

Southampton City Council

Lane Rental Scheme

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1 Introduction

- 1.1.1. The City of Southampton comprises 591 miles of maintainable roads, with the majority of these under the maintenance and management of the Council, acting as a highway authority.
- 1.1.2. Under the Traffic Management Act 2004 **Southampton City Council** (referred to as the Council) has a statutory Network Management Duty requiring them to *secure the expeditious movement of traffic on the authority's road network*.
- 1.1.3. In 2015 the Council introduced the **Southampton City Council Permit Scheme** (referred to as the Permit Scheme) which has improved the Council's ability to reduce disruption from works.
- 1.1.4. A **lane rental scheme** is designed to work in conjunction with a permit scheme to complement the powers provided within this scheme through a charging regime for works taking place on the most congested section of the network at peak times.
- 1.1.5. The **Southampton City Council Lane Rental Scheme**, referred to as the Scheme, operates under the powers of the New Roads and Street Works Act (1991) (NRSWA) has been introduced to enable the Council to fulfil their statutory duty to coordinate and manage works on the highway to minimise any related disruption from these works.

2 Objectives and Principles

- 2.1.1. The New Roads & Street Works Act 1991 (NRSWA) contains provision in Section 74a for highway authorities to operate schemes that involve charging Promoters for the time their works occupy the highway (as a daily charge).
- 2.1.2. The Government considers that well-designed and well-targeted lane rental schemes, focused on the most critical parts of the highway network, and with charges applying only at the busiest locations at traffic sensitive times, should encourage those undertaking works to carry out their works in a less disruptive manner.
- 2.1.3. Where appropriate and consistent with protecting public safety, a lane rental scheme could provide real financial incentives that encourage Promoters to:
- reduce the length of time that sites are unoccupied, hence reducing total works durations;
 - improve planning, coordination and working methods to maximise efficiency;
 - carry out more works outside of peak periods, reopening the highway to traffic at the busiest times and/or making greater use of evening or weekend working where the local environmental impact is acceptable;
 - optimise the number of operatives on site to enable works to be completed as quickly as possible;
 - complete works to the required standard first time, reducing the need to return to the site to carry out further works.
- 2.1.4. The following principles will apply when operating the Scheme and in making decisions related to the development of the Scheme:
- working with all parties operating within the Scheme to ensure there is an open approach to meeting the objectives of the scheme;
 - driving performance and leading the industry through new ideas and best practices;
 - taking a practical and reasonable approach to decision making and any disputes that arise;
 - maintaining a level playing field for all Promoters and demonstrating parity-treatment; and
 - providing transparency to the success and governance of the scheme.

3 Scope of the Scheme

3.1. Principle

- 3.1.1. The scope of the Scheme has been designed to meet the objectives and principles of a lane rental scheme and in accordance with **The Street Works (Charges for Occupation of the Highway) (England) Regulations 2012**.
- 3.1.2. The Scheme will apply a lane rental charge when a Promoter undertakes work on the highway during traffic sensitive times on those streets to which the Scheme applies.
- 3.1.3. The Scheme provides incentives through charge exemptions and discounts to encourage the planning and subsequent undertaking of works to have a less disruptive impact to the highway.

3.2. Promoters

- 3.2.1. The scope of the Scheme applies to any person or organisation who commissions or promotes **specified works** on the highway.

3.3. Specified Works

- 3.3.1. The Scheme applies to Specified Works that include:
 - i. works that require a permit under the Permit Scheme, that are **street works** and **works for road purposes**;
 - ii. works that are executed under a NRSWA Section 50 licence; and
 - iii. works that are executed under an agreement pursuant to section 278 of the Highways Act 1980.

3.4. Specified Location

- 3.4.1. The lane rental scheme will only apply to a street that is publicly maintainable by or on behalf of the Council, which is a protected street or a traffic-sensitive street.
- 3.4.2. The Scheme will only apply at **specified locations** as detailed within the **Schedule**. Streets not identified within the **Schedule** as a specified location will be exempt from the Scheme and therefore any charges.
- 3.4.3. The Scheme does not apply to works that are carried out in a verge, footpath or, bridleway, of a specified location.
- 3.4.4. Works in the footway that involve breaking up the street, or tunnelling or boring under it, will be subject to the Scheme and charge if such works require any form of traffic control to be deployed on the carriageway.
- 3.4.5.** Specified locations may be the whole or part of the street and subject to **specified days and times**.

3.5. Specified Days and Times

- 3.5.1. Subject to a street being a Specified Location, lane rental will apply at times specified in the **Schedule**.
- 3.5.2. These times will be limited to when a street is designated as traffic sensitive, including weekends and Bank Holidays – except for Christmas Day and Boxing Day. The traffic sensitive times on a Bank Holiday will be the same as those for a Sunday at that location.

3.6. Street data

- 3.6.1. The National Street Gazetteer (NSG) and additional street data (ASD) will contain the related information for the specified locations, days and times.
- 3.6.2. This data will be kept up to date by the Council and no variation to specified locations, days or times will come into effect without the relevant updates to the NSG.

3.7. Relationship with NRSWA

- 3.7.1. There are no disapplied or modified sections from NRSWA as a result of the Scheme coming into effect.
- 3.7.2. NRSWA Section 74 charges will apply in accordance with the Act following the end of the agreed reasonable period. These charges are in addition to lane rental charges.

4 The Southampton City Council Permit Scheme

4.1. Principle

- 4.1.1. The operation of the Scheme will complement the Permit Scheme. The information provided by the Promoter in a permit and associated notices, subject to any agreed correction, will be used to determine lane rental charges.

4.2. Permit application on a lane rental street

- 4.2.1. As the content of the permit will determine whether the work is within the scope of the Scheme, it is imperative for the Promoter to include accurate details of location, traffic control and duration, including times.
- 4.2.2. Unless a Promoter indicates otherwise in their permit, the Council will assume work on a specified street is subject to the Scheme.

4.3. Permit variation issued by the Promoter

- 4.3.1. If a permit variation results in any change to a lane rental charge, even if for part of the works, then this should be clearly indicated on the permit variation application.

4.4. Permit variation issued by the Council

- 4.4.1. There may be instances where the Council issues a permit variation to a Promoter, which results in a work becoming subject to the scope of the Scheme or changes the applicable lane rental charge.
- 4.4.2. No additional lane rental charges will apply as a result of a permit variation issued by the Council, where a variation is initiated through no fault of the Promoter.

4.5. Permit fees

- 4.5.1. If a work is liable for a lane rental charge no permit fee, as defined in the Permit Scheme, will be applied.

5 Lane Rental Charge

5.1. Principle

- 5.1.1. The Council will apply a daily rate of charge, referred to as a '**lane rental charge**', for the duration of **specified works** carried out by a Promoter at a **specified location** during the **specified times and days**.
- 5.1.2. Lane rental charges will only apply when there is either a Road Closure or a Lane Closure, where the term Lane Closure refers to any of the following;
- any form of traffic control is deployed on the carriageway or,
 - any traffic management reduces the number of lanes of a carriageway which can be safely used or,
 - there is any impact which reduces the traffic flow capacity or operation of a junction.

5.2. Calculation of charge

- 5.2.1. Other than for Immediate works, lane rental charges will apply between dates and times specified in the start of works notice and the works stop notice (as the date of works ended).
- 5.2.2. For all Immediate works, the lane rental charges will apply on and from the **third calendar day of work** – taking the works start as stated within the permit application – until the date and time specified in the works stop notice.

| Day One (Works Start) | Day Two | Day Three Charges Applied |
|----------------------------|----------------------------|------------------------------|
| Applicable Specified Times | Applicable Specified Times | Applicable Specified Times |

- 5.2.3. For the calculation of a lane rental charge, either the Council or the Promoter may provide or request additional evidence to clarify any discrepancy in the information contained in the submitted works notices. In all circumstances a lane rental charge will be applied according to the actual work undertaken.

5.3. Lane rental charge categories

- 5.3.1. The Regulation allows for a prescribed charge, to a maximum of £2,500, which may be reduced or waived in particular cases (applied as a lane rental charge discount).
- 5.3.2. The daily lane rental charges are based on the Specified Location and the traffic control deployed for the works as set out in the table below.

| Specified Location | Traffic Control | |
|--------------------|-----------------|--------------------------|
| | Road Closure | Lane Closure (see 5.1.2) |
| All | £2,500 | £1,500 |

5.4. Discounts

5.4.1. The Council will apply a discount, as a percentage reduction of the original lane rental charge, to any lane rental charge in specified circumstances. Multiple discounts may apply to a single work up to a total amount of 100% of the lane rental charge.

5.4.2. Further discounts may be considered for any works on a case-by-case basis. A Promoter should discuss these with the Council's Traffic Manager (or delegated Officers) as set out within any operational guidance document.

5.4.3. Major infrastructure improvement

5.4.4. A minimum 25% discount will be applied to lane rental charges for any works that:

- deliver significant infrastructure improvements or upgrades that substantially extend the longevity of, improve or renew an asset;
- are recognised by the Council to be nationally significant infrastructure projects; or
- install infrastructure specifically to minimise detrimental impact of future works.

5.4.5. Collaboration

5.4.6. Any opportunity for two or more Promoters to collaborate in order to reduce the occupation of the highways is strongly encouraged.

5.4.7. Where two or more sets of works are carried out in collaboration concurrently, the lane rental charge will be discounted by a minimum of 25% for each Promoter during the period of collaboration.

5.4.8. Collaboration will be as identified within the associated permit applications and/or site inspections, however the onus to prove such collaboration rests with the Promoter to receive this discount.

5.4.9. Innovation

5.4.10. Where it is agreed that a Promoter can demonstrate to the Council that an innovative process or work methodology has reduced the detrimental impact of their work, compared to a traditional works methodology, the lane rental charge will be discounted by a minimum of 25%.

5.5. Remedial works

5.5.1. All works subject to a lane rental charge and for the purpose of rectifying a defective reinstatement may be subject to the maximum daily charge of £2,500.

5.6. Monitoring activity

- 5.6.1. If, during the monitoring of work, the Council obtains evidence that the actual work carried out by the Promoter is different from the notices received, then any relevant changes to the lane rental charges will be applied to reflect the actual work.

5.7. Payment and reconciliation

- 5.7.1. For the collection of lane rental charges, the Council will follow the same timescales and procedures associated to the Permit Scheme - an account will be issued to a Promoter, who will be provided with the opportunity to reconcile this account, prior to invoicing.
- 5.7.2. It is expected that the Promoter will also follow the procedures and timescales of the Permit Scheme for the payment and reconciliation of lane rental charges.
- 5.7.3. The Council will issue an account, setting out the lane rental charges payable to a Promoter no later than three months after receipt of the final notice for the works.

6 Dispute Resolution

- 6.1.1. The Council is committed to delivering their network management duty and all associated benefits through a positive working relationship with all persons and organisations undertaking works on the highway.
- 6.1.2. The Council also recognises that on occasions there may be disagreements between parties. In an event of any dispute related to the Scheme, the Council will make every effort to resolve disputes without having to refer them to a formal appeals procedure.

6.2. Dispute review

- 6.2.1. If agreement cannot be reached on any matter arising in relation to the Scheme, the dispute will be referred for review on the following basis.
- 6.2.2. Straightforward issues
- 6.2.3. Where the Council and Promoter consider that the issues involved in the dispute are relatively straightforward, the matter will be referred to impartial members of the South East Highway Authorities and Utilities Committee (HAUC). Impartial members are those not representing parties directly involved in the dispute.
- 6.2.4. This review should take place within the timescales set out in the HAUC dispute process, from the date of referral. It is recommended that both parties accept the result as binding.
- 6.2.5. Complex issues
- 6.2.6. If the Council and the Promoter involved in the dispute consider the issue to be complex, HAUC England will be asked to set up a review panel of four members, comprising two utilities and two street authorities. One of the four persons will be appointed as a chair of the panel by the HAUC England joint chairs.
- 6.2.7. Each party must make all relevant financial, technical and other information available to the review panel.
- 6.2.8. The review would normally take place within any timescales set out in any current HAUC England dispute process, from the date on which the issue is referred to HAUC England. It is recommended that each party accept the advice given by the review panel as binding.

6.3. Adjudication

- 6.3.1. If agreement cannot be reached by the procedure above, the dispute can be referred to independent adjudication. Adjudication will only be used if the Council and the Promoter agree in relation to the matter under dispute, that:
 - (i) the decision of the adjudicator is deemed to be final; and
 - (ii) the costs of adjudication will be borne equally unless the adjudicator considers that one party has presented a frivolous case, in which case costs may be awarded against them.

- 6.3.2. Where the adjudication route is followed, the Council and Promoter will apply to the joint chairs of HAUC England, who will select and appoint the independent adjudicator from a suitable recognised professional body.

6.4. Arbitration

- 6.4.1. Disputes relating to matters covered by the following sections of NRSWA may be settled by arbitration, as provided for in section 99 of NRSWA:
- Section 74 (2) - charges for occupation of the highway where works are unreasonably prolonged;
 - Section 74A (12) - charges determined by reference to duration of works.

7 Scheme Evaluation, Governance and Variation

7.1. Scheme evaluation

- 7.1.1. The Council recognises the need to share information and evaluate the operational performance of the Scheme, both in terms of its efficiency and the effectiveness to meet the stated objectives.
- 7.1.2. The Council will publish periodic evaluation reports, and in accordance with any format, or frequency specified in legislation or statutory guidance.

7.2. Surplus revenue governance

- 7.2.1. The Council will retain revenues obtained from lane rental charges to meet reasonable costs incurred for operating, administering and evaluating the Scheme.
- 7.2.2. Surplus revenues (revenues from charges after deduction of reasonable costs) will be applied for purposes intended to reduce the disruption or other adverse effects arising as a result of street works.
- 7.2.3. To determine the appropriate use of surplus revenues, the Council will establish a *Lane Rental Scheme Governance Board* which will operate in accordance with any statutory guidance and will evaluate opportunities or requests for the application of these funds. This board will comprise of;
 - Representatives from *Streetworks UK* (comprising water, gas, electricity and communications)
 - Representatives from the Council's Highways and Transportation works promoters
 - Representatives from the Council acting as the Permit Authority
 - An Officer of the Council acting as Treasurer/Administrator
- 7.2.4. Requests for allocation of surplus funds will be required to submit a business case setting out estimated costs, benefits, expected outcomes and time scales. The principles applied to the application of the surplus revenues will be applied equally, without any consideration as to the original source of the funds and consistent with a parity of approach for all Promoters.
- 7.2.5. The results of the allocations approved will be published to show how they have reduced the disruption or other adverse effects arising as a result of works.
- 7.2.6. The revenues from the Scheme will be administered separately from other Council revenues. The Council will keep an account of the revenues and costs associated with the Scheme, including a record of the application of surplus revenues. These accounts will be published on an annual basis.

7.3. Minor variations to the Schedule

- 7.3.1. Demands on the road network constantly change, and as such there may be a need to apply minor variations to the Schedule to meet these demands.
- 7.3.2. Any changes to the specified locations or specified days and times within the Schedule will not vary the total overall road length to which the Scheme is applied by more than plus or minus three percent of the current road length to which the scheme is applied. Any minor variations to the Schedule may be applied no more than once per year of Scheme operation.
- 7.3.3. The Council will consider the need any minor variations to the Schedule on an annual basis in line with commitments to annual scheme evaluations and annual reporting on allocation of surplus revenues. Prior to any variation to the Schedule the Council will consult with all stakeholders for a suitable period. The Council will provide justification for any changes to the Schedule within this consultation.

8 Transitional Arrangements

8.1. Rule of transition

- 8.1.1. The basic rules of transition will apply to all works, which could be covered by the Scope of the Scheme:
- i. No lane rental charges will be levied on any works for the first calendar month of Scheme operation following the Scheme coming into effect date, however the Council still expects all promoters of works in Specified Locations at specified times during this period to best mitigate any disruption their works might cause;
 - ii. After the initial calendar month of scheme commencement, the Scheme will apply to all works where the initial permit application, or in cases of Major works a provisional advanced authorisation, is submitted to the Council after the date the Scheme comes into legal effect;
 - iii. All works with a permit granted prior to the Scheme coming into effect will not be subject to lane rental charge (see iv below),
 - iv. If any works covered by (iii) are varied by duration or methodology once the Scheme is in effect, they will become subject to lane rental charge from the date that any variation, takes effect, beyond the initial calendar month when no lane rental charges will be applied as set out in (i);
 - v. All works with a Provisional Advanced Authorisation granted prior to the Scheme coming into effect will not be subject to a lane rental charge, provided the work has started within 24 months of the Scheme coming into effect. Where a subsequent permit application for these works to commence within 24 months of commencement of the scheme has been submitted, but road network coordination considerations prevent the Council from granting the permit, a work will not be subject to a lane rental charge provided the Promoter commences the works at the earliest date at which the Council considers there to be acceptable availability on the road network.
 - vi. Any works directly related to works covered by (v), but which will have a separate permit application (such as diversionary works) will also not be subject to a lane rental charge.

8.2. Notice period and trial

- 8.2.1. The Council will provide Promoters with no less than 12 weeks formal notice for the coming into effect of the Scheme.
- 8.2.2. In advance of the Scheme coming into effect and during the period of notice, the Council will operate a trial of the Scheme. This period will provide opportunity for the Promoter and Council to embed new ways of working, including operating processes and IT system usage.
- 8.2.3. During the formal notice period, prior to a scheme coming into effect, no lane rental charges will apply.

Terminology

The key words ‘must’, ‘required’, ‘should’, ‘recommended’, ‘encouraged’, and ‘may’, used in this document are to be interpreted as follows:

The word ‘must’, or the term ‘required’, means that the requirement of the Scheme to which they relate is an absolute requirement.

The phrases ‘must not’ or ‘shall not’ mean that the prohibition of the Scheme to which they relate is an absolute prohibition.

Wherever possible the term ‘must’ is associated to a requirement under legislation, however in some instances the term is used to denote that a process will be required.

The word ‘should’, ‘should not’ or the adjectives ‘recommended’ or ‘encouraged’ mean that there may exist valid reasons in particular circumstances to ignore a recommendation in the Scheme, but the full implications must be understood and carefully weighed before choosing a different course.

The word ‘may’ means that a suggestion in the Scheme is truly optional.

References

References within the Scheme to other documents, such as Regulations, Acts, Statutory Guidance or Codes of Practice, include all future revisions and updates.

Should any changes made to these documents reflect a fundamental change to the scope of the Scheme, and associated definitions, the Scheme will also be updated.

Definitions

| Term | Definition |
|-----------------------|---|
| Day | Means all days including Saturdays, Sundays and Bank Holidays unless explicitly stated otherwise. |
| HAUC | Means the Highway Authorities and Utilities Committee. |
| Immediate work | <p>Means either emergency works or urgent works.</p> <p>As defined in Section 52 of NRSWA, emergency works means <i>works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property</i>.</p> <p>Urgent works means (a) works (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the work believes on reasonable grounds to be required) i) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker; ii) to avoid substantial loss to the undertaker in relation to an existing service; or iii) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and (b) includes work that cannot reasonably be severed from such works.</p> |
| NRSWA | Means the New Roads and Street Works Act 1991 |
| Permit Scheme | Means the Southampton City Council Permit Scheme. |
| Promoter | Means a person or organisation entitled by virtue of a statutory right to carry out street works or works for road purposes. |
| Remedial works | Means works required to put right defects identified in accordance with the provisions of the New Roads and Street Works Act 1991 Code of Practice for Inspections, and associated regulations. |
| Street | As defined in Section 48(1) of NRSWA., means the <i>whole or any part of any of the following, irrespective of whether it is a thoroughfare</i> (a) <i>Any highways, road, lane, footway, alley or passage; (b) Any square or court; or Any land laid out as a way whether it is for the time being formed as a way or not.</i> |

Term

Definition

Street works

As defined in Section 48 (3) of NRSWA, *street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street’.*

Traffic-sensitive street

Means a street designated by a street authority as traffic-sensitive pursuant to Section 64 of NRSWA and in a case where a limited designation is made pursuant to Section 64 (3) any reference to works in a traffic- sensitive street shall be construed as a reference to works to be executed at the times and dates specified in such designation.

Work

Means street works or works for road purposes.

Traffic control

As set out in the Safety at Street Works and Road Works – A Code of Practice and the Traffic Signs Manual Chapter 8”

Works for road purposes

As defined in Section 86 (2) of NRSWA, means *works of any of the following descriptions executed in relation to a highway: (a) works for the maintenance of the highway; (b) any works under powers conferred by Part V of the Highways Act 1980 (improvement); (c) the erection, maintenance, alteration or removal of traffic signs on or near the highway; or (d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles’.*