



Department
for Transport

Lane Rental Schemes

Guidance for English Authorities

June 2021

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1. Introduction

Purpose of this document

- 1 This document provides guidance to English highway authorities who wish to develop proposals to operate lane rental schemes. It replaces guidance issued by the Department for Transport in January 2012.
- 2 A lane rental scheme would involve an English highway authority charging any works promoter carrying out any registerable¹ works in the street for the time those works occupy the highway. Charges are focused on the very busiest streets at the busiest times. Charges apply to works promoted by both utility companies and highway authorities on the road network.
- 3 The power for highway authorities to implement and operate a lane rental scheme in England is subject to the approval of the Secretary of State. This guidance sets out what will be required from those highway authorities who wish to develop proposals and apply to operate a lane rental scheme. In particular, it provides a clear framework for a targeted approach to network management so that a lane rental scheme will be focused on the key strategic locations and with charges applying only at the busiest times.
- 4 This guidance document needs to be read in conjunction with other statutory guidance documents for street works in particular those covering a highway authority's network management duty and the operation of its permit scheme².
- 5 This guidance is not statutory, but it provides a clear guide as to the conditions under which the Secretary of State is likely to approve (or not approve) a proposal to operate a lane rental scheme. Nothing in this document amends any requirements under existing legislation and both highway authorities and utilities need to always have in mind their respective duties under sections 59 and 60 of the New Roads and Streets Works Act 1991 (NRSWA) to co-ordinate works and to co-operate.
- 6 The Government consulted on the future for lane rental schemes between September and October 2017 and announced its plans in February 2018 to allow highway authorities to bid for and to set up schemes. The announcement also stated

¹ *New Roads and Street Works Act 1991 Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters October 2012 Chapter 7, section 7.3*

² Department for Transport Network Management Duty Guidance issued 2004 and the Statutory Guidance for Permit Schemes issued October 2015.

that bidding guidance would be developed and issued by the Department for Transport and that the Secretary of State's approval would be subject to certain conditions.

- Authorities would need to have a well-run permit scheme, for example, permit fees were proportionate, discounts were offered for joint works, compliance with permitting regulations and guidance, schemes fully supported the delivery of national infrastructure projects like HS2 and broadband/full fibre roll-out. Incentives could also be offered for high quality performance, including right-first-time reinstatements.
 - Lane rental charges should be used to incentivise work outside of peak times, they are waived for joint works, caps are put in place for major works to install and to replace apparatus so that these works are not unfairly penalised and delayed.
 - Schemes are trialled for a period of time before 'going live' and reviewed annually to ensure charges remained proportionate and are applied to the most congested roads. We proposed in the consultation that lane rental schemes should apply to around 5% of the network, as is the case in Kent.
- 7 In addition to the above conditions, the Department for Transport's policy position is that schemes would apply to an authority's own works in the same way as is the case with the existing lane rental schemes in Kent, London, and Surrey. This is consistent with the "parity" principle, which is a well-established principle for this sector and the Traffic Authority's network management duty set out in the Traffic Management Act 2004.
- 8 This bidding guidance applies to bids for new or substantially amended lane rental schemes.

Context

- 9 Works by utilities and others with apparatus in the street ("street works") and works carried out by or on behalf of highway authorities for road purposes ("highway works") are necessary in order to provide and maintain essential services and transport networks on which we all depend. However, these works can also cause significant disruption, imposing substantial costs on individuals and on the economy. The Government considers that there is considerable scope to reduce this disruption. Its strategy is based around providing the right powers, incentives, and tools for all involved to identify and adopt best practice in the management and coordination of works.
- 10 The Traffic Management Act 2004 ("TMA") contains powers to enable authorities to operate permit schemes. A permit scheme is seen as an essential tool to improve the management and coordination of works and thereby reduce disruption and impacts on road users. In this way they can facilitate the expeditious movement of traffic within an authority area and thereby help the authority meet its network management duty under the TMA. It is the highway authority's responsibility to ensure that it makes appropriate use of the powers at their disposal.
- 11 NRSWA provides for financial incentives to reduce the disruption caused by street works. Authorities can levy "overrun charges" under section 74 of NRSWA where street works are not completed within an agreed, reasonable period of time. While these charges provide a strong incentive to avoid works overrunning beyond the end of the reasonable period, they do not provide a similar incentive to reduce durations or disruption to road users within the agreed reasonable period.

- 12 NRSWA also provides the legal basis for lane rental charges to be applied to street works but does not require lane rental schemes to impose charges in relation to highway works. However, highway works typically account for around one third of all works in the street, also cause disruption and road users do not distinguish between different types of works. Therefore, the Government has decided to promote a clear principle of parity and expect lane rental charges to be applied to highway works on the same terms as to street works in order to maximise the overall benefits. This will also help highway authorities deliver their network management duty.

The role for lane rental

- 13 Section 74A of NRSWA enables highway authorities, with the approval of the Secretary of State, to charge street works undertakers³ a daily charge for each day during which their works occupy the highway – commonly referred to as “lane rental”.
- 14 The Government considers that well-designed and well-targeted lane rental schemes, which need to be focused on the most critical parts of the highway network and with charges applying only at the busiest times, should encourage those undertaking works (including highway works) to carry out their works in a less disruptive manner. For example, where appropriate and consistent with protecting public safety, schemes could provide real financial incentives that encourage works 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 (e.g. by plating over their excavations) 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, and with permanent reinstatements, reducing the need to return to the site to carry out remedial works.
- 15 While works promoters may already employ these practices to some extent, their capacity to do so will be limited by the costs involved and the resources available to them given the terms of their regulatory settlements. Major infrastructure renewal programmes and other essential works will inevitably take time and cause some disruption, even with lane rental in place. But works promoters are more likely to be inclined to invest in practices such as those suggested above if, by doing so, they can reduce their exposure to lane rental charges that would otherwise be payable.
- 16 Transport for London (TfL) and Kent County Council have been operating lane rental successfully on parts of their road network since 2012 and 2013. Information on these schemes and the benefits they have delivered can be found at the following link;

³ Statutory undertakers and section 50 licence-holders - referred to collectively as “undertakers” in this guidance.

<https://tfl.gov.uk/info-for/urban-planning-and-construction/lane-rental-scheme#on-this-page-0>

<http://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/kent-lane-rental-scheme#>

- 17 Legislation allows highway authorities to cover the scheme operating costs from the revenue raised by charges. Surplus revenue must be used to fund projects that 'reduce the disruption and other adverse effects caused by street works'. Both TfL and Kent County Council have a programme for funding projects by a range of organisations, especially those involving innovation, trialling new techniques for speeding up street and road works, installing ducting on busy routes that can subsequently be used by utilities, and implementing extraordinary measures to mitigate congestion caused by street and road works. Further information about the projects that are being funded in this way can be found on the above websites.
- 18 New schemes are now being approved and further information on those can be found on the relevant authority's website.

Legislative background

- 19 Primary legislation for lane rental is already in place in section 74A of NRSWA. The relevant regulations are the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012 ("the Regulations") made under Section 74A of NRSWA.

2. Scope of lane rental schemes

Overview

- 20 A highway authority needs to be clear about its objectives before taking any decision to begin developing a lane rental scheme. Authorities must already have in place a permit scheme and will need to provide evidence including data about its network to demonstrate that the permit scheme has been operated effectively. For example, it will need to demonstrate that permit fees are proportionate, discounts are offered for joint works, there is compliance with all the permit regulations and all statutory guidance (including publication of evaluation reports as required - see regulation 16A of the permit regulations), and that schemes fully support the delivery of national infrastructure projects like HS2 and roll out of broadband/full fibre networks. Incentives could also be offered for high quality performance, including right-first-time reinstatements. The first evaluation report covering the first 12 months of the scheme's operation must also have been published in accordance with the relevant regulations.
- 21 Authorities need to be mindful of the lessons from the lane rental schemes operated by Kent County Council and Transport for London. This can be achieved by reading the evaluation reports from these schemes and also by talking to the operators.
- 22 The Government considers that schemes must focus specifically on those critical parts of the highway network where the costs of disruption caused by works are greatest. This will ensure new schemes succeed in reducing disruption caused by works whilst, at the same time, avoiding excessive costs being passed onto utility customers. Authorities proposing lane rental schemes will need to show that they have taken an evidence-based approach to identify these critical parts of the network, which might include certain junctions, pinch-points and heavily-trafficked streets or parts of streets that are already operating close to, or beyond, their intended capacity.
- 23 The Government has said that it expects new lane rental schemes to cover no more than 5% of the individual highway authority's network. Schemes can also cover less than 5%. For example, smaller or more rural authorities may decide that lane rental might only be of benefit on a small number of strategic roads within its area that are critical to traffic flow, especially at peak times. An authority will need show the coverage of a proposed lane rental scheme and to demonstrate that it is no more than 5% of its network. If an authority wants to apply lane rental to more than 5% of its network, it should provide clear evidence and justification for why this is the case.

- 24 Combined authorities who manage a key route network may only be responsible for a certain percentage of the total road network in the combined authority area. It will, therefore, be difficult to apply the 5% rule as the key route network may be the most heavily congested in the area. In these cases, combined authorities will need to provide a clear justification to support proposals for the parts of the network to which it wants to apply lane rental. It should be noted, in addition, that the powers to set up and operate a lane rental scheme rest with the highway authority. A combined authority that wants to run its own scheme will need to be a highway authority in law or have that power delegated to them.
- 25 Lane rental should only apply to the most congested roads at the busiest times. To help with consistency of schemes, **the following definition of congestion should be used:** the total delay per link/road segment comparing average journey times with a free flow time counterfactual. More information on this can be found in **Annex B**. This is the definition used by the DfT for the relevant congestion statistics data that it provides to authorities for their roads on an annual basis, and for some more urban authorities on a quarterly basis.
- 26 The Government considers that charges must be applied only when works occupy the highway at peak periods, with exemptions from charges at other times, so as to provide a real financial incentive to carry out works at less disruptive times. Providing exemptions that encourage less disruptive working practices will also help to demonstrate to utility companies, and to their customers, that lane rental costs are targeted and avoidable and are not simply being employed as a money-raising tool.
- 27 Authorities will need to set out their proposed charging regime and how they will use lane rental charges to incentivise work outside of peak times, that they will be waived for joint works, and that caps will be put in place for major works to install and to replace apparatus so that these works are not unfairly penalised and delayed. The same charging principles will need to be applied fairly to all works by all works promoters and there should be no blanket exemptions.
- 28 An authority will need to consult locally on proposals for schemes before finalising its bid. Before charges 'go live', the Government will expect authorities to trial schemes for a period of time and they should be reviewed annually to ensure charges remained proportionate and are applied to the most congested roads. Authorities will need to outline their proposals for setting up, rolling out and operating schemes.
- 29 It is possible for authorities to run joint lane rental schemes. This may help with the operation and management of schemes, especially in neighbouring areas and where congested roads pass through more than one authority. Authorities who want to do this should outline their proposals, including the governance arrangements for administering surplus lane rental funds.
- 30 In light of the network management duty on authorities, the Government believes it is important that authorities ensure lane rental powers are used to address all potential impacts on their network. An authority will therefore be expected to demonstrate that the same standards and charges apply to their own activities and works and provide an undertaking to operate lane rental charges on all registerable activities that meet the criteria, including those by their own works promoters.

3. Key features of lane rental schemes

Introduction

- 31 The detailed design of a lane rental scheme, and the exact streets which should form part of it will, subject to certain criteria, be determined at a local level. This will need to be undertaken by highway authorities in close consultation with works promoters of both utility and highway works and other interested parties.
- 32 The legislation sets a number of important boundaries within which all schemes will have to operate, including:
- maximum charge levels that can be applied;
 - types of works and streets in respect of which lane rental charges can be applied; and
 - the purposes for which the highway authority may use the proceeds of lane rental schemes.
- 33 The legislation provides discretion for authorities to vary certain features of schemes subject to the constraints mentioned in Chapter 2. In particular, specific streets (or parts of streets), times and days at which charges will apply etc. as well as the circumstances in which charges will be waived or reduced.
- 34 This guidance sets out the key principles to which authorities will be expected to adhere and compliance with these principles will inform the Secretary of State's consideration of bids.

Streets where charges may be applied

- 35 Lane rental charges will need to be targeted only at the most critical parts of an authority's street network. These are the streets (or parts of streets) where evidence shows that works in the highway cause the highest levels of disruption and thus require the greatest efforts to smooth traffic flow. Therefore, streets should be selected only where the daily charge will have the most effect in reducing disruption caused by works. Methods for demonstrating the reduction in disruption will need to be put in place so that it can be used to inform the evaluation of the scheme.
- 36 The Regulations prevent the application of lane rental charges on streets that have not been designated as traffic-sensitive or protected by the highway authority. However, the fact that a particular street is designated as traffic-sensitive or protected is not, of itself, a sufficient reason to justify its inclusion within the scope of

a scheme. In considering proposed schemes, the Secretary of State will need to see that the authority has adopted an evidence-based approach to identify the critical streets (or parts of streets) where lane rental charges are to apply. This evidence will be supported by data collected and reported on as part of the evaluation of a permit scheme.

- 37 Although the main focus of lane rental schemes must be works that affect the carriageway (either directly or because a footway closure requires the provision of a safe route for pedestrians in the carriageway), authorities will need to consider how their scheme will treat works that do not affect the main carriageway. It should be noted that footways of traffic sensitive streets at traffic sensitive times can only be included when works involve breaking up the street or tunnelling or boring under it. The Regulations leave open the possibility of charging for works that do not take place within the carriageway but, to secure the Secretary of State's approval, a scheme would need to demonstrate a strong cost-benefit case. To help authorities demonstrate this, the Department for Transport is also publishing a calculator alongside this guidance.
- 38 Works in footpaths and bridleways are excluded from the application of lane rental charges (see regulation 3(2) of the Regulations).

Types of works

- 39 Any street and highway works will be liable to lane rental charges (whether carried out by an undertaker by virtue of a specific statutory right to carry out such works, or under a section 50 NRSWA 1991 licence) unless fees are being waived as part of the charging regime mentioned in paragraph 27.
- 40 The Regulations also exempt street works:
- whose impact is confined solely to the verge of a highway;
 - in a traffic-sensitive street, other than at a traffic-sensitive time; or
 - in the footway of a traffic-sensitive street, at a traffic-sensitive time, so long as the works do not involve breaking up the street or tunnelling or boring under it.
- 41 In respect of genuine emergency (not immediate) works that must be carried out during the charging period in order to avoid significant danger to public safety or significant damage to property, schemes will be expected to provide a charge-free period to enable the emergency to be dealt with and the road re-opened to traffic. This is consistent with the principle that charges must be genuinely avoidable, so a period for such genuine emergencies of 48 hours is recommended, but the Department may be open to alternative propositions.
- 42 The charging regime will need to be designed so that only genuine emergencies can benefit from the exemption. It is envisaged that, in many cases, it will be possible for the authority to carry out a site visit to satisfy itself that an emergency is genuine. In other cases, the authority might reasonably require the works promoter claiming the exemption to provide documentary evidence of the nature of the emergency before the exemption will be granted. Schemes will need to set out what information or evidence the works promoter would need to supply in order to demonstrate their entitlement to an exemption on emergency grounds. In the event of a works promoter falsely claiming an exemption on these grounds, the full charge will be payable, and deliberately making a false claim in order to benefit from an exemption may constitute fraud.

43 Diversionary works are outside the scope of charges under section 74A of NRSWA. Should an authority include works covered under a section 278 [of the Highways Act 1980] agreement in its lane rental scheme to ensure parity with street and road works, it is presumed that the authority will have taken their own legal advice on this and will include at their own risk, as they are not covered by regulations.

Charges

- 44 The Regulations prescribe a maximum daily lane rental charge that may be applied of up to £2,500. Each individual scheme has to set out the level of charges that will actually be applied. Levels of charges set out in any proposed scheme will need to be fully justified in each case. It will not be sufficient for scheme promoters simply to apply the maximum charge level without clear justification. Where maximum charges are applied, schemes should make clear and transparent any discounts available to undertakers.
- 45 In order to secure the Secretary of State's approval, scheme promoters will need to show that the proposed charges can reasonably be expected to provide an effective financial incentive for works promoters to adopt less disruptive working practices, such as those described elsewhere in this guidance, but are no higher than necessary to be confident of achieving that aim.
- 46 In general, it is expected that, at any given location at any given time, the daily charge will be the same for all types of work. However, higher rates of charge may be acceptable (subject to the £2,500 maximum) in respect of remedial works, given the wholly avoidable nature of such works.
- 47 The Regulations enable charges to be applied at weekends, as there will be some cases where works at weekends are actually as disruptive, or even more disruptive (e.g. streets with heavy tourist traffic). Authorities will need to determine the detailed arrangements – e.g. the specific days and times at which charges would apply – but scheme design will need to be consistent with the need to provide real opportunities to reduce or avoid exposure to charges by carrying out works in less disruptive ways.
- 48 Different charges may be applied on different days of the week (for example, to differentiate between weekdays and weekends). However, no charges may be levied on a non-traffic-sensitive day, or on any traffic-sensitive day if the works do not obstruct or otherwise impact upon the carriageway (or the footway or cycleway, in a case where footway or cycleway charges apply) at any time during the traffic-sensitive period(s).
- 49 In determining when charges should apply, authorities will need to carefully consider the role of local authority environmental health (EH) departments. EH departments have powers under the Control of Pollution Act 1974 (CoPA) to control the noise from construction works. Relevant guidance is provided in British Standard 5228:2009 introduced in January 2009. In residential areas, EH departments may restrict works that cause substantial noise or vibration from being carried out overnight.
- 50 When designing lane rental schemes, authorities will therefore need to work closely with EH departments to understand the constraints that are likely to apply. Scheme design will need to ensure that works promoters have realistic opportunities to avoid or substantially reduce their exposure to charges, even once environmental health constraints are taken into account.
- 51 It will also be in authorities' and other works promoters' interests to work with EH

departments before lane rental schemes are put in place, to encourage them to strike an appropriate balance between congestion and noise-related objectives. For example, it would be helpful to ensure EH departments recognise that, while some aspects of works may cause substantial noise and vibration (e.g. excavation), others should not (e.g. laying new pipes and cables once a trench has been dug), and that some works can be completed using trenchless techniques that do not require disruptive excavation.

- 52 Works promoters seeking prior consent from the local EH department under section 61 of CoPA would provide certainty over such matters as the permissible hours of working, the methods of working and any noise or vibration limits to be met. EH departments must not impose unnecessary constraints, and there are mechanisms in place in CoPA, e.g. appeals to a magistrates' court, to challenge the approach of an EH department should the constraints imposed seem unnecessarily restrictive.
- 53 Authorities should consider carefully how their scheme would treat joint working arrangements involving different works promoters - for example, by offering additional discounts to encourage joint working, or by waiving charges completely. The Government would like to see and encourage more joint and collaborative works, including between highways departments and utility companies, as these can reduce disruption from works on the same stretch of road within a short time of each other and minimise damage to the road itself.
- 54 The Regulations allow lane rental charges to be applied on a daily basis while the works are occupying the highway for the duration of works up to the end of the agreed "reasonable period", but also during days of unreasonably prolonged occupation ("overruns"). Lane rental charges may be applied in addition to charges under section 74 of NRSWA for the duration of the overrun.
- 55 The Regulations make provision (similar to overrun charges) for a one-off charge of £100 to apply (in place of the full daily lane rental charge) where up to five items of signing, lighting or guarding have inadvertently been left behind on site and have been removed by the end of the working day following the day on which the authority informed the undertaker and asked them to remove the items. This reduced charge would apply only in cases where the responsible party had made all reasonable efforts to clear the site but had inadvertently left a small number of items behind. Full daily charges would continue to apply where such efforts had not been made.

Application of revenues

- 56 Reasonable costs incurred by the authority in operating and evaluating (but not developing) a lane rental scheme may be met by the authority from the charge revenues they receive.

The Regulations require that the surplus revenues, after deduction of running costs and costs of carrying out scheme evaluation, are applied by the authority for purposes intended to reduce the disruption or other adverse effects arising as a result of street works. This could include, for example:

- investment in innovation and developing new products or disruption-saving techniques;
- trials of new techniques and products;

- installing "pipe subways" or ducting that enable apparatus to be accessed more easily and without causing disruption to traffic;
 - measures to improve the quality or accessibility of records about the location of underground pipes, wires, and other apparatus;
 - measures to help abate noise, pollution or safety hazards arising as a result of works;
 - repairing potholes caused by utility street works; and / or
 - implementing extraordinary measures to mitigate congestion caused by works, especially major works projects.
- 57 Surplus funds can be used for either capital or revenue projects.
- 58 Surplus revenue should not be used to provide for training of the authority staff as this will already be provided for by a permit scheme and also be required to deliver an authority's network management duty.
- 59 It should not be used for repairing potholes caused by general wear and tear or, for example, bad weather. It can, however, be used for trialling new techniques that may take less time and which, in turn, reduce the disruption caused by highway works.
- 60 As part of their scheme, authorities will need to summarise the arrangements for determining how revenues will be applied. Authorities will be expected to establish joint working arrangements under which both the highway authority and works promoters are actively consulted on how net revenues are applied and demonstrate the governance arrangements that will be put in place to ensure compliance with the legislation. Authorities implementing lane rental charging schemes can also set up joint governance groups, provided individual accounting responsibilities are performed in line with the regulations.
- 61 To ensure transparency, the Regulations require authorities to keep and publish yearly accounts of the revenues generated and how they have been spent.
- 62 The Secretary of State would expect authorities to apply the same principles set out above to any net revenues generated in respect of their own highway works, consistent with the "parity" principle set out in the Network Management Duty Guidance.

Systems issues

- 63 Authorities will need to provide detailed and accurate information to works promoters about where and when lane rental will apply, and at what charge rates. As a starting point, authorities will need to do this via the National Street Gazetteer. They should also discuss with works promoters and street works system providers whether other data formats would also be helpful in enabling them to integrate lane rental information effectively into their existing works management systems.
- 64 The Street Manager project will provide a new digital service for planning, managing, and communicating data about street and road works. It will meet the needs of users in lane rental areas and will support the development and operation of new lane rental schemes.

Relationship between lane rental and permit schemes

- 65 Lane rental schemes will need to operate alongside an authority's existing permit scheme. The permit scheme will continue to play a crucial role alongside lane rental charges, not least because of the need to ensure that works taking place on the busiest streets are properly coordinated.
- 66 A separate permit fee cannot be raised where an activity is liable to a lane rental charge (see regulation 30(1A) of the Permit Scheme Regulations 2007), but the process and procedures as defined in the permit scheme will apply. Where an activity is not liable for a lane rental charge, then the relevant permit fee will apply.

Dispute resolution

- 67 Authorities will wish to consider how disputes about lane rental charges might best be handled. Although disputes may be resolved through the resolution procedure operated by the Highway Authorities and Utilities Committee (HAUC (England)) or by independent arbitration, it would be strongly preferable for disputes to be managed and resolved by less formal mechanisms wherever possible.
- 68 Authorities should consider whether it would be helpful, for example, to designate an appeals officer at arm's length from the day-to-day running of the lane rental scheme, who would consider disputes that cannot be resolved between the works promoter and its day-to-day contacts at the authority.

Transitional issues

Shadow/trial running

- 69 Authorities will wish to consider how to ensure a smooth implementation of any lane rental scheme. A period of shadow or trial running prior to the formal introduction of the scheme is strongly recommended and authorities should set out plans for this in any application and ensure proposals for shadow or trial running are included in consultation

Works already notified or permitted when lane rental comes into operation

- 70 Lane rental schemes will need to include suitable transitional arrangements so that works promoters do not unfairly face charges in respect of works which had already been planned and scheduled when the scheme comes into existence, but which cannot reasonably be re-scheduled to avoid chargeable periods. However, these transitional arrangements will also need to be carefully designed to avoid creating perverse incentives (for example, by encouraging a large number of early permit applications aimed at avoiding charges).

4. Scheme development, approval, variation, and evaluation

Order

- 71 It should be stressed that no lane rental scheme can operate, and no charges can be levied before the highway authority has been approved and provided with an Order in the form of a Statutory Instrument, made by the Secretary of State. The Secretary of State's Order will specify the date on which lane rental charges can begin. It typically takes about 3 months to prepare and finalise an Order and for it to come into force. DfT lawyers will only begin work once it has been approved in principle by the Secretary of State.
- 72 Once the Secretary of State's Order has been made and the scheme is in operation, if an authority wishes to make changes to or cease the operation of the scheme approved by the Order, then the authority will need to seek the Department's prior agreement before changes can be made by further Order.

Consultation

- 73 Any highway authority making an application to the Secretary of State to run a lane rental scheme will need to have carried out a full consultation on the draft scheme. Alongside the draft scheme, the consultation package should also include the authority's cost-benefit analysis, proposed charging regime and detailed evaluation plan. The stakeholders to be consulted include:
- every works promoter which, to the knowledge of the authority, carries out street works in their area;
 - every highway authority (other than the street authority) and every district or borough council in whose area any street on which the proposed scheme is intended to apply is situated;
 - Transport for London, where any street to which the proposed scheme applies is situated in Greater London;
 - any passenger transport executive in whose area the proposed scheme would operate;
 - any neighbouring highway authority or combined authority;

- emergency services operating within the area of the proposed scheme;
 - relevant regulatory authorities, including Ofgem, Ofwat, Ofcom and the Health and Safety Executive;
 - any authority that has registered an interest in receiving copies of notices or permit applications for any of the streets to which the proposed lane rental scheme applies (if applicable);
 - representative bodies for road users, including representatives of disabled people;
 - representatives of transport operators and the wider business community; and
 - any person (s) bodies or groups who have made a written request to the highway authority developing the scheme asking to be consulted.
- 74 Formal public consultation is not the only means by which authorities developing a lane rental scheme should communicate details about the scheme to interested parties and specifically undertakers. Authorities should develop a system of open dialogue and engagement with key interested parties, particularly works promoters, throughout the scheme's development.
- 75 Any scheme submitted to the Secretary of State will only be considered in accordance with this guidance, and the (lane rental and permit) regulations. Authorities will therefore need to ensure that their scheme proposal, and their approach to consultation, is consistent with these documents and the requirements contained in them.
- 76 When an authority is developing a lane rental scheme, we recommend speaking to the Department early in the development process. The Department may then wish to discuss with the applying authority the documentation that will be needed to assess their scheme. The Department expects schemes to be fully developed when submitted for consideration. Incomplete bids or documents that need revision can add to the time it takes to gain approval from the Secretary of State.

Applications to operate a lane rental scheme

- 77 An application to operate a lane rental scheme must include a copy of the proposed scheme itself, plus supporting information to assist in the Secretary of State's assessment of the scheme. The following should be included in the scheme information provided (and Annex A provides a checklist that may assist you):
- the full legal name of the highway authority;
 - the area to which it will apply (which must be wholly within the area of the authority applying to run the scheme);
 - the aims and objectives of the scheme, including how these aims and objectives integrate with the delivery of the authority's network management duty and any other relevant objectives and policies;
 - details of the effective operation of the authority's permit scheme for at least one year and compliance with all permit regulations;
 - the provision of permit scheme evaluation reports as required by regulation 16A of the Traffic Management Permit Scheme (England) Regulations 2007;

- demonstration that the permit scheme has been operated in line with statutory guidance for permit schemes⁴ and the best practice detailed in the Permit Scheme Operational Guidance developed for the sector by HAUC (England);
- a clear definition of the streets, or part streets, where the scheme will apply and the times when the scheme will operate on those streets (which must be wholly within the area of the authority applying to run the scheme);
- details of the analysis underpinning the choice of streets where the authority proposes that lane rental charges should apply;
- confirmation and evidence that the scheme will operate over a maximum of 5% of the highway network (unless an exceptional circumstance is agreed by reference to the Secretary of State);
- confirmation that each street proposed meets at least two requirements for a traffic sensitive street;
- statement of intention regarding the application of charges to highway works as well as to utility works;
- confirmation that the authority must seek its own legal advice and make its own (voluntary or commercial) arrangements to impose lane rental charges on anyone other than undertakers for street works in respect of section 278 agreements;
- the level of charges to be applied (including the days and times at which charges will apply) and details of the charging regime. These details should also include;
 - evidence that the proposed charge levels are proportionate to the costs imposed by works on the streets where those charges will apply;
 - an explanation and details of the process by which works promoters can realistically avoid or substantially reduce their exposure to charges by carrying out their works in less disruptive ways, taking account of the constraints likely to be imposed by environmental health departments;
 - details of incentives to work outside of peak times, how charges will be waived for joint works, how caps will be put in place for major works to install and to replace apparatus so that these works are not unfairly penalised and delayed;
- the proposed start date for the scheme (which should allow a reasonable period for undertakers to adjust their working practices before charging begins, taking account of the minimum twelve-week notice period for undertakers mentioned later in this chapter);
- details of the governance arrangements that will be put in place for dealing with surplus revenues, including the arrangements for consulting representatives of street works undertakers on decisions about how those revenues will be spent;
- details of the local consultation that was carried out and the results;
- a clear and robust plan for evaluating whether the objectives of the scheme have been met and whether the overall benefits are sufficient to justify the costs involved. This should include an evaluation methodology, an evaluation programme setting out when the evaluation will be carried out, the baseline data

⁴ Department for Transport Statutory Guidance for Permit Schemes introduced October 2015

against which scheme performance will be measured, and a formal statement that this evaluation will be fully resourced;

- an indication of any flexibility desired by the authority to make minor amendments to the day to day operation of their scheme without the need to secure Secretary of State approval, the conditions under which the authority would wish to exercise any such flexibility, and the process the authority would follow to ensure that works promoters are properly consulted on any proposed changes in good time; and
- details of the any other information the authority considers necessary.

Cost benefit analysis

- 78 Authorities must also send an analysis of the costs and benefits expected to arise from the proposed scheme, showing how the scheme will provide real scope for works promoters and the wider business community to reduce their exposure to charges through improved working practices. There should also be an explanation of what steps have been taken to minimise administrative costs.
- 79 The calculator published alongside this guidance should be used for preparing the cost benefit analysis.

Additional notes on the 5% limit

- 80 As noted above, and to help ensure that schemes are targeted on the busiest roads at the busiest times, the Government has said that it expects new lane rental schemes to cover no more than 5% of the individual highway authorities' network. Schemes can also cover less than 5%. Authorities should use the definition of congestion included in paragraph 25 above.
- 81 Combined authorities who manage a key route network may only be responsible for a certain percentage of the total road network in the combined authority area. It will, therefore, be difficult to apply the 5% rule as the key route network may be the most heavily congested in the area. In these cases, combined authorities will need to provide a clear justification to support proposals for the parts of the network to which it wants to apply lane rental charges.
- 82 Roads subject to lane rental charges will need to meet at least one of the criteria of a traffic sensitive street or strategically significant street. Where such criteria cannot be demonstrated for the whole 24-hour period, we expect that, at these times, the road would be exempt from lane rental charges.
- 83 Other roads (such as single road access to a village or a port) which do not meet any other criteria of a traffic sensitive street and are protected streets can be considered as part of the 5% provided explanation and justification for their inclusion is supported by clear evidence. In very exceptional circumstances, it may be possible for an authority to demonstrate that more than 5% of its roads meet the requirements. Any request for such an exception will need to be discussed with the Department as soon as possible and a decision made before further work is commenced.

Additional notes on minor variations to schemes

- 84 Lane rental schemes will need to set out the detailed parameters of the scheme when they are submitted to the Secretary of State for approval. However, we recognise that circumstances will change, and this may involve minor variations to schemes during its lifetime, for example, the addition or removal of some streets to reflect changing traffic flows. Where authorities require such flexibility, they will need to set out clearly the arrangements for implementing minor variations to the scheme. Authorities will also need to agree total cumulative minor variations for the proposed scheme and the period of time the cumulative minor variations will cover. In particular, any discretion to vary scheme parameters will need to be tightly constrained so that more substantial changes to a scheme cannot be made without the consent of the Secretary of State, and schemes will need to set out these constraints and how stakeholders will be consulted on any changes.

Additional notes on evaluation and review

- 85 The regulations permit a deduction from lane rental revenues of an amount in respect of the reasonable costs of scheme evaluation. It is expected that evaluation plans will include provision for independent evaluation of scheme performance, including an assessment of the overall balance between costs and benefits arising from the scheme. In the interests of parity and transparency, representatives of both the highway authority and street works promoters will need to be actively involved in monitoring the evaluation process.

The Secretary of State's assessment

- 86 The Department can approve a scheme submitted by an authority, with or without modifications or reject it. The Department will liaise with the authority if it requires modifications to be made. The above sets out the level of information required for a proposed lane rental scheme to be considered, assessed and then to achieve approval by the Secretary of State.
- 87 Once the Department receives an application, we will assess it within 30 days. Additional time will be needed for the Secretary of State's approval and may be needed if revisions need to be made to scheme documents. If the application is successful, it takes about 3 months to prepare and finalise the Order and for it to come into effect.

How to submit an application to operate a lane rental scheme

- 88 Authorities who would like to develop a lane rental scheme should first discuss this with the Department. They can do this initially by contacting streetmanager@dft.gov.uk
- 89 A formal application and supporting documentation should be submitted to DfT officials or the following email address: streetmanager@dft.gov.uk

Annex A: Scheme development checklist

| | |
|--|--|
| Full legal name of the Highway Authority | |
| Date final checks completed | |
| Senior Officer final clearance | |
| Finance officer final clearance | |

| No. | Subject | Date completed | Place in scheme document |
|-----|--|----------------|--------------------------|
| 1. | Scheme compliance statement (letter signed by Chief Executive or similar) headed to include the legal name of the authority. | | |
| 2. | Scheme objectives including the improvements expected. | | |
| 3. | The proposed implementation date. | | |
| 4. | A table showing regulatory compliance. | | |
| 5. | Statement of compliance with the parity obligation. That is, state the authority's position on whether the same standards and charges apply to an authority's own activities and works and provide an undertaking that lane rental charges will be applied to all registerable activities. | | |

| | | | |
|-----|---|--|-----------|
| 6. | Clearly defined information as to the streets or parts of streets to which the scheme applies and the times when it will operate on those streets (which must be wholly within the area of the authority applying to run the scheme). This will be to a MAXIMUM of 5% of that highway authority's network unless an exceptional circumstance is agreed by reference to the Secretary of State. | | |
| 7. | Evaluation structure for the proposed scheme. | | |
| 8. | Confirmation that, as a minimum, utility companies have been provided with 12 weeks' notice of scheme commencement. | | |
| 9. | Confirmation that all required consultation processes have been met and details of any changes have been made following that consultation. | | |
| 10. | Confirmation that all financial requirements have been met. | | |
| 11. | Copies of all permit scheme evaluation reports as required by the permit scheme amendment regulation 2015 (regulation 16A). As a minimum, all applicants will need to be operating a permit scheme and have provided at least one 12-month evaluation. All schemes operating permit schemes must fully comply with the requirements in the relevant regulations. | | |
| 12. | Details of any transitional arrangements which the authority would wish to apply in relation to the scheme coming into effect. | | |
| 13. | References to handling national infrastructure projects. To note lane rental is dis-applied from HS2 works under the High-Speed Rail (London - West Midlands) Act 2017. | | |
| 14. | Details of the team that will be in place to operate the scheme and provide contact information for them. | | Email |
| | | | Telephone |

Annex B: Notes on Cost Benefit Analysis

Definition of congestion

- 1 The congestion team within the Department for Transport supplies highways authorities with Aggregated GPS (AGPS) data for their roads and also roads that are within a 10km buffer of their boundary. This data is commercially bought by the department from Teletrac Navman and has been negotiated as provided freely to highways authorities on their behalf.
- 2 All highways authorities receive annual data (12 monthly files) after the February statistical release. During the year, 10 key urban areas receive quarterly data (3 monthly files) after each quarterly data update.
- 3 The AGPS data contains the average travel time per link of road which can be used to calculate the average speed and the average delay for that road link. Each stretch of road between major road junctions is defined as a 'link'
- 4 Average speed is the travel time divided by the road length, which is then capped to the national speed limit. Average delay compares observed travel times and expected 'free flow' travel times, and reports time lost per vehicle per mile. Average delay should be calculated and reported in per mile terms.
- 5 Total delay is equal to average delay multiplied by the number of vehicles experiencing that delay in each time period.
- 6 These metrics are calculated for a 24-hour period and includes all days (weekdays, weekends, bank holidays etc.). The data is also calculated for morning (7am to 10am) and evening (4pm to 7pm) peak times.

Cost benefit analysis calculator

- 7 Please use the calculator published alongside this guidance to calculate the costs and benefits of the proposed lane rental scheme.