

Title: Local Highway Authority Permit Scheme – amendment to approval process under Part 3 of 2004 Traffic Management Act (revised) IA No: Lead department or agency: Department for Transport Other departments or agencies: n/a	Impact Assessment (IA)		
	Date: 1 st October 2014		
	Stage: Development/Options		
	Source of intervention: Domestic		
	Type of measure: Other		
Contact for enquiries: ann.morley@dft.gsi.gov.uk			

Summary: Intervention and Options	RPC Opinion: n/a
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
£0m	£0m	£0m	No	NA

What is the problem under consideration? Why is government intervention necessary?

The Traffic Management Act 2004 Part 3 (TMA) introduced 'permit schemes', by which local highway authorities could develop a scheme which required 'permits' to be granted to statutory undertakers before street works (other than emergency works) were undertaken. Such schemes provide for better highway management and can reduce congestion. Currently for schemes to come into operation the approval of the Secretary of State is required. Schemes already operating re demonstrating their effectiveness and, as part of the Governments Red Tape Challenge, it has been decided central approval is no longer required. Future schemes will be developed that best meets local needs.

What are the policy objectives and the intended effects?

Devolving this power from Central to local government - enabling English authorities to take the final decision on when to commence a scheme - would remove an unnecessary requirement for central government to intervene in local decisions, it would also provide for authorities being able to give effect to locally developed schemes. The change planned to be introduced by 2015 will reduce the cost of assessment undertaken by the Secretary of State and overall reduce authority costs as there would be no further need to prepare specific documents currently required by the Secretary of State.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Do nothing - or - Option to amend primary and secondary legislation to remove the requirement for the Secretary of State to give effect to developing or varying permit schemes (a power to direct an authority to vary or revoke schemes in exceptional circumstances is retained). This would result in giving authorities the power to develop or vary (and should they choose halt) their own schemes by order.

A review date of 7 years after implementation is suggested to enable schemes to be developed implemented and provide transparent evaluation of their schemes against benefits sought by the scheme. This will enable the Department to confirm the intended benefits are being delivered.

Will the policy be reviewed? It will/will not be reviewed. If applicable, set review date: 04/2022						
Does implementation go beyond minimum EU requirements?				Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro No	< 20 No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: n/a	Non-traded: n/a	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Kramer Date: 26/03/2015

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	£0.016	£0.13
High	0	£0.019	£0.16
Best Estimate	0	£0.018	£0.18

Description and scale of key monetised costs by 'main affected groups'

The costs for this policy are from the additional administrative and expert time to local authorities for approval schemes. These come approximately to (just under) £9,000 per application (with +/- 10% for low and high scenarios to give some context) - we estimate 2 new schemes per year from 2015 onwards based on information gathered in discussion with the authorities representative body - the Joint Authorities Group.

Other key non-monetised costs by 'main affected groups'

n/a

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£0.016	£0.13
High	0	£0.019	£0.16
Best Estimate	0	£0.017	£0.15

Description and scale of key monetised benefits by 'main affected groups'

The benefits for this policy are from the administrative and expert time saved by DfT for approving schemes. These come approximately to (just under) £9,000 per application (with +/- 10% for low and high scenarios to give some context) - we estimate 2 new schemes per year from 2015 onwards based on information gathered in discussion with the authorities representative body - the Joint Authorities Group.

Other key non-monetised benefits by 'main affected groups'

There are likely to be benefits to the wider public where permit schemes are introduced and the road network is more effectively managed. Time savings; consistency of approach in scheme conditions; the requirement on scheme developers to provide for an additional specific discount (introduced 2014); and environmental benefits associated with permit schemes are also considered likely to have the potential to provide wider long term benefits, but none of these have been monetised.

Key assumptions/sensitivities/risks

It is assumed it costs the Department some £9,000 in wage costs to process an application to achieve approval; iteration is sometimes more protracted for some schemes than others. Office costs are assumed to be zero. We have assumed that schemes are developed in accordance with regulations and guidance. Secretary of State does retain powers to direct an authority to vary or revoke schemes where necessary. Costs of £9,000 for 2012 have not been updated - assumed level remains similar.

Discount rate

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OITO?	Measure qualifies as
Costs: - Benefits: - Net:)	No	NA

Evidence Base (for summary sheets)

There is discretion for departments and regulators as to how to set out the evidence base. However, it is desirable that the following points are covered:

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing);
- Monetised and non-monetised costs and benefits of each option (including administrative burden);
- Rationale and evidence that justify the level of analysis used in the IA (proportionality approach);
- Risks and assumptions;
- Direct costs and benefits to business calculations (following OITO methodology);
- Wider impacts (consider the impacts of your proposals, the questions on pages 16 to 18 of the IA Toolkit are useful prompts. Document any relevant impact here and by attaching any relevant specific impact analysis (e.g. SME and equalities) in the annexes to this template)
- Summary and preferred option with description of implementation plan.

No.	Legislation or publication
1	<u>Traffic Management Act (2004)</u>
2	The Traffic Management Permit Scheme (England) Regulations 2007
3	Statutory Guidance for Permits
4	Code of Practice for Permits
5	The draft amendments to the Traffic Management Permit Scheme Regulations 2015

The Traffic Management Act (TMA) 2004 require that in England and Wales where a local transport authorities chooses to introduce a permit scheme that it is submitted for assessment and approval by the relevant national authority before it can come into operation by order. In England this authority is the Secretary of State for Transport and in Wales the Welsh Assembly Government Ministers. The changes planned to be introduced by the Deregulation Bill receiving Royal Assent affect only the approval process for schemes in England – the amendments to the Traffic Management Act ensures that the position in Wales remains the same.

The Traffic Management Permit Scheme (England) Regulations 2007 provide for submission and approval of a permit scheme to the Secretary of State to ensure that schemes coming forward comply with policy requirements; statutory guidance and are sufficiently well evidenced including having a sound cost benefit analysis.

The Government decision, made 13 January 2013 by Written Ministerial statement to the House of Commons, announced that the preferred policy option - to remove the need for local authorities to formally apply to the Secretary of State before operating permit schemes within their area – would be taken forward. These changes remove the burden on the Secretary of State's to assess and provide formal approval before a scheme can come into operation.

The decision will remove the burden on those authorities to prepare a prescribed set of documents and information to the Secretary of State. Additionally it will enable schemes to be brought into operation (or varied) to a date most suited to each authority's requirements. The decision as to whether or not an authority introduces a scheme and the methodology for doing so remains. Therefore both the permit regulations and statutory guidance are retained but have been amended to reflect both consequential amendments as well as a small number of other changes to assist the

effective development of schemes. The Secretary of State proposes to retain the power to direct an authority to vary or revoke failing schemes.

Additionally it is proposed that details of schemes and both an initial 12 month and then three yearly evaluation of schemes will be published by the local authority to ensure greater transparency (currently the only requirement is for an assessment after the first 12 months of operation). At the time of the first impact assessment only parts of the London scheme (LoPS), Kent and Northamptonshire had been operating long enough to provide formal evaluation at 12 months. The links to these scheme evaluations can be found on the websites below.

The London Scheme LoPS (including TfL)

<http://www.londoncouncils.gov.uk/search.htm?cx=012816060298198299354%3Aulbaum7l6aw&cof=FORID%3A11&ie=UTF-8&q=Search...LoPS+report#1085>

Kent

http://www.kent.gov.uk/roads_and_transport/highway_maintenance/kent_permit_scheme.aspx

Northamptonshire

<http://www.northamptonshire.gov.uk/en/councilservices/Transport/roads/Pages/PermitScheme.aspx>

Since then a range of other schemes and additional evidence has been made available.

Problem under consideration

The Government is committed to localism and reducing bureaucracy and there is no reason for the additional process layer, which takes up valuable Ministerial time, is retained. The current assessment process lengthens the process unnecessarily. Currently a considerable amount of time (officials, economist and legal) is spent by the Department assessing permit applications received from local authorities. It is considered that as authorities develop schemes themselves for their highways and their communities that they are best placed to bring in schemes that meet local needs, supported by the Regulations and Guidance. Both the Regulations and the Statutory Guidance will be amended and updated as a result of this change and policy changes.

Policy Rationale

The Traffic Management Act (TMA) 2004 require that in England and Wales where a local transport authorities chooses to introduce a permit scheme that it is submitted for assessment and approval by the relevant national authority before it can come into operation by order. In England this authority is the Secretary of State for Transport and in Wales the Welsh Assembly Government Ministers. The changes planned to be introduced by the Deregulation Bill receiving Royal Assent affect only the approval process for schemes in England – the amendments to the Traffic Management Act ensures that the position in Wales remains the same.

The Traffic Management Permit Scheme (England) Regulations 2007 provide for submission and approval of a permit scheme to the Secretary of State to ensure that schemes coming forward comply with policy requirements; statutory guidance and are sufficiently well evidenced including having a sound cost benefit analysis.

The Government decision, made 13 January 2013 by Written Ministerial statement to the House of Commons, announced that the preferred policy option - to remove the need for local authorities to formally apply to the Secretary of State before operating permit schemes within their area – would be taken forward. These changes remove the burden on the Secretary of State's to assess and provide formal approval before a scheme can come into operation.

Permit schemes are now operational across some 60 local highway authorities. By April 2015 it is anticipated that over 80 schemes will be operation. This will mean schemes will be operating

in over half of the local highway authorities across England. Evidence provided to date indicates schemes are delivering promising improvements in traffic management and reductions in the duration of works.

This change in the approval process and the resultant consequential changes to regulations and guidance resulted from the Government pursuing an active policy of devolving powers and decision-making from Whitehall to local government. As a result, Ministers have decided to remove the existing requirement for local highway authorities' permit scheme proposals to be submitted to the Secretary of State. This objective forms part of the Government's Red Tape Challenge. From April 2015 it will be for local highway authorities to take the final decisions on the scope and requirement for a scheme in their area. Once the authority had taken the decision to implement the scheme, it would give effect to the scheme by order. This will result in a saving of additional time taken by them in having to apply and provide a detailed submission to the Secretary of State.

The Secretary of State will retain the existing power to make regulations about Permit Schemes and issue Statutory Guidance. The regulations provide for a level of consistency. Subsequent to the 2012 consultation and the decision in 2013 the Department received representations from the statutory undertakers that the decision would result in reduced consistency in schemes.

Currently the regulations (regulation 10) requires that each scheme shall include provision for the Permit Authority to attach conditions to permits, and that the types of condition (from categories set out in regulation 10 (2) (a-h)) are set out. The statutory undertakers sought that there was a national set of conditions with all authorities using the same numbering system by which they could be applied and using the Electronic Transfer of Noticing (EToN) system to assist the operative actually undertaking the works. The sector (the Highway Authorities and Utilities Committee (England)) have developed wording for a set of conditions using the types set out in regulation 10 (2) (a-h). From March 2014 all new schemes have been required to adopt this wording and the numbering system. While there may be some financial benefit to statutory undertakers by authorities adoption of a standard set of wording for conditions it has not been monitored. It is considered that the benefit of national consistency and simplicity built into the system will assist all operators of EToN and all works operatives. It will provide greater protection of 'certainty' by the use of a common numbering system.

It has been decided to include one additional significant change to the permit scheme regulations. Currently Regulation 30 (Power to charge a fee and discounts) provides in regulation 30 (3) that the permit schemes shall include provision as to the circumstances in which fees may be discounted either in a specific circumstance or as range of discounts which may be applicable in that circumstance and the criteria which are to be taken into account in determining how the discount applicable in an individual case shall be identified from that range. It is proposed that schemes will in future be required to offer a specific discount to works undertaken on traffic sensitive time where those works are stated and finish wholly outside of those traffic sensitive times.

In reality it is expected that the provision of this discount (the level of the discount has not been specified) will not affect a significant number of works. Major works which make up approximately 5 – 8 % of an authorities works, but which attract the highest fees permit fees) are not likely to be affected as they are unlikely, except in exceptional cases, to be able to be undertaken wholly outside of traffic sensitive times. It is possible that there may be exceptions where traffic sensitivity is seasonal for instance where the sensitivity applies to say peak summer season and the major works can be completed in the winter. Also given that traffic sensitivity is mostly applied to road across rush hour and peak traffic use it is expected that the number of standard or even minor works that will be subject to the discount will still be minimal and so the change is not monitored. What the change is expected to achieve is to provide the sector with a clear signal that the Government seek behavioural change in the way works promoters consider, plan and conduct works. There is also likely to be a small benefit to some companies that undertaken works largely across the pavement aspect of the highway – this it is planned will encourage the timely delivery of superfast broadband – a Government priority.

Option 1 benefits

The monetised benefits for this policy are around the administrative time saved by the Secretary of State for approving schemes.

Local Authorities will also save time by not submitting schemes to the Department and statutory undertakers are likely to benefit from increased national consistency. The Regulations do not allow for authorities to make a profit, above running costs, from the implementation of permit schemes – nothing in the proposals will alter this, as the Regulations related to maximum fee levels remain unchanged. It is unlikely that there will be any direct cost savings to authorities so no amount has been included in the net present value.

There are also likely to be non-monetised benefits to the wider public where permit schemes assist in a more effectively managed road network, which has the potential to reduce congestion for all business and other road users.

Currently the Department for Transport reviews each application, essentially carrying out 4 tests, these are:

Test 1: A test of the compliance of the proposed scheme with the requirements of relevant legislation and the Secretary of State's statutory guidance. We currently check that the scheme contains statements that enable us to conclude that all the requirements written in the legislation and statutory guidance have been met.

Test 2: A test to determine if the proposed permit fees are reasonable and adequately justified. The Secretary of State is required, under section 37 (9) of the Traffic Management Act 2004 (TMA), to ensure that Permit fees raised by proposed schemes do not exceed the prescribed costs of implementing the scheme.

Test 3: A test of whether the proposed scheme is likely to deliver value for money. This requires a basic appraisal of the costs and benefits of the scheme, demonstrating that the scheme, on the balance of probabilities, is likely to deliver net benefits to road users and wider society that exceed the additional costs of the scheme.

Test 4: Finally, DfT currently consider whether the scheme is deliverable in practice, and if it is therefore in the public interest to give effect to the scheme through legislation.

All of the above will no longer be carried by the Department and will result in time and money saved.

A break down of each task and approximate staff costs (at 2012 and not updated) is listed below:

- Checking of permit application – 5 Days – HEO, Cost £445
- Checking of cost benefit analysis – 15 Days – G7, Cost £2113
- Checking of fees analysis – 15 Days – HEO, Cost £1335
- Checking compliance, i.e. objectives met, consulted etc – 15 Days – HEO, Cost £1335
- Legal analysis – 15 Days, G7, Cost £2113
- Specialist input and clearance – 5 Days, HEO, Cost £445
- Consideration of evidence and feedback from legal/economists – 5 Days – HEO, Cost £445
- Drafting submission – 5 Days, HEO, Cost £445
- Ministerial decision – 5 Days (unquantified)

This provides an estimate total cost per assessment of approximately (just under) £9,000. Removing the requirement for this assessment process would therefore save approximately this amount, per

case. This cost is a conservative estimate as cost savings associated with ministerial time have not been quantified. It should be noted that there are variables within salary bands and different personnel may be used over time (and straight salary not capitation rates have been used).

The number of applications made between 2013 to 2015 is expected to be around 16 to 20 applications (based on information currently available from the Joint Authorities Group, and authorities may also seek to join existing schemes), but as these will be delivered within the current process and Regulations they have not been included. A Guide provided by the Joint Authorities Group indicated that there may be only around another 20 schemes that will come into operation after 2015 once the approving powers rests with the authorities themselves – we have taken this to mean 2 per year over a 10 year period. The certainty of all these authorities or groups of authorities seeking to implement a scheme is high, many already undertaking scoping discussions with the Department or with those already running permit schemes.

That said the estimates provided by the Joint Authorities Group that only some 20 schemes would come forward after the change was made seems reasonable in this current policy environment as many authorities in less busy areas would have no particular need to introduce permit schemes to manage their roads (around a half of the ~150 local authorities would be without a permit scheme.)

Sensitivity analysis is undertaken to reflect the potential for different types of application to be submitted each year. Depending on their scale, they may incur higher/lower costs than the expected average (stated above). As such a range of cost figures is presented which allow for a +/-10% difference from average cost figures.

In future years there is of course the potential for every highways authority in England (around 151 in total) to decide to bring forward a scheme and introduction might increase as authorities learn best practice from those already in operation and development is simplified by using a 'template' from an existing scheme. This may mean that our estimate is conservative. The 2012 consultation process did not provide greater certainty on this, but further conversation with JAG following the close of the consultation indicated that around another 20 would consider developing schemes after 2015.

However the main benefit for authorities will be greater control over timing and delivery of ambition for introducing a scheme and the improved traffic management the schemes itself is likely to provide. Improved certainty of timing will also allow them to manage their budgets with greater predictability, for example in the recruitment in staff needed to operate permit schemes.

Option 1 costs

Although the burden on government to check and approve schemes is removed, the schemes still need to conform to best practice and the statutory guidance. This means that the burden will be transferred to Local Highways Authorities (LHA) to ensure that their schemes are compliant.

In theory, LHA should be designing and submitting schemes to government that are already compliant so the removal of the additional checking process should reduce burdens. However, following consultation local authorities have stated that, should the policy be implemented, they may increase their legal and economic assessments of schemes that they wish to bring in to ensure compliance with guidance. LHA have advised that costs faced would be similar to those burdens we are removing from central government, so the benefits described above are transferred to local authorities as costs. Therefore we estimate a cost per scheme to local authorities of approximately £9,000.

Regulations provide for authorities to recoup some of these costs from those applying for permit schemes as part of development costs. Over time therefore it is anticipated that authority permit fees will be reduced once recoverable costs have been recouped – this is already being seen in Kent where cost savings to the Local Authorities are to be passed on to applicants in the form of reduced fees.

Risks and assumptions

An initial impact assessment was provided to support the 2012 consultation process, but no additional evidence was provided by stakeholders during the consultation. We therefore applied directly to JAG for specific information to refine this final impact assessment during 2012.

- If the evidence used proves largely correct there is minimal risk to the costs and benefits shown, and the costs / assumptions are based on evidence of the review and assessment process since its introduction, and are therefore the assumptions made are considered to be robust as possible.
- Potential costs to utilities related to the introduction of a scheme are assumed not to change in the absence of DfT checking and approval of permit schemes – this does not mean that the introduction of a permit scheme will not involve additional cost to the utility, but that this cost will be the same whether the scheme is approved by the Secretary of State or the Chief Executive of a Highway Authority.

Scheme implementation and evaluation

It would be for highway authorities to develop scheme proposals and implementation plans (in consultation with street works undertakers and other interested parties). The Government's expectation is that local authorities shall have a robust evaluation plan built into any proposed scheme – and for there to be a twelve month and then three yearly transparent assessment. Local authorities are required to vary or revoke failing schemes where they fail to meet the benefits expected. The evaluation undertaken by authorities would need to set out the evidence that will be collected to undertake evaluation, setting out pre-permit scheme benchmarks against which the comparison would be made.

One-in One-out

We consider that this is **out of scope of OIOO regulations** because it does not affect businesses. Although permit schemes mean that businesses must apply for permits to highways authorities to conduct works, this IA applies to the approvals process for permit schemes and work to increase scheme consistency rather than the development, implementation or operation of the schemes themselves. Additionally as maximum fee levels are set within the Regulations (and will remain) the cost to business will not alter where the approval authority changes.

This is also part of the Red Taper Challenge (RTC) initiative – Department for Transport RTC number 141 Highways Traffic Management Permit Scheme Regulations (England) Regulations 2007 <http://www.legislation.gov.uk/id/2007/3372/uksi>
Departmental RTC decision is to improve – achieved as part of the resultants effects of changes to primary legislation.

Specific Impact Tests

As this affects only the approval process for permit schemes, not the existence of permit schemes themselves, we consider that removing Secretary of State approval will create no impacts on competition; equalities; small firms; or any other test.