

Section 74 staining/Spoil Issues guidance

Charging for unreasonably prolonged occupation of the highway under section 74 NRSWA is another mechanism for highway authorities, with the detail of requirements within primary legislation, secondary legislation (2009 charging regulations) and within the guidance in Chapter 10 of the Code of Practice for Co-ordination.

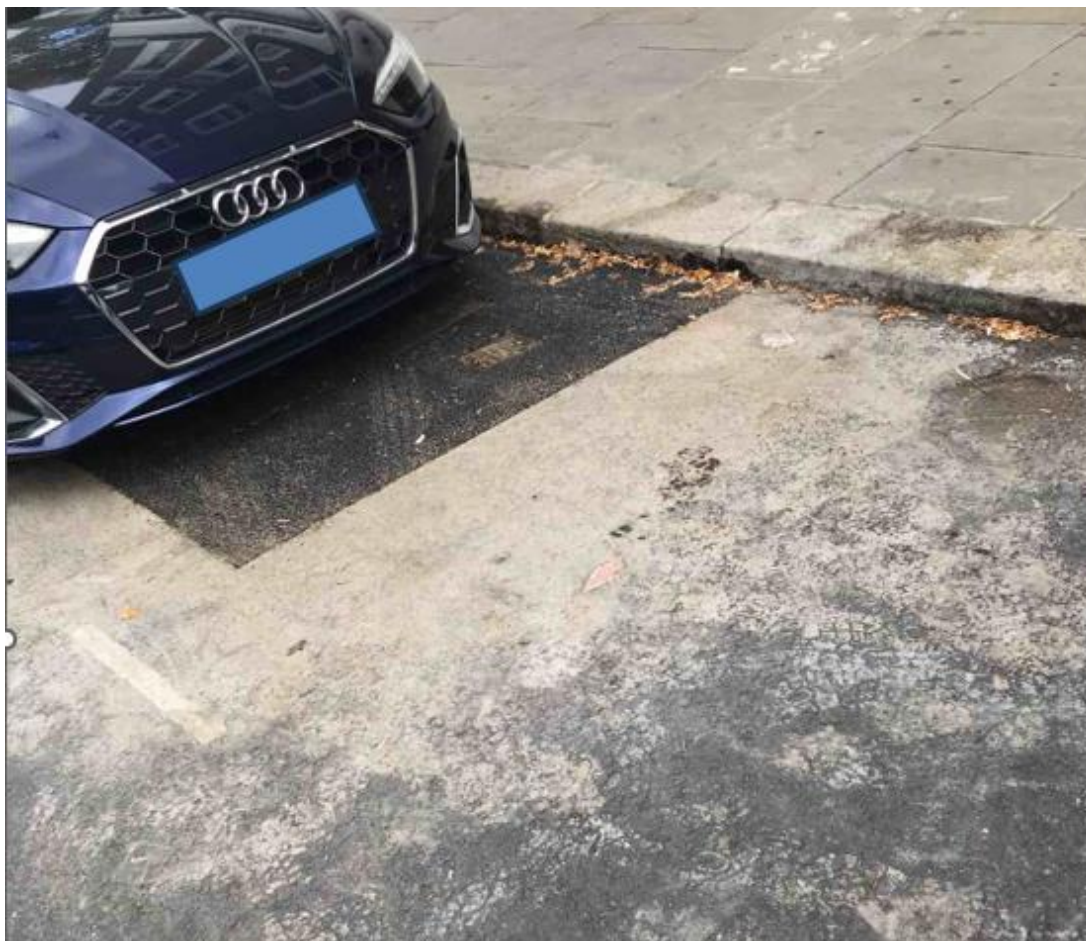
There are some circumstances where clarification on the application of section 74 charges would be helpful to all parties, particularly the staining/spoil issues where all works are complete, and all apparatus and equipment is removed.

Where physical works are complete, the application of section 74 charges should be based on the free and safe passage of pedestrians, vehicles or other road users, as well as the condition of the surrounding area.

Below are some examples of sites where all works are complete and all apparatus and equipment is removed but there remains some staining or spoil. The text below the example photos describes the staining or spoil and the expected application of Section 74.



Example 1 minor dusting with evidence of the site being swept – s74 not applicable as use of highway unaffected.



Example 2 Significant Staining remaining and no attempt to clean up – S74 mitigated charge applicable



Example 3 light sand or silt deposits – s74 mitigated charge applicable



Example 4 – heavy deposit – s74 daily charge applicable

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