

Street works: fines and lane rental surplus funds

Introduction

Thank you for responding your information will help to define our proposals for reforms to street works legislation covering surplus lane rental funds, fixed penalty notices and weekend overruns.

Closing date is 11 March 2024.

Accessibility statement

Read our [accessibility statement for SmartSurvey forms \[opens in a new window\]](#).

Confidentiality and data protection

The Department for Transport (DfT) is carrying out this consultation to to define our proposals for reforms to street works legislation covering surplus lane rental funds, fixed penalty notices and weekend overruns.

The [DfT online form and survey privacy notice \[opens in a new window\]](#) gives more information on how your personal data is processed in relation to this survey.

In addition to the information outlined in the privacy notice, we are asking for the name of your organisation for identification.

Personal details

1. What is your name?

2. What is your email?

3. Are you responding on behalf of an organisation? *

 Yes No (Go to 'Proposals')

Organisation details

4. What is the name of your organisation?

Chartered Institution of Highways & Transportation

Proposals

We are proposing a series of reforms to street works regulations.

We are asking for your view on our reforms of:

- requiring at least 50% of any surplus lane rental funds to be spent on repairing potholes
- raising the level of fixed penalty notices that can be issued for the street works offences of:
 - failing to send work start - stop notices on time
 - failing to send notice of reinstatement being completed on time
 - working without a permit
 - breaching permit conditions
- allowing overrun charges to apply at weekends and bank holidays

Implementing these proposals would involve amending the secondary legislation from:

- [Street Works \(Charges for Occupation of the Highway\) \(England\) Regulations 2012](#) [opens in a new window]
- [Street Works \(Fixed Penalty\) \(England\) Regulations 2007](#) [opens in a new window]
- [Traffic Management Permit Scheme \(England\) Regulations 2007 as amended](#) [opens in a new window]
- [Street Works \(Charges for Unreasonably Prolonged Occupation of the Highway\) \(England\) Regulations 2009](#) [opens in a new window]

Greater information as to our reasoning and actions is available in our consultation documentation [opens in a new window].

50% surplus lane rental funds to be spent on pothole repair proposal

We are proposing that a minimum of 50% of surplus lane rental funds should be spent by highway authorities on repairing potholes, regardless of the cause of the pothole.

5. Do you support or oppose our proposal that a minimum 50% of surplus lane rental funds are spent, by highway authorities, on repairing potholes?

- Support
- Oppose
- Don't know (Go to 'Fixed Penalty Notices')

Minimum 50% surplus lane rental funds to be spent on pothole repair proposal: reasoning

6. Why?

In CIHT's report 'Improving Local Highways' it was highlighted that over 200 bodies, including numerous uncoordinated utility companies, have rights to dig up roads to access water, power, and telecoms infrastructure. The quality of reinstatement is inconsistent, while even good repairs considerably reduce the lifespan of a surface. In that report, the CIHT called for a ring-fenced approach to highways maintenance.

A key issue for the highways sector is the significant backlog of highways maintenance. Road maintenance is vital in making networks safe and resilient. CIHT is supportive of a change in legislation to allow highways authorities to spend surplus lane rental funds on road maintenance.

CIHT propose that the legislation should state 'road maintenance' as opposed to 'potholes' as it is important that surplus funds be used for all maintenance projects. However, a specific minimum spend should not be specified: but flexibility encouraged. So, whilst the CIHT agrees that fixing potholes is very important and should be a priority for funding, it is opposed to putting any percentage of surplus spend for this purpose as it may be more appropriate for the highway authority to resurface the entire road rather than continually apply temporary fixes.

Fixed Penalty Notices

We want to raise the limit of fixed penalty notices which have not been amended since 2007, relating to street works offences:

- failing to send work start - stop notices on time
- failing to send notice of reinstatement being completed on time

- working without a permit
- breaching permit conditions

We are asking for your views on whether increasing fine levels would provide a greater deterrent and improve general compliance.

If FPNs had been linked to the level of inflation, but not including the high levels that have been in place up until winter 2023, we calculate the appropriate FPN fines (rounded) would now have risen from:

- £500 to £700
- £300 to £425
- £120 to £170
- £80 to £115

We are proposing 2 options for raising the amount of fixed penalty notice (FPN) charge that is payable, these options are:

- option A would raise fines in line with inflation since 2007, which was the last time levels were raised, this would mean would mean FPNs amounts of £170 full charge and £115 discounted charge for offences and breaching permit conditions. FPNs would be £700 full charge and £425 discounted charge for working without a permit
- option B would double the level they are now meaning FPNs of £240 full charge and £160 discounted charge for offences and breaching permit conditions – raising them from £120 and £80. FPNs would be £1,000 full charge and £600 discounted charge for working without a permit – raising them from £500 and £300

7. Your preferred option to be implemented is:

- option A?
- option B?
- that the FPNs are not altered?

Option reasoning

8. Why?

Given the serious nature of these offences, the level of fixed penalty fines should be increased above the 2007 price levels and the respective allowances for inflation over time since 2007, as clearly the original fixed penalty charges have failed to deliver an outcome where no offences of this nature are committed.

This increase to a level of the Option B penalty is likely to generate an increase in the overall cost for undertaking the works, but in turn this should also ensure all requirements are undertaken more seriously and precisely by those holding responsibilities for all activities associated with the conduct of the works.

Overrun charges at weekends

We propose amending the [2009 charges regulations to allow overrun charges \[opens in a new window\]](#) to be applied at weekends and bank holidays.

We are subsequently proposing applying FPNs to late submission of works start and stop notices at weekends and bank holidays.

9. Do you support or oppose:

	at weekends?	at bank holidays?
overrun charges being applied:	<input type="text" value="Support"/>	<input type="text" value="Support"/>
FPNs being available for late submission of works start and stop notices:	<input type="text" value="Support"/>	<input type="text" value="Support"/>

Why?

There are significant demands for many public services (e.g. public bus services; public rail services etc) during weekends and bank holidays.

There are equally significant demands for important maintenance and improvement works to be undertaken on both public and private sector infrastructure assets during weekends and bank holidays (e.g. rail, tram etc).

Both of these requirements, whether this refers to public services or for maintenance and improvements, necessitates a skilled workforce to be available during holiday/rest day periods and unsocial hours, ideally throughout daylight as well as during hours of darkness for the undertaking of essential services to meet demands.

From an economic standpoint, there is a strong argument that costly equipment and temporary work materials should not be standing idle during weekends and bank holidays in cases where a sense of urgency is required to get works completed in the shortest feasible time as a means for a rapid return of a degree of normal routines.

There is a vast amount of evidence which is clearly visible to the travelling public, where long sections of highway and road are in possession of contract works where no works are actually taking place. This is most clearly noticeable over weekends and during periods of darkness, and yet, the temporary measures in place for the works often have significant and disruptive impacts on the safe movement of traffic through the works site.

Some levels of disruption often lead to frustrated travelling public and a disregard to the safety measures in place. Such levels of disruption are to be expected where urgent or emergency

works are required, but there is a strong argument that the period of disruption should be as short as is practically feasible.

Accordingly, the planning for urgent and/or emergency works should set out to achieve effective, efficient and economic production targets using optimum resources over a defined time period to deliver a satisfactory final completed outcome in the shortest feasible time.

In order to achieve this desirable outcome, even though additional costs will be required for the like of overtime operations. CIHT support of all these proposals in the belief these will incentivize those holding responsibilities for this type of work to approach all their planning and works operations to be effective, efficient, economic, safe and time limited if the avoidance of all feasible FPNs are to be achieved. Ultimately, the approach should keep contractors accountable to schedules and agreed timelines.

If this can be achieved, the traveling public are likely to be much more sympathetic to the necessity of emergency works being undertaken in the time available. Furthermore, it is believed this approach would provide the most economical solution to the overall problem.

Final comments

10. Any other comments?