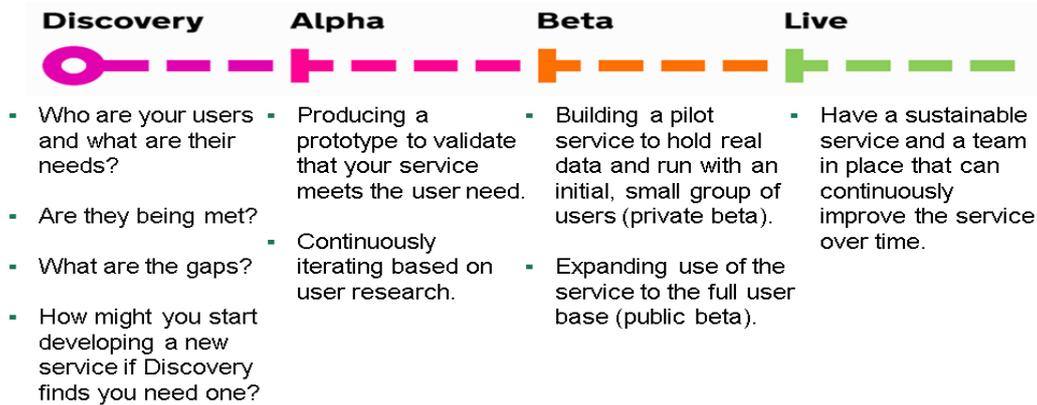
The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

# 1. Street Manager

## The current landscape

### The current road works notification system

- 8 The main system used by local authorities and utility companies for managing road works was originally developed in the 1990s. It is called the Electronic Transfer of Notifications or EToN. The DfT owns and issues a detailed technical specification that provides the rules through which data is exchanged (an XML schema) between EToN systems. The data requirements and the technical specification are underpinned by regulations, guidance and authorities' permit scheme orders.
- 9 Each individual organisation has its own EToN product or software package that is provided by a small number of private sector companies. The technical specification has been updated over the years. The last time was in 2013. The existing products allow for the notices and permit documents that are needed for road works to be exchanged between the local highway authority from the works promoter, who may be a utility company or a highway's works team, or from a contractor. They also allow for two-way communication between the local authority and the works promoter to, for example, query times and plans, and they store details of the works.
- 10 In early 2017, the DfT began to investigate whether or not the current system was fit for purpose in terms of the technology it uses, the needs of the user community from local authorities and utilities, the needs of road users, and the rising demand for up to date and accurate data about road works. People were reporting frustrations about:
  - the timeliness and accuracy of data
  - a lack of visibility of the data across different local authority areas
  - high costs
  - the need for updates to reflect current needs and
  - inconsistent systems and data.
- 11 We are following the Agile methodology for this project. This means that we go through the stages outlined below.



12 The Discovery, or user research, that we commissioned carried out detailed research with all those that are involved with and interact with street and road works on the local road network. Several common themes emerged from the analysis around

- a lack of consistent working practices, leading to additional overhead costs and discontent
- use of multiple systems leading to inconsistency
- the need for better communication and collaboration
- too much time and effort being spent managing inefficient processes
- a general lack of visibility and accuracy of limited data
- little or no support for collaboration and joint works
- use of outdated and expensive technology
- a lack of innovation.

13 The Discovery identified the goals for a new service and a set of prioritised user needs. It recommended that the project proceeded to an Alpha design phase, which would design a new service to meet the user needs and the goals. The vision for the new service was also defined as:

*Street Manager will be a new digital service that will transform the planning, management and communication of street and road works through open data and intelligent services to minimise disruption and improve journeys for the public*

## Street Manager and the future of road works

14 The Alpha design phase of what is now known as 'Street Manager' was carried out between November 2017 and April 2018. During this time, we designed the technical solution for the service and produced a prototype. We also continued to carry out user research to ensure the design meets key user needs. The outputs from the Alpha phase led to the Government's decision to invest up to £10 million in the development of this new service and the Beta development phase began in May 2018.

15 Since last May, the service is being built and tested, using the Agile development methodology that involves continuous iteration with users.

- 16 Street manager is being built to deliver many benefits including:
- Better managed road works delivering time savings and reduced congestion. Data in street manager supporting more collaboration and joint working, and being used to monitor performance and durations and assess impacts on congestion.
  - Open<sup>1</sup>, accurate and up-to-date data on live and planned works made available for use by technology companies in journey planning apps, satnavs, etc. Other new products could be developed too for all road users.
  - In addition, open data could be used to innovate, manage the network, and link in with the full range of new digital initiatives e.g. 3D, virtual mapping.
  - Less duplication, greater efficiency and better value for money for local authorities and utility companies.
  - A single service on a modern technology platform enabling us to continue to improve services in response to changing user needs. It will be fully compliant with legislation.
  - One version of the truth and decisions that are informed and supported by data.
  - Better reporting and performance management.
- 17 This consultation document focuses on some legislative changes that we need to make to support the delivery of street manager. There will, in time, need to be consequential amendments to guidance. These are being taken forward separately by the Highways Authorities and Utilities Committee (HAUC) in terms of the Co-ordinations Code and the inspections code of practice. Any consequential amendments needed to statutory guidance, for example, references to EToN in the Statutory Guidance for Highway Authority Permit Schemes (October 2015), will be taken forward later in 2019.

## Proposed amendments to legislation

### 1. Changing EToN to street manager

- 18 The 2007 Noticing Regulations currently refer to EToN as the “Technical Specification”, which is defined as “the Technical Specification for the Electronic Transfer of Notifications produced by the Department of Transport and dated 5th July 2007 as revised or reissued from time to time”. This specification was last reissued in 2013.
- 19 Under these regulations, certain street works communications under Part III of the 1991 Act are required to be “in, or to the like effect as, the form contained in the Technical Specification [EToN]” and to include other information specified by EToN (regulations 5(1) and (2) and regulation 12(5)). The communications governed by these sections are notices under section 54 (advance notice of certain works); 55 (notice of starting date of works); 57 (notice of emergency works); 58; 58A (restriction

---

<sup>1</sup> To note, restricted information is defined in the 2007 Noticing Regulations (4(6)) and the 2007 Permit Regulations (34(2)) as information which the Secretary of State certifies/authorises as restricted for the purpose of national security and information which an undertaker authorises/certifies as restricted because its disclosure would/would be likely to prejudice its commercial interests. These provisions will stay the same so restricted information will not become 'open' data. A sub-set of street manager data is what will be published.

on works); 66 (avoidance of unnecessary delay or obstruction); 70; 72(3) (reinstatements); 74A (overrun charges); paragraph 2(1)(d) of Schedule 3A (notification of proposed works in response to a notice of a proposed restriction following substantial works) and directions under paragraph 4 of that schedule by an authority restricting further works.

- 20 Regulation 6 of the 2007 Noticing Regulations sets out methods of service for communications under Part III of the 1991 Act. The service provisions are not straightforward but in summary, subject to certain exceptions, notices under Part III of the 1991 Act between a street authority and a statutory undertaker, other than fixed penalty notices, must be sent by electronic communication. There are several other options for service where electronic communication is unsuccessful after three attempts, including service on the person to whom the notice is to be given, any other such method of service for which there is a proper address, post, leaving the notice at the recipient's address or by any other means agreed between the parties.
- 21 The 2009 Charges Regulations make provision for communications under section 74 of the 1991 Act (including actual start of works notices, works closed notices and works clear notices). Similarly to the 2007 Noticing Regulations, the 2009 Charges Regulations require all notices sent under them to be "in, or to the like effect as, the form contained in the Technical Specification" (the "Technical Specification" has the same definition as in the 2007 Noticing Regulations) (regulation 14). Regulation 15 includes service provisions which are similar to those at regulation 6 of the 2007 Noticing Regulations.
- 22 Section 53(1) of the 1991 Act requires street authorities to keep a street works register of such information as may be prescribed by regulations for each street for which the authority is responsible. Section 53(2) allows regulations to prescribe the form and manner in which the register must be kept. Regulation 4 of the 2007 Noticing Regulations currently provides for how registers are to be kept, what information is to be registered and by whom.
- 23 The 2007 Permit Regulations govern street works communications under permit schemes and the requirement to keep permit registers. Any document sent under these regulations (other than a fixed penalty notice) must be sent by electronic communication (regulation 39(1)), except where electronic communication fails, in which case service may be effected by delivery to the person to whom the document or information is to be given, leaving it at that person's proper address, sending it by first class post or such other means as may be agreed (regulation 39(5)). It is for permit schemes to specify the manner in which permit applications and provisional advance authorisations must be submitted.
- 24 The Statutory Guidance for Highway Authority Permit Schemes (October 2015) states that communications between permit applicants and permit authorities should be made via EToN and that permit authorities should follow EToN requirements for permit registers. Individual permit scheme orders are therefore likely to refer specifically to EToN and require it to be used for communications. Permit schemes are made individually by local authorities.
- 25 Section 37(11)(a) of the 2004 Act allows regulations to make provision for or in connection with the creation and maintenance of registers of permits and regulation 33(1) of the 2007 Permit regulations requires permit authorities to create and maintain or cause to be created and maintained a register of permits in respect of any permit

scheme submitted by it.

- 26 We would like to make it clear (i) that all street works communications and fixed penalty notices should be sent via street manager and (ii) that all street works registers and permit registers should be held centrally on street manager. This will mean that we need to:
- Amend the definition of the Technical Specification in the 2007 Noticing Regulations and the 2009 Charges Regulations so that it refers to street manager rather than EToN so that where communications are to be in a specific form, this will be the form specified by street manager, rather than EToN.
  - Amend the current service requirements in the 2007 Noticing Regulations, the 2007 Permit Regulations and the 2009 Charges Regulations, replacing them with new provisions specifying that all street works communications under all three sets of regulations must be sent by via street manager. If service is not possible via street manager, provide for a fall-back option of email, or such other means as may be agreed between the undertaker and the authority.
  - Add provisions to the 2007 Permit Regulations to require that all permit scheme communications under those regulations (including fixed penalty notices) are sent via street manager (or email or such other means as may be agreed if street manager is not available) and, where necessary, in the form specified by street manager. Permit authorities would also need to change references to EToN in their schemes to refer to street manager.
  - Amend regulation 4 of the 2007 Noticing Regulations to require street authorities' duties to keep street works registers to be fulfilled via the street manager system and comply with the form of register set out in the street manager technical specification.
  - Amend regulation 33 of the 2007 Permit Regulations to include a similar provision as above in relation to permit registers.
- 27 We also propose amending the 2007 FPN Regulations so that fixed penalty notices under the 1991 Act must be served via street manager, with similar fall-back options as proposed above.

Q1: Do you agree that we should remove the current ability to send notices by post?

Yes?

No?

If you have responded 'no', please explain why.

## 2. Date for when the changes come into force

- 28 We will need to set a date when the amendments set out in (1) above come into force.

This will give effect to the switch from EToN to street manager. Street manager has been available for local authorities and utility companies to use in a private Beta environment since May 2019 and will be available via public Beta from November 2019. In line with best practice, transition for organisations will happen in phases and at a time that is most suitable for the individual organisation. They may, for example, decide to switch when an existing contract ends, or with a group of other organisations with whom they work closely or in a region.

- 29 The date when the changes come into force will mean that all local authorities and utility companies will need to be using street manager by this date and the existing EToN Technical Specification will be withdrawn in England. At some discussions with organisations, we proposed an end, or coming into force, date of 31st March 2020. Many, however, thought that this date and a 9 month transition window was too long, especially for utility companies who work nationally or across a number of local authority areas. A shorter transition window was requested.
- 30 We are interested to know your preferred date when the change should come into force. Should it be:
- 31st March 2020
  - 1st March 2020
  - 31st January 2020

Q2: Which date would you like to be the end date, or the coming into force date, for transition?

31st March 2020?  1st March 2020?

31st January 2020?

Please explain why you have selected this date.

- 31 After the coming into force date, all notices or permits or other street works communications would have to be sent via street manager, whether these are sent through the user interface (the web-site) or the APIs (Advanced Programming Interfaces) and all registers (whether under section 53 of the 1991 Act or regulation 33 of the 2007 Permit Regulations) would have to be held on street manager.

### 3. Express charging power

- 32 The Government is investing £10 million in the development of street manager. Once it is being used by local authorities and utility companies, we intend to recover the ongoing service support and continuous improvement costs from on a cost recovery basis. The Impact Assessment accompanying this consultation provides more

information about the rationale for this and the estimated costs and benefits. A user group will be set up to oversee the continuous improvement and the service development that will include representatives from the Joint Authorities Group and Street Works UK.

- 33 Users currently all licence an EToN product and have previously paid for upgrades to the product whenever the Technical Specification was updated. The 2017 Discovery estimated the then current costs involved in licences for EToN plus the associated administrative overheads were between £30-£40 million each year. Street manager is a much more cost-effective way of delivering the services we need, it will enable other efficiencies and benefits from better planning and coordination of works, and data in street manager could be used for more performance-based incentives. We can also maximise the benefits of the cloud-based technology that is available today and modernising the technology platform will mean savings in the future as we are able to respond more quickly and efficiently to changing needs and legislation.
- 34 Section 53(5) and (5) of the 1991 Act give the Secretary of State powers to (i) make arrangements for the duties of street authorities to keep a street works register to be discharged by means of one or more central registers kept by an appointed person and (ii) require street authorities to participate in and make contributions towards the cost of those arrangements. We intend to use these powers to require street authorities to contribute towards the cost of street manager. This power does not, however, currently allow costs to be recovered from all users as it only extends to street authorities and not to statutory undertakers (utility companies).
- 35 In addition, this power does not currently apply to permit schemes because section 53 of the 1991 Act also is disapplied by regulation 36(a) of the 2007 Permit Regulations.
- 36 Section 37(13) of the Traffic Management Act 2004 allows the Secretary of State to use regulations to disapply and/or modify provisions of the 1991 Act in so far as they apply to permit schemes. We intend to use this power to reapply and modify the relevant parts of sections 53 of the 1991 Act. We would then modify sections 53(4) and (5) so that (i) they specifically apply to and are consistent with the permit scheme registration requirements and (ii) allow the Secretary of State to require utility companies to participate in and contribute towards the cost of the central register.
- 37 By early 2020, almost all local authorities will be operating a permit scheme and we expect that all of them will have a scheme by the end of 2020. Organisations will be asked to contribute towards the cost of street manager from April 2020. We want to set up a charging regime that is based on a transactional or banding model, so that heavy users pay more than light users. It will be on a cost recovery basis, with all charges being used to cover the cost of service support and improvement of street manager. The service support contract will be procured through open competition to ensure best value for money. There will be one charge per organisation, no matter how many users, payable in arrears and based on use.
- 38 We have proposed a charging band system for 2020/21 that is based on current estimates and works out at an average charge of £17,000 per organisation per year. These are estimates that will be updated once the procurement for the ongoing service support and improvement has been completed. From April 2021, we will use data from street manager to develop a fair transactional charging regime.
- 39 This amendment is the simplest and easiest way, in terms of administration, of charging utility companies. It also allows flexibility in the future to amend the way

charges are calculated. Recent discussions at roadshows we have held with users have highlighted that there is a range of other ideas and proposals for a charging regime and we would like to use the most effective way based on further discussions with local authorities and utility companies.

- 40 However, an alternative approach to the proposal set out above would be for the DfT to charge local authorities an additional element for every permit issued to utilities, and to raise the maximum permit fee allowed in regulations so that authorities could recover these costs from utility companies. This would, however, be an additional administrative burden for authorities and it means that the charging regime would be based on permit numbers rather than any other basis we might agree is more desirable. It would also restrict any flexibility to change the basis for charges.

Q3: Do you agree that we should amend Section 53 of the New Roads and Street Works Act 1991 to apply to permit schemes and include utility companies?

Yes?

No?

Why?

#### 4. Definition of major works

- 41 Regulation 3 of the 2007 Noticing Regulations currently states that major works are defined as
- "street works which have been identified in the annual operating programme of an undertaker, or which, though not specifically identified in such programme, would normally be planned or known about at least six months in advance of the date proposed for the works."
- 42 Where works are not carried out under a permit scheme, works that are defined as 'major' works under the 2007 Noticing Regulations need to be notified to the local highway authority three months before works are due to start under section 54 of the 1991 Act. These works may also attract a higher permit fee depending on the approach taken by individual local authorities.
- 43 One of the aims of street manager is to support and encourage forward plans to be submitted by utility companies and highways works promoters, so that others can see who might be planning works in a particular area at some point in the future. This will support and identify opportunities for collaboration and joint works which, in turn, can lead to reductions in congestion or the same stretch of road being dug up on several separate occasions by different promoters.
- 44 We are aware of cases where some works are identified in an annual operating programme, but only then take a few days when it comes to carrying out the job. These may therefore be incorrectly being classified as a 'major work' when they

should really be classified as 'standard' or 'minor'. Some stakeholders have raised concerns that works promoters may not want to submit forward plans to street manager if there is potential for them to be then be charged higher fees or subject to longer notice periods.

- 45 We would like to propose therefore that we amend regulation 3 to remove the words **'which have been identified in the annual operating programme of an undertaker'**. All the other criteria for the definition of 'major' works would remain the same.

Q4: Do you agree that we should amend the definition of major works to remove the words 'which have been identified in the annual operating programme of an undertaker'?

Yes?

No?

Why?

## 5. Deadline for submission of notices

- 46 We would like information on when works have started and stopped, and when roads are open for traffic or closed due to road works to be as near to real-time as possible. In today's world, where information can be shared instantly with mobile phones, SATNAVs and other devices, the existing legislation is a real barrier to up-to-date data on progress with works being sent to street manager and then shared via open data platforms with technology companies. We therefore propose to amend the deadlines for notification in regulation 6 of the 2009 Charges Regulations so that "actual start of works notices", "works clear notices" and "works closed notices" must be given within two hours of the works having commenced/completed.
- 47 We are not proposing at this stage to amend the working day definition as this may well have consequential implications for other aspects of legislation and for day-to-day operations. We did consider setting out these new timescales in statutory guidance but we do not consider it appropriate to do this, given that overrun charges and fines may be applied.

Q5: Do you agree that we should amend the 2009 Charges Regulations to enable up to date information to be sent on the start, stop and progress of works?

Yes?

No?

Why?



**6. Form of Fixed Penalty Notices**

- 48 Regulation 23 of the 2007 Permit Regulations sets out requirements relating to the form of Fixed Penalty Notices (FPN) issued for fixed penalty offences under those regulations (undertaking works without a permit and breaching a permit condition). Schedule 1 of those Regulations goes on to show an actual form and layout for an FPN. Regulation 23(1) states that "A fixed penalty notice shall be in the form set out in Schedule 1 or in a form to substantially the like effect." It goes on to set out the information that shall be included in a FPN.
- 49 We understand that the vast majority of FPNs today are issued via EToN systems and do not follow this form. Some FPNs are emailed to smaller organisations and a small number want the FPN set out in Schedule 1 to be submitted by post. The latter will then involve local authorities needing to do mail merges.
- 50 The existing legislative requirement in regulation 23(1) to use the form of FPN set out as in Schedule 1 (or a form to substantially the like effect) already seems to be overly prescriptive. It also does not fit well into street manager which will use modern technology to enable FPNs to be sent from authorities to utility companies within street manager. The key information set out in the regulations will be included as fields, but street manager should not have to generate a PDF version of the form in the format required by the Schedule or support mail merges.
- 51 We therefore intend to amend the 2007 Permit Regulations to remove the requirement at regulation 23(1) and the form at Schedule 1. We would also need to make corresponding amendments to regulations 9, 27, and 39 and to remove Schedule 2. This will cut red tape and unnecessary administrative bureaucracy and support the modern services being developed in street manager.
- 52 We also need to make amendments to the Street works (Fixed Penalty) (England) Regulations 2007 in relation to FPNs issued for fixed penalty offences under Part III of the 1991 Act.
- 53 Regulation 39 of the 2007 Permit Regulations makes it possible to send FPNs via post if electronic means are unavailable or as an alternative. We will still need to provide a fall-back position in cases where street manager may be unavailable. We propose to make it clear that street manager should be used in the first instance but that, as a fall back, FPNs could be sent by email or via such other means as may be agreed between the sender and recipient which may include fax or by post.

Q6: Do you agree that we should remove the form of fixed penalty notice from legislation?

Yes? No?

Why?

Q7: Do you agree that the main way FPNs should be sent is via electronic communication?

Yes?

No?

Why?

## 2. Permit schemes

### Introduction

- 54 We commissioned an independent evaluation of permit schemes that was published 18 May 2018<sup>2</sup>. It showed the benefits that permit schemes have delivered with particular emphasis on a reduction in the duration of works, and their effectiveness as a proactive tool for managing street and road works on the local road network. Almost 70% of local authorities now operate permit schemes and more are being developed.
- 55 Utility companies are also now asking for greater consistency across England for managing and planning street works. Different sets of rules across different local authorities creates additional overhead, administration and time delays at a time when demand for infrastructure continues to increase. The Secretary of State for Transport therefore wrote to local authorities who have yet to introduce permit schemes in July 2018 seeking information about their plans to introduce a scheme and asking them to put one in place by 31 March 2019. Permit schemes are a much more effective way of reducing the impact of road works on congestion and there will be considerable benefits for all from greater consistency. Street manager will also help to support a consistent application of the rules. Since the letter was issued, almost all local authorities have either introduced a permit scheme or will introduce one by early 2020.
- 56 As part of this work, our focus in reducing the impact of works on congestion and the introduction of street manager, we would like to take the opportunity of this consultation to also consult on proposed changes to the set of national conditions that can be applied to permits.

### Permit scheme national conditions

- 57 This section proposes amendments to the permit scheme statutory guidance that is issued by the DfT<sup>3</sup> and to the national conditions statutory guidance which provides a set of national conditions that can be applied to permits<sup>4</sup>. In addition to the consequential changes we need to make to amend references to EToN to street manager, we are also considering making the following changes and additions to the set of national conditions.
- 58 The national conditions set out the conditions which a permit authority may attach to a permit. They were last updated in March 2015. Other than in an exceptional circumstance where a specific circumstance means that an additional condition needs to be added to a permit that is not covered by the national conditions statutory guidance, there is no ability for any local highway authority to amend or adapt these or

---

<sup>2</sup> <https://www.gov.uk/government/publications/street-works-permit-schemes-evaluation-of-effectiveness>

<sup>3</sup> <https://www.gov.uk/government/publications/street-works-the-2007-permit-scheme-regulations-as-amended-in-2015>

<sup>4</sup> <https://www.gov.uk/government/publications/street-works-permit-schemes-conditions>

to introduce additional local conditions. Since 2015, however, a number of developments have taken place and there is now, across the sector, a greater understanding of how the correct application of conditions can benefit the undertaking of works. We therefore propose to make the following changes.

### **Amend NCT09c - Signal Removal from operation when no longer required.**

59 This condition currently states that

“For the activities hereby permitted it is a condition of this permit that activities using portable traffic signals must have the signals removed from use as soon as possible and within four hours of completion of works irrespective of day of completion”.

60 We want to update and clarify this condition to ensure that all forms of temporary traffic lights are removed as soon as possible after works have been completed. The updated condition would be:

"For the activities hereby permitted it is a condition of this permit that activities using portable traffic signals must have the signals (whether manually operated or not) removed from use as soon as possible and no later than four hours after completion of works irrespective of day of completion”.

61 We will make it clear in the national conditions statutory guidance that there is a strong recommendation for this condition to be attached to permits in cases where temporary traffic signals are used.

Q8: Do you agree that we should amend NCT09c to clarify when temporary traffic signals should be removed, and that it should be mandatory in cases when temporary traffic signals are used?

Yes?

No?

Why?

### **Add a new part condition to [NCT13] - placement of new apparatus under the footway, footpath or verge**

62 In October 2013, the then National Joint Utilities Group (now Streetworks UK) published guidelines "NJUG Guidelines on the Positioning and Colour Coding on Underground Utilities Apparatus."<sup>5</sup>. This advises that there should be a presumption that works promoters will, where practical, place equipment under the footway, footpath or verge to reduce the impact of works carried out in the carriageway on traffic.

63 We would like to introduce a new national condition that would reinforce and support this presumption and should be applied to all permits for new apparatus where possible and practical. The condition would be:

"Unless the Permit Authority consents to the placing of apparatus under the

<sup>5</sup> <http://streetworks.org.uk/wp-content/uploads/2016/09/V1-Positioning-Colour-Coding-Issue-8.pdf>

carriageway including to assist with the roll-out of national infrastructure projects or to enable urban greening and street trees, it is a condition of this permit that activities placing new apparatus underground should, where possible and practical, be placed under the footway, footpath or verge". "

- 64 Regulation 10(2) of the 2007 Permit Regulations lists the types of conditions a permit authority may attach to a permit. The conditions themselves are then specified in the national conditions statutory guidance. Regulation 10(2) currently does not list the location of apparatus as a type of condition a permit authority may attach to a permit. We therefore propose amending regulation 10(2) to add a new type of condition. We would then update the national conditions statutory guidance document to include this new condition. We will also ensure the guidance includes consideration of the issues flagged below.
- 65 The published guidelines mentioned in paragraph 62 recognise that the presence of trees may restrict the ability to place new apparatus under footways. New developments can significantly benefit from the provision of trees, which support climate change adaptation, contribute to air quality improvements, provide biodiversity net gain, and contribute to the creation of beautiful and sustainable places. A balance needs to be struck between minimising congestion and disruption to traffic through the placement of apparatus in the footway, and the creation of sustainable communities of the future. Where, therefore, permits are applied for an issued on the public road network, a balanced approach needs to be taken to the provision of street trees and the impact considered.
- 66 Permit authorities should, in addition, allow works in the carriageway, where practical and necessary, for national infrastructure projects, such as broadband/full fibre roll out. Whilst we anticipate that most works will be carried out in the footway, there may be occasions where works are necessary in the carriageway and it is important therefore that the permit authority allows the deployment of apparatus in the carriageway where practical

Q9: Do you agree that we should add a new condition NCT13 about the placement of apparatus under the footway, footpath or verge including the need to assess the impact on street trees and national infrastructure projects?

Yes? No?

Why?

## 3. Road restrictions

### Introduction

- 67 Section 58(1) of the 1991 Act allows local authorities to prohibit road works following substantial resurfacing works for a period of time. The timescales are set out in the 2007 Noticing Regulations. The aim of the restrictions is to prevent newly re-surfaced or rebuilt roads from being dug up immediately afterwards by utility companies and to help protect the local road asset. There are exemptions for emergency works and a local authority can also give access for certain works if it agrees they are necessary.
- 68 The current timeframes are set out in Paragraph 11(2) of the 2007 Noticing Regulations. They are:
- 5 years in relation to substantial road works involving reconstruction.
  - 3 years in relation to substantial road works involving resurfacing or an alteration in the level of the highway.
  - 1 year in relation to any other substantial road works carried out in a traffic sensitive street or a street in reinstatement road category 0, 1 or 2 which is not a traffic sensitive street.
  - 6 months in relation to any other substantial road works carried out in a street in reinstatement road category 3 or 4 which is not a traffic sensitive street.

### Proposals for an updated framework

- 69 We would like to take the opportunity of this consultation and the amendments we intend to make to the 2007 Noticing Regulations for street manager, to consider whether or not these timeframes remain appropriate, given the rising levels of demand for new utility infrastructure including full fibre networks. In particular, the potential for restrictions of 5 years seems overly prescriptive. We do need to protect the local road networks and any investment made by local authorities when they resurface and reconstruct roads, but would like to seek your views on the following proposed changes to the timeframes:
- 3 [down from 5] years in relation to substantial road works involving reconstruction.
  - 2 [down from 3] years in relation to substantial road works involving resurfacing or an alteration in the level of the highway.
  - 1 [no change] year in relation to any other substantial road works carried out in a traffic sensitive street or a street in reinstatement road category 0, 1 or 2 which is not a traffic sensitive street.
  - 6 [no change] months in relation to any other substantial road works carried out in a street in reinstatement road category 3 or 4 which is not a traffic sensitive street.

Q10: Do you agree that we should update the framework for section 58 road restrictions to be updated as proposed?

Yes?

No?

Why?

- 70 We propose to amend the Statutory Guidance for Permit Schemes<sup>6</sup> so that there is a clear and reasonable application of the spirit of such road restrictions, bearing in mind that the restriction relates only to 'substantial works'. This would be achieved in part by emphasising in the guidance that restrictions should only be applied to road works that will significantly impact the highway. It should also be possible where works are wholly or largely in the footway or pavement that the restriction is eased.

---

<sup>6</sup> <https://www.gov.uk/government/publications/street-works-the-2007-permit-scheme-regulations-as-amended-in-2015>

## 4. Impact Assessment

- 71 We are publishing an Impact Assessment to accompany this consultation. In addition to the questions included in this consultation document, we would also be interested to hear your views about these questions that relate to the Impact Assessment.
- 72 It would be helpful if you respond to these questions and complete this table where possible.

Q11: Do you agree with the assumptions made in the impact assessment?

Yes?

No?

Why?

If no, please provide an update using table A below

Q12: Do you have any additional data to add to the analysis presented in the impact assessment?

Yes?

No?

If yes, please provide this using table B below

**Table A: Assumptions made in the impact assessment**

	Assumptions presented in the impact assessment:			Revisions to assumptions:
Take-up and usage assumptions of EToN and Street Manager	Year	Street Manager take-up (proportion of all organisations)	EToN usage (proportion of all organisations)	
	2019	25%	100%	
	2020	100%	50%	
	2021 onwards	100%	25%	
Reduction in work days due to Street Manager efficiency savings	Scenario	Reduction in work days (%)		
	Low	0.05%		
	Central	0.10%		
	High	0.15%		

**Table B: Additional data to provide for the impact assessment**

	Questions	Answer
Street Manager and EToN data		
Take-up of Street Manager	When are you likely to take up Street Manager?	
Assuming that the transition period is from November 2019 to 31st March 2020.	When the transition window opens (November 2019) During the main phase of the transition window (December 2019 - Feb 2020) During the final phase of the transition window (March 2020)	

Usage of EToN	<p>When will you stop using EToN software?</p> <p>I will continue using EToN alongside Street Manager for the foreseeable future</p> <p>I will stop using EToN when the existing agreement expires (please state when your EToN agreement will expire)</p> <p>I will stop using EToN straight away, as soon as I start using Street Manager</p> <p>Other combination (please state)</p>	
---------------	---	--

Definition of major works (measure 4)		
Works submitted in organisation's annual operating programme (AOP) from most recent available data	Total number of works submitted in an AOP	
	Total number of major works submitted in an AOP	

Permit scheme national conditions – portable traffic signals and apparatus under footways (measure 7)		
Portable traffic signals	Total number of works per year	
	Total number of works that use portable traffic signals per year	
	Length of time that portable traffic signals are left in place once works are completed (hours)	
Apparatus under footways	Proportion of total works that place apparatus under footways rather than under carriageways	

Section 58 road restrictions (measure 8)		
Utility works	Number of works that take place, per year, with the current road restrictions in place	
	Number of works that could take place, per year, with the reduction in timeframes of road restrictions	

	Estimated impact on the road asset due to the reduction in timeframes of road restrictions	
	Estimated benefits due to the reduction in timeframes of road restrictions	

## 5. Consultation Questions

- 73 We would appreciate your comments and views on the consultation questions. Please complete the questionnaire here <https://www.gov.uk/dft#consultations> and submit your views online.
- 74 The consultation period began in July and will run until **Friday 13th September 2019**. Please ensure that your response reaches us before the closing date.

If you need to print out and send in any written responses, please send them to:

Ann Morley  
Department for Transport  
3/29 Great Minster House  
33 Horseferry Road  
London SW1P 4DR

Or email them to: [streetmanager@dft.gov.uk](mailto:streetmanager@dft.gov.uk)

- 75 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

## 6. What will happen next

- 76 A response to the consultation, including the proposed timetable for next steps, is planned to be published within three months of the consultation closing. It will be published on [www.dft.gsi.gov.uk](http://www.dft.gsi.gov.uk) Paper copies will be available on request.

If you have questions about his consultation please contact:

Ann Morley

Department for Transport

Great Minister House

33 Horseferry Road

London SW1P 4DR

[streetmanager@dft.gov.uk](mailto:streetmanager@dft.gov.uk)