

Response from Head of Network Strategy to questions for Highways and Streetworks

Our powers and their limits

Street works are governed primarily by the New Roads and Street Works Act 1991 (NRSWA) and the Traffic Management Act 2004. Utilities have a statutory right to access the highway to repair and maintain their apparatus.

We can and do:

- Challenge proposed working times and durations
- Refuse or amend permits
- Impose conditions on traffic management (TM)
- Require changes to management arrangements
- Inspect sites while works are live
- Issue defect notices, FPNs, Section 74 charges (overrun charges)
- Require removal of unnecessary or unsafe traffic management
- Ultimately prosecute under NRSWA

Prosecution:

- Is available within very narrow statutory windows
- Requires a high evidential threshold
- Is resource-intensive
- May cost significantly more than any financial penalty recovered

Prosecution tends to be reserved for the most serious, persistent or high-risk non-compliance as a pragmatic assessment of what delivers the best public outcome.

Challenging working times, durations and necessity of closures

All road closures and Traffic Management schemes are assessed by the street works team through NYC's permit scheme. Utilities must justify why their proposed TM, including closures are required, not merely preferred. Closures are generally used as a last resort when all other considerations have been exhausted.

Where sufficient carriageway width exists, we challenge closures and require alternative TM arrangements. This is managed through the refusal of permits to work. If a utility undertakes work without a valid permit, they will be issued with a £1000 Fixed Penalty Notice (FPN). Closures are not permitted for convenience, but in some cases are necessary for the safety of the travelling public and for those undertaking the works.

Traffic management arrangements are driven by the following:

- Safe working widths
- Proximity to live traffic
- Plant movements
- Emergency access requirements
- Risk assessments remain the responsibility of the Undertaker (which the Authority must reasonably consider).

Closures left in place with no works on site

This is a legitimate concern and one we actively challenge. Closures are not permitted to remain in place unnecessarily. Permit conditions require TM to be removed or reduced when

work is not actively taking place if possible. Where closures are left with no works ongoing, this is treated as non-compliance and the utility may be issued an FPN or a daily overrun charge, if they occupy the highway beyond the permit end date as well as escalation to utility senior management.

Verge works with full road closures

Closures may be justified only while works present a risk to live traffic. If, once the gang leaves, the carriageway is unobstructed and safe, TM should be reduced or removed as per the conditions on the permit. Breaches of this will result in an FPN for non-compliance. Where closures remain purely because signage has not been collected, this is unacceptable and is actively challenged when identified.

In terms of 'abandoned' sites and split gangs (excavation vs reinstatement), utilities often use separate specialist gangs for TM placement, excavation and reinstatement. All operatives should have the relevant qualifications for carrying out these tasks. This practice is not prohibited in legislation. At the same time, sites are not permitted to be left in an unsafe or unjustifiably restricted state and where delays between gangs result in extended closures or unnecessary TM, this is challenged and extensions are refused where not reasonably evidenced, resulting in daily fines for unreasonably occupying the highway.

Regarding Road Closed/Road Ahead Closed signage concerns, their inappropriate or overuse undermines compliance. Signs should be accurate and their use proportionate. Alongside these signs, all works are required to display permit boards with the relevant permit reference and a contact to report any issues. This is a legal requirement and will result in a Non-Compliance FPN if no board is displayed, or the information is incorrect.

This issue is actively raised with utility companies, and signage is required to be:

- Correct
- Necessary
- Removed when no longer required

In terms of emergency works, these are tightly defined in legislation and relate to situations where there is an immediate risk to people, property or the integrity of the network. Works legitimately meeting this legal definition cannot be refused. At the same time, we are alive to the potential misuse of emergency works powers. This is a concern that has been raised more widely and is recognised as a significant and ongoing issue across Yorkshire and the wider Northeast region.

This matter has been escalated collectively by highway authorities to the Department for Transport (DfT), highlighting concerns that emergency powers are, at times, being used to avoid normal permitting, scrutiny or planning requirements, particularly in relation to timing and convenience.

The DfT has advised that, based on the evidence presented nationally, they did not consider there to be sufficient evidence to conclude that utility companies are systematically misusing their emergency powers. As a result, no change to the legislative framework or enforcement thresholds has been forthcoming.

At a local level, this means that we continue to scrutinise emergency notices when they are received and we challenge classification where circumstances appear questionable. In addition, repeat or borderline use is raised directly with senior utility management. However, without a higher national evidential threshold, our ability to refuse or retrospectively penalise emergency works remains limited. Nevertheless, emergency status does not exempt utilities

from their duties around proportionate use of TM, site safety, or timely reinstatement and these elements remain subject to inspection and enforcement. This is also an area where many highway authorities believe the legislation has not kept pace with modern working practices and further national reform would be required to materially strengthen local enforcement powers.

In terms of proactive challenge while works are live, we operate a robust inspection and compliance regime. Inspections are carried out on a sample basis, in line with national guidance, and include:

- A inspections – Undertaken while works are in progress to assess safety, signing, guarding and site management.
- B inspections – Carried out on completion of the reinstatement to assess workmanship and compliance with SROH standards.
- C inspections – Undertaken at a later stage to assess the long-term performance of the reinstatement once it has been subjected to traffic loading and weather conditions.

Where defects, non-compliance or safety issues are identified, the utility company is required to return and correct the issue at its own cost and enforcement action can be taken where standards are not met. The Council currently has ten street works inspectors covering the county. Given the size of North Yorkshire and the volume of works taking place at any one time, it is not feasible to physically inspect every site. The nationally prescribed inspection sampling regime is used to target risk, location and previous performance, while still allowing robust enforcement where problems are identified. We focus on traffic-sensitive locations, repeated poor performers, high risk TM and sites generating public or member complaints or concerns.

NYC has recently introduced a Lane Rental Scheme. We are one of only a handful of authorities in England to have done so and it is the culmination of a three-year project. Lane Rental is specifically designed to address many of the issues you describe, although limited to the busiest parts of our road network. Utilities and others can be charged up to £2,500 per day for occupying the busiest roads at the busiest times.

As a result, our Lane Rental scheme discourages leaving closures in place “just in case”, drives better coordination and planning of gangs, encourages quality first time reinstatement, reduces tolerance for idle or abandoned sites and makes convenience-based closures financially unattractive. Therefore, it incentivises the right kind of behaviour change because it directly impacts the bottom line.

Under Lane Rental, emergency works are exempt from charges for the first 48 hours (including weekends). Other highway authorities operating the scheme have noted that 90% of emergency works were carried out in the “charge free” period and there are fewer occurrences of Friday afternoon emergencies, or TM left up over the weekend with no action.

In summary, the team is doing everything it can to minimise the impact of poor practice on the community and travelling public. We take all complaints and concerns seriously and will act as robustly as we can when we’re made aware of a problem.