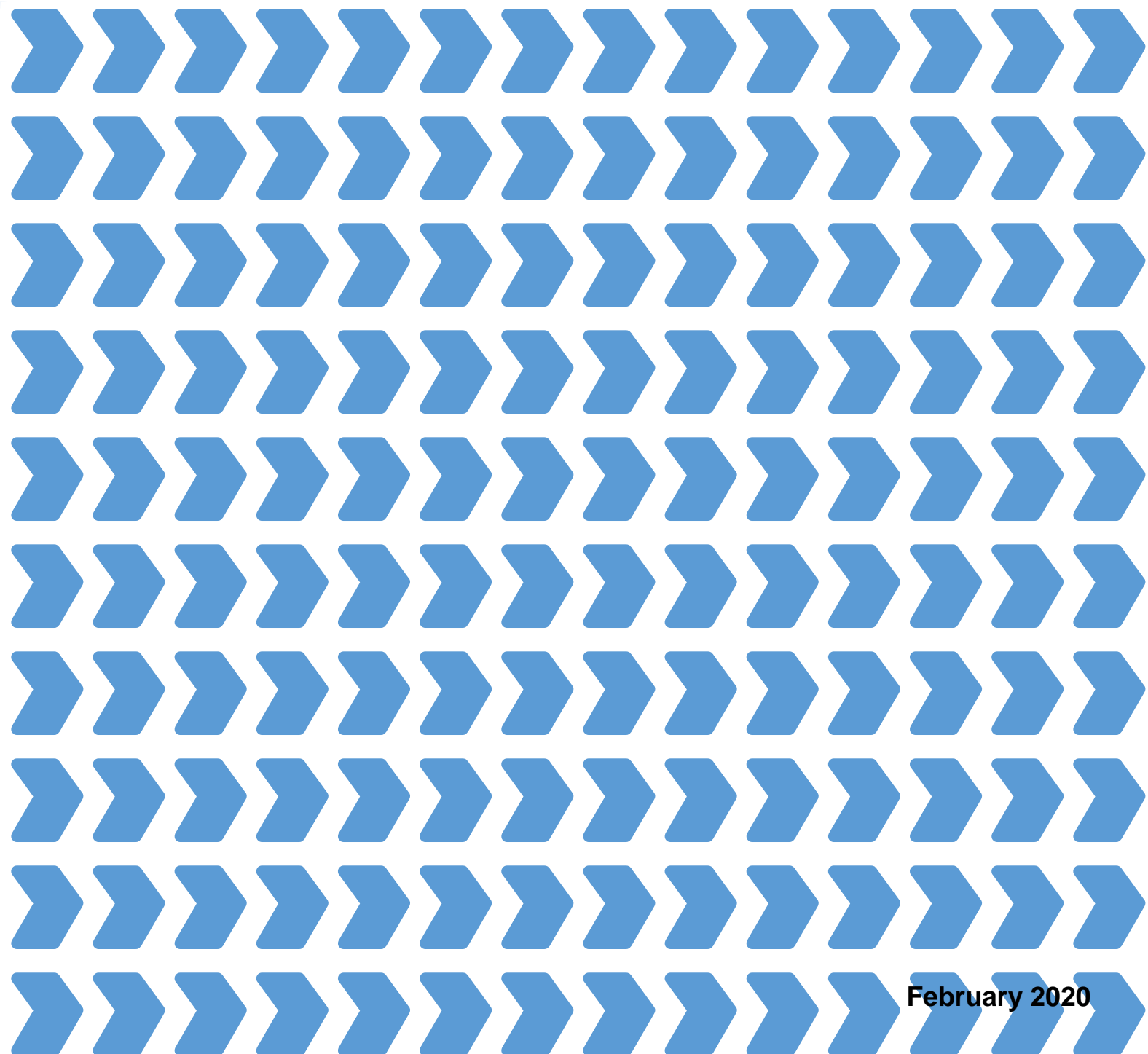




Department
for Transport

Government response to consultation on Street Manager and updates to permit schemes

Moving Britain Ahead



February 2020

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Introduction

- 1 The Government consulted on proposed regulatory amendments to support the implementation of the new street manager digital service and improvements to permit schemes between 20th July and 13th September 2019. The consultation can be found here <https://www.gov.uk/government/consultations/street-manager-and-street-works-permit-scheme-changes>
- 2 The Government has been working with the street and road works sector to develop the street manager project and has invested more than £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.
- 3 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.
- 4 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).*

The consultation presented amendments to these regulations to support the delivery and implementation of street manager.
- 5 We also consulted on an amendment to the deadline for actual start and stop of works notices required under regulation 6 of the 2009 Charges Regulations to support more real-time updates for the benefit of road users.
- 6 We took the opportunity of the consultation to consider other amendments to regulations and statutory guidance to improve the administration of permit schemes, which are the main way of managing works on the local road network. These related to the national conditions that can be applied and were aimed at reducing congestion and the impact of works.
- 7 Finally, we consulted on the timeframe for road restrictions that can be applied under

Section 58 of the 1991 Act.




- 8 This document summarises the responses to the consultation and sets out the Government's response.

In total, we received 92 responses to the consultation with 78 confirming the name of organisations they represented. Not all respondents answered all questions, but the breakdown of those respondents is set out below: Type of organisation	Number who responded
Utility companies	19
Highway authorities	54
Representative bodies and organisations.	15
Other	14
Total	92

Response to consultation questions

Question 1: Removing communication by post

- 9 The question was, 'do you agree that we should remove the current ability to send notices by post?'

			Response Percent	Response Total
1	Yes		86.96%	80
2	No		8.70%	8
3	Don't know?		4.35%	4
			answered	92


- 10 The majority of responses supported this proposal. The reasons given included:


- Use of post and also fax machines is outdated.
- There would be administrative costs savings.
- Initiatives to modernise communication were welcomed.
- Most respondents did, however, note that there was a need for back-up should electronic means not be available and this should be clear in any regulatory amendments.

Outcome: The Government intends to proceed with this amendment to regulations to ensure that communications are via Street Manager or electronic communications. Appropriate arrangements will be put in place as a back-up, should services be unavailable. Existing arrangements for communications that are not being included within Street Manager, for example, section 50 licences, will be maintained.

Q2. Date for when the changes to regulations would come into force.

- 11 The question was, 'Which date would you like to be the end date, or the coming into force date, for transition to Street Manager?'

			Response Percent	Response Total
1	31 January 2020		2.47%	2
2	1 March 2020		2.47%	2

			Response Percent	Response Total
3	31 March 2020		95.06%	77
			answered	81




- 12 The vast majority of responses chose 31st March 2020 from the available options for the following reasons:
- It would give organisations as much time as possible to prepare for the transition to Street Manager.
 - Some authorities were also moving on a similar timescale to permit schemes, so this would also allow more time for both changes to be made.
 - It would allow time for training and testing, and integration with other systems used by organisations or for APIs to be developed.
 - It ties in with the end of the financial year, making accounting and reporting easier.
- 13 Several respondents wanted more time and noted that they would have selected an even later date if this was available. The main concerns about the time being allowed for transition was whether APIs would be developed in time, whether Street Manager would be ready in time and fully tested, and the scope of the services that would be available by 31 March 2020. Some other organisations were also being stretched in terms of resources being available to both implement a permit scheme and transition to Street Manager.
- 14 Various respondents raised concerns about whether certain services would be available, with the main one being PMRs. This will now be included and available by the end of March.




Outcome: The Government intends to proceed with the date of 31 March 2020 as the date for when the regulations will come into force. Street Manager is being fully tested and will be ready and available at this time. Business change support and training is being provided by the DfT to support organisations. Full documentation, including on scope, is available via the DfT's github site¹. Transition rules have been developed and are being included in the regulations for works that start just before or end just after 31st March. API specifications have been published on a regular basis since February 2019 to assist development and integration. We have a commitment to continuous improvement of Street Manager to ensure user needs are met.

Q3. Express charging power

- 15 The question was, '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?'

¹ <https://departmentfortransport.github.io/street-manager-docs/>

Apply to permit schemes?			Response Percent	Response Total
1	Yes		65.9%	60
2	No		30.8%	28
3	Don't know?		3.3%	3
			answered	91

Include utility companies?			Response Percent	Response Total
1	Yes		62.9%	56
2	No		33.7%	30
3	Don't know?		3.4%	3
			answered	89

16 The majority of respondents supported both of these amendments. The reasons given included:

- It provides consistency and parity across all areas.
- It would be the fairest way.
- Street Manager will support engagement, participation and coordination, and provides better value for money than existing arrangements.
- Many believed that, as Street Manager will benefit the industry as a whole, it is only fair that everyone contributes to the cost of service maintenance and continuous improvement.

17 Those who did not support the amendments said it was because:

- Utility companies would probably pass costs onto customers.
- Charges should not be levied until full transition to and use of Street Manager.
- Some utilities thought local authorities should pick up the cost. Some authorities thought that utilities should cover it.
- Some utilities also did not agree that charges should be linked to the register requirements included in Section 53 of the 1991 Act.

18 Other comments included




- Some were concerned about transition costs, and that they would be paying for both Street Manager and existing EToN systems at the same time for a period of time. It would take time for full benefits to come through.
- Authorities would like permit scheme fee rates to be reviewed to allow them to recover some of the costs of using Street Manager from utilities. They did not want charges to be based on the number of their own road works to avoid any 'double charging'.
- There was little support for the alternative option present which would involve authorities paying, and recovering some of the cost from utilities via a raised permit

fee as this would involve additional administration costs for authorities and put pressure on resources. Some utilities did not want an increase in permit fees.

Outcome: The Government intends to proceed with extending charges to permits scheme areas and to utility companies as this is the fairest way of paying for Street Manager from 1 April 2020. Information on charges has been issued to both authorities and utilities.

Q4. Definition of major works and preventing works being incorrectly classified

The question was, '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'**'?

			Response Percent	Response Total
1	Yes		54.95%	50
2	No		41.76%	38
3	Don't know?		3.30%	3
			answered	91

- 19 There was a small majority of respondents in favour of making this change. Most of those that did support the change simply clicked 'yes' without further comment. Those that did comment said it was because:

- Works will planned and expedited more quickly.
- It will benefit utility companies.
- It would prevent 'over charging'.
- It would improve consistency in terms of interpretation.




- 20 Those, mostly local authorities, who did not support the amendment made the following comments:




- Some authorities wanted to maintain longer lead in times to help plan and coordinate works. If works are known about, at least 6 months in advance, then they should be treated as major works and coordinated properly.
- They did not see the need for a change, and effective planning could overcome any issues and ensure correct classification.
- There was concern the proposal was more about reducing costs to utilities.
- It may lead to more 'abuse' by utility companies.
- Opportunities for early engagement may be lost or be more difficult.




Outcome: The Government intends to proceed with the amendment to the definition of major works.

Q5. Deadline for submission of notices

- 21 The question was, '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?'

Start of works?			Response Percent	Response Total
1	Yes		83.5%	76
2	No		12.1%	11
3	Don't know?		4.4%	4
			answered	91

Stop of works?			Response Percent	Response Total
1	Yes		82.2%	74
2	No		12.2%	11
3	Don't know?		5.6%	5
			answered	90

Progress of works?			Response Percent	Response Total
1	Yes		78.7%	70
2	No		15.7%	14
3	Don't know?		5.6%	5
			answered	89

- 22 The vast majority of respondents supported these amendments. The reasons given included:
- It will lead to better network management.
 - It will allow authorities and the public to see a true picture of works affecting the highway, giving clearer information.
 - Real-time information for road users will be a huge step forward.
 - It will aid communication and coordination.
 - More accurate information will benefit everyone.
 - It will enable a better customer-based focus.
 - The public expects real-time information and it is about time it was provided.
- 23 Those who did not support the amendments said it was because:
- IT systems are not yet in place or linked up enough to support notices being sent within proposed timescales.

- There was a concern about meeting timescales in areas with no signal.
- More time was needed to make operational changes.




24 Other comments included




- Any revised timelines need to be clear and simple.
- We should also include the Traffic Management information.
- Supporting guidance is needed.
- Some respondents wanted to see even more instantaneous updates.
- Several responses also noted that the DfT should review the definition of working day to see if these changes can also be applied to weekends, as this would be of even more benefit.

Outcome: The Government intends to proceed with the proposed amendments and to introduce a requirement for start and stop notices to be sent within 2 hours during the working day. The amendments will make it clear the timescales that apply and the deadlines for sending the information. The DfT will also, at a later date, consider further amendments to the current definition of ‘working day’.

Q6. Form of fixed penalty notice

- 25 The first question was, ‘Do you agree that we should remove the form of fixed penalty notice from legislation so that there is no need for Street Manager to:’

Generate a Portable Document Format (PDF) version of the form in the format as currently required by the schedule?			Response Percent	Response Total
1	Yes		55.8%	43
2	No		37.7%	29
3	Don't know?		6.5%	5
			answered	77

Support mail merges?			Response Percent	Response Total
1	Yes		58.6%	41
2	No		35.6%	25
3	Don't know?		5.7%	4
			answered	88

- 26 The majority of respondents supported both of these amendments. The reasons given included:

- It would support the aims of Street Manager and communications being sent via the one system.

- It would prevent having to store hard copies, and make record keeping easier.
- It will allow for more flexibility.
- A new format and streamlined system will benefit everyone.
- It is the modern way of operating and more cost effective.
- It would improve consistency.




27 Those who did not support the amendment said it was because:

- Some were concerned that it was another change in processes and would need resource to implement.
- It might make it easier for FPNs to be generated and sent.
- A few respondents wanted to maintain use of PDFs.

28 Other comments included

- Some respondents mis-understand the question and thought that Street Manager would not support FPNs being issued. It will support this. The proposal was simply to remove the schedule that set out a specific form.
- Some wanted to make sure that data would be backed-up and that the information would be included in the reporting aspects of Street Manager.
- Some respondents wanted to ensure that FPNs would still be legally enforceable and include the correct information.

29 The second question was, 'Do you agree that the main way FPNs should be sent is via electronic communication?'.

			Response Percent	Response Total
1	Yes		96.70%	88
2	No		1.10%	1
3	Don't know?		2.20%	2
			answered	91

30 Almost everyone agreed with this proposal. The reasons given include:

- It will help to keep track, share data with management systems and be more efficient.
- It is the usual way of operating in 2019 and will be much easier.
- It will be quicker, simpler and there will be an audit trail.

31 Other comments included




- There should be a fall-back in case the system was ever unavailable.




Outcome: The Government intends to proceed with removing the form currently set out in the schedule to the fixed penalty regulations. The information that needs to be

included in the FPN will remain the same and will be available in Street Manager. It will also be possible to generate and download FPN reports for invoicing purposes and to share with contractors. FPNs will not be autogenerated by Street Manager. The regulations will provide for other arrangements in case Street Manager is ever unavailable.

Question 8: Amend NCT09c - Signal Removal from operation when no longer required.

- 32 The question was, '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?'

Do you agree we should amend NCT09c to clarify when temporary traffic signals should be removed?			Response Percent	Response Total
1	Yes		76.92%	70
2	No		20.88%	19
3	Don't know?		2.20%	2
			answered	91

Do you agree this requirement should be mandatory when temporary traffic signals are used?			Response Percent	Response Total
1	Yes		66.67%	60
2	No		27.78%	25
3	Don't know?		5.56%	5
			answered	90




- 33 The majority of respondents supported this proposal. The reasons given included:
- Signals should be removed as soon as possible.
 - It will minimise occupancy and reduce congestion.
 - It would clarify the rules and improve consistency.
 - It would remove a common source of complaint from the public.
- 34 Those who did not support the amendments said it was because:
- Different materials have different curing times, so this may take longer than 4 hours.
 - A 4-hour limit may affect quality.
 - Making this mandatory could increase costs for utility companies.
- 35 Other comments included

- Some respondents wanted to see temporary traffic lights removed at weekends if they were no longer needed.
- Some respondents wanted this condition to be applied on a site by site basis.
- Others wanted to supporting guidance to ensure that application of this condition was clear and consistent, and include information on whether this was 24-hours or during the working day.
- Some authorities asked for the time with be within 2 hours.

Outcome: The Government intends to proceed with the amendment to Condition NCT09c and to make it mandatory when temporary traffic signals are in use.

Q9. Add a new part condition to [NCT13] - placement of new apparatus under the footway, footpath or verge

- 36 The question was, '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?'

			Response Percent	Response Total
1	Yes		29.67%	27
2	No		67.03%	61
3	Don't know?		3.30%	3
			answered	91

- 37 The majority of respondents did not support this proposal. The reasons given included:

- It would not be workable or practical.
- It would adversely impact pedestrians and could really affect older people and those with disabilities.
- Vehicles should not be given precedence over pedestrians.
- Most works where possible are located under footways but it is not always possible. Cases should be considered on a site by site basis.
- There is no need for such a condition. Utilities will avoid carriageways if at all possible.
- Some footways and verges are already congested with apparatus and other infrastructure.
- It is unnecessary. Location is already considered at the planning stage and authorities review when assessing permit applications.
- It would require additional meetings to assess sites and could lead to extra costs.
- It would be difficult to enforce.

- It could increase the safety risk of cable strikes.
- It could lead to more disputes.




38 Those who did support the proposal said it was because:

- It would be a more joined-up approach.
- Including an assessment on the impact on trees was helpful as this is often overlooked.
- It could reduce congestion caused by carriageway works.
- Future maintenance could be less disruptive.

Outcome: The Government does not intend to proceed with the proposal to add this condition and it is withdrawn. The Government will shortly be consulting on the draft England Tree Strategy. This will outline how a shift in perception is required to recognise trees as an asset and not a burden; a resource that provides economic, social and environmental sustainability. This will include further proposals to improve engineering solutions along streets and highways to ensure that trees do not need to be removed and instead are recognised as an asset. The Government's manifesto also outlines how they expect all new streets to be lined with trees, showing the value street trees can have. The Duty to Consult measure in the Environment Bill will also ensure that local authorities have due regard to public concern and opinion before deciding whether to fell a tree or not. This shows further Government support for street values and the benefits they provide.

Q10. Updated framework for road restrictions

39 The question was, 'Do you agree that we should update the framework for section 58 road restrictions to be updated as proposed?'

			Response Percent	Response Total
1	Yes		38.8%	35
2	No		57.7%	52
3	Don't know?		3.3%	3
			answered	90

40 The responses to this proposal were polarised, with authorities not supporting the proposed change and utilities supporting it.

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

- The need to protect the road network for as long as possible from excavations.
- Some believe they are a useful way of encouraging better planning and coordination.
- The public do not like to see repeated works in the same area.

- Authorities can use discretion on a case by case basis.
- Some authorities wanted to see more than 5 years in the case of road works involving reconstruction.
- It would undermine an authority's investment in its network.

42 Those who did support the amendments said it was because:

- The existing requirements are too inflexible and are applied in different ways by different authorities.
- It was sensible to update the timeframes.
- There is lack of consistency in terms of some authorities looking at these on a case by case basis and others who don't.

43 Other comments included

- Some of the perceived issues with S58s could be overcome by better planning and coordination, and by utilities sharing their 1-5 year forward plans.

Outcome: The Government intends to proceed with this proposal. We understand the concern from local authorities about the need to protect the local road network and do not want to undermine this, but the current restrictions of 5 and 3 years are seen as a barrier to new utility infrastructure, especially telecommunications. So we propose to reduce these to 3 years and in relation to substantial road works involving reconstruction and 2 years in relation to substantial road works involving resurfacing or an alteration in the level of the highway. The DfT will, however, work with the industry and will commission further work on how S58/58A restrictions work, how they could be made more effective, and how they work alongside permit schemes.

Other comments

44 We also asked for any additional comments from respondents, including on the analysis presented in the Impact Assessment. A wide range of comments were received and the Impact Assessment has been updated.

Government response

45 In summary, the Government has decided to proceed with the following proposals:

- To amend regulations to ensure that communications are via Street Manager or electronic communications. Appropriate arrangements will be put in place as a back-up, should services be unavailable. Existing arrangements for communications that are not being included within Street Manager, for example, section 50 licences, will be maintained.
- The date of 31 March 2020 will be the date for when the regulations will come into force.
- To extend charges to permits scheme areas and to utility companies as this is the fairest way of paying for Street Manager from 1 April 2020.
- To amend the definition of major works in regulations.
- To amend regulations to introduce a requirement for start and stop notices to be sent within 2 hours during the working day.
- To remove the form currently set out in the schedule to the fixed penalty regulations.
- To amend Permit Scheme Condition NCT09c and to make it mandatory when temporary traffic signals are in use.
- To amend regulations to reduce the timeframes associated with road restrictions to 3 years and in relation to substantial road works involving reconstruction and 2 years in relation to substantial road works involving resurfacing or an alteration in the level of the highway.