East Sussex County Council

Network and Asset management

The East Sussex Lane Rental Scheme

APPLICATION VERSION + EDITS

October 2022

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Document Control Sheet

Document prepared by: JSS

Record of Issue

Title:	East Sussex Lane Rental Scheme (ESLRS) Document

Issue	Status	Author	Date	Recipients
V1	1st Draft	JSS	03/02/2022	Joint Development Group Members
V2	2nd Draft	JSS	08/03/2022	Joint Development Group Members
V3	3rd Draft	JSS	01/10/2022	Consultees and Stakeholders
V4	4th FINAL	JSS	01/04/2023	Internal Project Board / SoS Application

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INTRODUCTION

The New Roads & Street Works Act 1991 (NRSWA), as amended by the Transport Act 2000 and the Traffic Management Act 2004 (TMA), contains provision for Highway Authorities to operate lane rental schemes that involve charging Promoters for the time their street or road works occupy the highway.

The Regulations are the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012 ("the Regulations") made under Section 74A of NRSWA.

The East Sussex Lane Rental Scheme (ESLRS) has been introduced to enable East Sussex County Council (ESCC) to support their duty to co-ordinate and manage all street and road works, also known as activities, on the highway in order to minimise disruption.

The East Sussex Local Transport Plan includes 4 key objectives;

Our aim is to develop an effective, well managed transport infrastructure with improved travel choices.

We want to make East Sussex a prosperous county by:

- helping businesses to thrive
- delivering better access to jobs and services
- creating safer, healthier, more sustainable and inclusive communities.

Transport contributes to a wide range of other policies and plans. Our high-level objectives are to:

- improve economic competitiveness and growth
- improve safety, health and security
- tackle climate change
- improve accessibility and enhance social inclusion
- improve quality of life.

The ESLRS is expected to become operational in mid to late 2024.

East Sussex County Council is introducing the ESLRS to improve the County Council's ability to reduce disruption from activities on the highway.

Under the existing East Sussex Permit Scheme (ESPS), anyone intending to carry out activities on the highway must apply for permission from ESCC in advance of the activities. The ESLRS is designed to work in conjunction with the ESPS to complement the powers provided within the ESPS.

The power for Local Authorities to implement lane rental schemes in England is subject to the approval of the Secretary of State.

In accordance with the DfT's Guidance for Lane Rental Schemes, ESCC has consulted with all relevant stakeholders during the development of the ESLRS.

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OBJECTIVES & PRINCIPLES

The ESLRS seeks to limit the amount of disruption to East Sussex's roads by encouraging the undertaking of activities at the least disruptive time for road users, and for the early completion of works.

The ESLRS is designed to limit the carrying out of activities at specified locations by applying a daily charge for any part(s) of the day that the highway is occupied by the activities during chargeable hours.

The daily charge will not apply if the activities take place outside of the specified Traffic Sensitive times.

The ESLRS therefore provides a mechanism for providing all activities' Promoters with an incentive to change behaviour and minimise their occupation of Lane Rental Streets at the most Traffic Sensitive times which are the most critical parts of East Sussex's highway network.

The ESLRS applies the following guiding principles:

- The cost of disruption from activities on the highway network must be recognised;
- Inconvenience to all people using a street must be minimised, but especially for people with particular accessibility requirements, and also other vulnerable road users such as people walking or cycling.

The objectives of the ESLRS are to:

- Apply the scheme to all work Promoters on a consistent basis;
- Promote behaviour change to minimise the duration of occupation of the highway at the busiest locations at the most Traffic Sensitive times;
- Minimise the number of works taking place during the most Traffic Sensitive times; and
- Contribute to reducing disruption to all road users.

East Sussex County Council will measure these objectives and evaluate whether they are being met.

The means by which that will be achieved are set out in the Evaluation and Governance section of the ESLRS below.

NATIONAL INFRASTRUCTURE

The ESLRS will support, wherever possible, UK national infrastructure projects including:

- Airport expansion;
- High speed rail;
- Nationwide full fibre broadband by 2033;
- Half of the UK's power provided by renewables by 2030;

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- Three quarters of plastic packaging recycled by 2030;
- Preparing for 100 per cent electric vehicle sales by 2030;
- Ensuring resilience to extreme drought; and
- A national standard of flood resilience for all communities by 2050.

IMPROVEMENTS EXPECTED

The expected improvements from the ESLRS are:

- Behavioural changes that minimise the duration of occupation of the highway at the busiest locations at Traffic Sensitive times;
- Reductions in the number of works taking place during Traffic Sensitive times; and
- Contributions towards maintaining or improving journey time reliability on the highway network.

REGULATORY COMPLIANCE

The New Roads and Street Works Act 1991 (NRSWA) contains provision for two forms of charge for works:

- Section 74 – Charge for occupation of the highway where works unreasonably prolonged; and
- Section 74A – Charge determined by reference to duration of works.

The ESLRS, which applies charges determined by reference to the duration of works, is based on the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012 (the “Lane Rental Regulations”) made under Section 74A, and is designed to operate in conjunction with Section 74 of NRSWA, and the Traffic management (East Sussex County Council) Permit Scheme Order (“ESPS”), subject to certain exemptions on charges and fees contained within the Scheme.

The Prescribed Charge in the Regulations is the charge multiplied by the number of days, including part days, comprising the duration of the works.

East Sussex has operated the ESPS on its highway network since 11th November 2013 and all provisions of that scheme and those set out under Section 50 of NRSWA apply to the ESLRS.

Section 59 of NRSWA places a duty on Highway Authorities to co-ordinate works of all kinds on the highway.

Equally important is the parallel duty on works Promoters to co-operate in this process under Section 60 of NRSWA.

As well as the duty to co-ordinate under Section 59 of NRSWA, East Sussex County Council has a duty under Section 16 of the TMA to manage its road network (the Network

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Management Duty) with a view to achieving, so far as may be reasonably practicable, having regard to its other obligations, policies and objectives, the following overriding objectives:

- Securing the expeditious movement of traffic on the Authority's road network; and
- Facilitating the expeditious movement of traffic on road networks for which another Authority is the Traffic Authority.

In preparing the ESLRS, East Sussex County Council has had regard to the requirements of the Public Sector Equality Duty under section 149 of the Equality Act 2010.

SCOPE OF THE SCHEME

The ESLRS has been designed to ensure that charges are only applied when works Promoters occupy the highway at Traffic Sensitive times and to allow exemptions or reduced charges to encourage Promoters to adopt less disruptive working practices.

PROMOTERS

The ESLRS and the associated charging regime applies to all Promoters.

SPECIFIED WORKS

The ESLRS applies to all works, as defined in the Glossary, that require a permit under the relevant section of the ESPS, are executed under a NRSWA Section 50 licence, or are executed under an agreement pursuant to Section 278 of the Highways Act 1980.

In addition, unless covered by an exemption, any works would be liable to lane rental charges. Exemptions are shown below.

The ESLRS applies to works in a carriageway or a cycle track, or where works in a verge or on a footpath or on a footway encroach on a carriageway or a cycle track.

The ESLRS does not apply to works that are carried out in a verge or on a footpath or on a footway of a lane rental chargeable street that does not involve any occupation of a carriageway, a cycle track, (such occupation includes use by any associated plant, vehicles, or materials, or for any temporary arrangements for providing a walkway for pedestrians, as a result of or as part of the works).

SPECIFIED LOCATIONS

Under the DfT's Lane Rental Guidance Document, Lane Rental charges are to be targeted at the most Traffic Sensitive parts of an Authority's highway network, which are streets where evidence shows that works in the highway cause the highest levels of disruption and thus require the greatest efforts to manage the impact the works may have on pedestrians, cyclists, buses, freight or other general motor vehicles.

The streets selected on the East Sussex Highway Network are those where the Lane Rental charge will, by encouraging behaviour change, have the most effect in reducing disruption and the cost of disruption.

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The ESLRS will apply at the specified locations that are designated as a Lane Rental record within the current version of East Sussex's Additional Street Data (ASD) file. This is published on the National Street Gazetteer hub (as defined in the Glossary).

The Lane Rental designation record will identify:

- If it applies to the whole street or part street
- If it applies to the carriageway or cycle track
- If it is a tidal record it will identify the direction affected and the Lane Rental operational times, for example eastbound from 06:30 to 09:30.
- The days and times when Lane Rental will apply
- The applicable charge

East Sussex County Council will also publish a standard data set derived from the ASD file that spatially defines the specified locations that can be uploaded into industry or corporate geographical information systems.

SPECIFIED DAYS AND TIMES

Lane Rental charges under the ESLRS will apply to specified locations at specified days and times detailed in the 'ESLRS List of Lane Rental Streets'.

No charges will apply on Sundays, Bank Holidays and Public Holidays, including Good Friday, Easter Sunday, Easter Monday, Christmas Day or Boxing Day.

East Sussex County Council will confirm future charging arrangements for any ad-hoc or new Public Holidays designated over the life of the ESLRS.

At the very widest extent charges can apply from 06:30 to 20:30 in some locations, with reduced charging hours in other locations.

WORKS BY EAST SUSSEX COUNTY COUNCIL OR THIRD-PARTY DEVELOPERS

Works carried out by or on behalf of East Sussex County Council, including those by third party developers pursuant to an agreement under Section 278 of the Highways Act 1980, fall outside of the scope of 74A of NRSWA.

However, since it is East Sussex County Council's intention to minimise all disruptive occupation of the Traffic Sensitive parts of the East Sussex Highway Network, as part of the ESLRS, East Sussex County Council will apply the same Lane Rental charge to its own works, and works carried out under a Section 278 Highways Act agreement, as it does to statutory undertaker works.

IMMEDIATE WORKS

Immediate works (which can include Immediate Emergency & Immediate Urgent works) that must be carried out during the charging period to avoid significant danger to public safety or significant damage to property will be provided with a 'Lane Rental Charge Free Period' to enable the immediate works to be dealt with.

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The Lane Rental charge free period shall begin from the start of the immediate works and shall apply for a period of 48 hours after which time the normal lane rental rules for the location will apply on and from the third calendar day.

In order to minimise disputes, works Promoters claiming this waiver must, when requested by East Sussex County Council, provide documentary evidence of the nature of the emergency before the waiver will be granted.

This evidence will need to be sufficient to demonstrate the works categorisation as immediate works.

PERMIT SCHEME

The operation of the ESLRS will complement the East Sussex Permit Scheme. The information provided in a permit application and relevant notices, subject to any agreed correction, will be used to determine any daily lane rental charges.

PERMIT APPLICATION ON A LANE RENTAL STREET

As the content of the permit application will determine whether the planned or immediate works is within the scope of the ESLRS it is imperative for the Promoter to include accurate details for location and duration, including times.

For all permits where the ESLRS applies, the Permit Authority will assume, the activity is subject to the ESLRS. If the Promoter intends to work under a waived or reduce lane rental charge within the ESLRS, they must include relevant text in their permit application.

PERMIT VARIATIONS

The ESPS allows for a Promoter to vary a permit in instances where unforeseen circumstances prevent the completion of an activity within the agreed times and where the activity may extend beyond the reasonable period.

If the variation will result in the activity taking place in a different Lane Rental charging band to that of the original activity, then this must be clearly indicated on the permit variation application.

Promoters should also indicate any instances where the revised activity will result in work being carried out in a Lane Rental chargeable area for any part of the activity duration.

HIGHWAY AUTHORITY IMPOSED CHANGES

In any instances where the Permit Authority issues a Highway Authority Imposed Change to a Promoter which results in an activity becoming subject to the scope of the ESLRS, or an increased rate of ESLRS charge, no new charge or any increase in charges will be applied as a result of the Permit Authority's instruction.

PERMIT FEES

A permit fee will not be charged where an activity is liable to a ESLRS charge.

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The ESPS related process and procedures as defined in the East Sussex Permit Scheme are integral to the ESLRS.

Where an activity is not liable for a ESLRS charge, then the relevant permit fee will apply.

Where a permit fee has been applied but it is discovered, without a Promoter variation, that the activity carried out by the Promoter should have been subject to a ESLRS charge, then all permit related fees will be returned and ESLRS charges applied.

LANE RENTAL CHARGES

In accordance with the Regulations and the Scope of the ESLRS, ESCC will apply a daily rate of charge for the duration of the specified works carried out by the undertaker of the activities for the Promoter of the activities at the specified location during the specified times and days.

CALCULATING THE CHARGE

To calculate the daily rate of charge, other than for immediate works, the duration of the activities shall begin on the date specified in the actual start of works notice and end on the date specified in the works stop notice, the date activities ended.

For all types of immediate works, the charges will apply on and from the third calendar day of occupation – taking the works start as stated within the relevant permit application and ending on the date stated on the relevant Section 74 works clear, works closed or works stop notice.

Promoters are strongly encouraged to consider the carrying-out of immediate works outside of specified times or days wherever possible.

When calculating the actual work start and finish dates for all activities, the Permit Authority or the Promoter may provide additional information to prove a variation to the duration of the works and/or activity type, if different to any submitted application or notice.

In all circumstances any ESLRS charge will be applied according to the actual occupation and activity.

Section 74 overrun charges will apply in accordance with the Section 74 Regulations following the end of the agreed reasonable period, in addition to the ESLRS charges.

CHARGE CATEGORIES

The Regulations allow for a prescribed daily rate of charge, which may be waived or reduced in particular cases.

In accordance with the Regulations and with consideration to the objectives of the ESLRS, there are a range of charge categories depending on the traffic control type, works type, location, times and days of work.

The ‘ESLRS List of Lane Rental Streets and ‘ESLRS Charges Policy and Table’ sets out the traffic control type, works type, location, times and days of work and any applicable charge.

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If an activity spans more than one traffic control type at any time during the duration of the activities, then the daily rate of charge will apply for the days the different traffic control type is in place.

In instances where the works have fully moved to a lower traffic control type, thereby changing the charging to be applied, the Promoter must submit a timely permit variation. If the permit variation is solely for the purpose of notifying that the works have transferred from one traffic control type to another then this permit variation would not be subject to a fee.

For the calculation of charges in such instances the Permit Authority will determine the timings for such changes based on the receipt of the associated permit variation.

EXEMPTIONS

Certain types of works are **exempt** from Lane Rental charges under the ESLRS as follows:

- Works which are confined to a verge, footpath or footway with no impact on the carriageway or cycle track at a specified location;
- Works in a specified location, other than at a specified time;
- Sundays, Bank Holidays and Public Holidays, including Good Friday, Easter Sunday, Easter Monday, Christmas Day or Boxing Day.

If one of the above applies, the activities Promoter must record the appropriate Lane Rental charge exemption in the permit application and, if possible, works clear, works closed or works stop notices.

Failure to do so will result in appropriate action being taken.

WAIVERS

Charges will be **waived** for a period of 48 hours after which time the normal lane rental rules for the location will apply.

If one of the above applies, the activities Promoter must record the appropriate Lane Rental charge waiver in the permit application and, if possible, works clear, works closed or works stop notices.

Failure to do so will result in appropriate action being taken.

LANE WIDTHS

The minimum acceptable Lane Widths allowable under the ESLRS will be as defined in Safety at Street Works and Road Works a Code of Practice or otherwise in any superseding code of practice as that suitable for “Normal traffic including buses and HGV”;

Lane rental charges will not be applied to works which do not reduce the number of lanes, or prescribed width, available to traffic or if normal traffic flows can be maintained.

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VARIATIONS TO LANES AVAILABLE WITHIN AN ACTIVITY

In such instances where the reduction of lane width changes during an activity, the Promoter must submit a permit variation to the Permit Authority clearly indicating the change applied at the relevant time the change is made. There will be no permit fee for such variations.

For the calculation of changes in such instances the Permit Authority will determine the timings for such changes based on the receipt of the associated permit variation.

WORKS SPANNING MULTIPLE STREETS

Consideration will be given to applying a single charge at the highest, where a set of works span multiple streets, but only on condition that the works only impact traffic travelling in the same direction when passing the works. For example, traffic travelling from west to east along the same length of road.

HIGHWAY OCCUPATION

Without exception, works will be defined as complete when the Promoter has completed any required reinstatement and:

- Removed all signing, lighting and guarding in respect of the works; and
- Removed all remaining spoil, unused materials and other plant in respect of works; and
- Returned the highway fully to public use *(normal traffic capacity).*

REMEDIAL WORKS

Remedial works carried out at Traffic Sensitive times at specified locations to rectify defective reinstatements on the carriageway or on the footway, footpath or verge which impacts on the carriageway will be subject to the maximum daily charge for the applicable band.

REDUCED CHARGES

In accordance with the Lane Rental Regulations, East Sussex County Council may waive or reduced Lane Rental charges as it deems appropriate.

Details of when charges may be waived or reduced can be found in East Sussex County Council's currently published 'ESLRS Charges Policy and Table'.

An application to be waive or reduced charges must be made and agreed in advance of the works commencing by submitting a 'Waiver / Charge Reduction Request' electronically or via a form available from East Sussex County Council.

COLLABORATIVE WORKS

Any opportunity for two or more Promoters to collaborate their activities to reduce the occupation of the highways is strongly encouraged.

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Collaborative works that are carried out concurrently by two or more works Promoters at the same location can apply to have charges reduced for the period of collaboration.

In such circumstances, where works are carried out at the same location by two or more Promoters concurrently, the daily charge rate will be split between the associated Promoters following confirmation and acceptance in writing by all parties.

This equates to a minimum of a 50% charge reduction for collaborative working for each Promoter.

In some instances, charges may be reduced for collaboration where the works originate from two distinctively different operational divisions of the same organisation.

MAJOR INFRASTRUCTURE IMPROVEMENTS

Consideration will be given to reducing charges for major works that deliver significant highway infrastructure improvements, substantially extend/renew the longevity of an asset, or future proof a highway to protect it from being excavated again.

Please see the East Sussex County Council's currently published ESLRS Charges Policy and Table.

MONITORING ACTIVITY

The calculation of the daily rate of charge, in most circumstances, is based on the dates specified in the relevant Section 74 notices.

If during the monitoring of activities on the highway, the Permit Authority obtains evidence that the actual activity carried out by the Promoter varied from the notices received and as a result became subject to a daily rate of charge, then all relevant ESLRS charges or permit fees will apply.

The Permit Authority recognises the effect that unforeseeable circumstances can have on the carrying out of activities and will always consider fairness and any impact when taking appropriate action.

In such circumstances the Promoter is advised to contact the Permit Authority at the earliest opportunity to inform them of the reasons for change and to discuss mitigating action being taken to prevent any unnecessary disruption to the highway.

In all circumstances of monitoring activity, if the Permit Authority considered that an offence has been committed by the Promoter they may consider applying any relevant sanction or pursuing a prosecution.

PAYMENT AND RECONCILIATION

For the collection of lane rental charges from the Promoter, the Permit Authority will comply with the Regulations.

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TRANSITIONAL ARRANGEMENTS

The ESCC will provide Promoters with no less than 12 weeks formal notice for the coming into effect of the ESLRS.

The basic rules of transition will apply to all works which could be covered by the scope of the ESLRS:

I. The ESLRS will apply to all activities first notified to the ESPS, or in respect of which an application for a Permit or Provisional Advanced Authorisation (PAA) is made, after the ESLRS come-into-effect date;

II. Major schemes with a valid forward planning notice submitted on the permit system with a start date within twenty-four months of the ESLRS come-into-effect date will not be subject to charge;

III. Works, that are executed under a NRSWA Section 50 licence, or an agreement pursuant to Section 278 of the Highways Act 1980 that actually start within the three months of the ESLRS come-into-effect date will not be subject to charge;

IV. Major activities with a permit prior to the ESLRS coming into effect that actually start within the three months of the ESLRS come-into-effect date will not be subject to charge;

V. Standard, Minor and immediate works with a permit prior to the ESLRS coming into effect that actually start within the one month of the ESLRS coming into effect date will not be subject to charge; and

VI. If any activities covered by (iv) and (v) are varied by duration or methodology once the ESLRS is in effect, they will become subject to a charge.

In advance of the ESLRS coming into effect and during the period of notice, the Permit Authority will operate a shadow-running of the ESLRS for a period of 4 weeks.

This period will provide opportunity for the Promoter and Permit Authority to embed new ways or working, including operating processes and IT system usage.

If during this period and prior to a ESLRS coming into effect any Promoter considers that they have a planned activity that may affect their compliance to the ESLRS, they must contact the Permit Authority at the earliest opportunity to discuss a practical resolution.

During the transition and formal notice period, prior to a ESLRS coming into effect, no ESLRS charges will apply.

There are no dis-applied or modified sections from NRSWA as a result of the ESLRS coming into effect.

Timeline Overview	Month 1	Month 2	Month3	Month 4	Month 5	Month 6

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SoS Approval						
Notice Given to promoters						
Statutory Instrument Process						
Shadow Running + No Charges						
ESLRS Commences + Charges						

DISPUTE RESOLUTION

East Sussex County Council is committed to delivering its Network Management Duty through the use of all tools available.

East Sussex County Council is committed to maintaining a positive working relationship with all stakeholders and particularly those that carrying-out road and street works on the East Sussex Highway Network.

Please see the Code of Practice for Co-ordination of Street Works and Road Works and Related Matters, HAUC (England) Edition, Chapter 13 Dispute Resolution.

DISPUTE REVIEW

If agreement cannot be reached locally on any matter arising in relation to the ESLRS, the dispute will be referred for review on the following basis:

Straightforward issues. Where East Sussex County Council and the Promoter(s) consider that the issues involved in the dispute are relatively straightforward, the matter will be referred to impartial members of SEHAUC for review.

That review should take place within the timescales set-out in the HAUC dispute process, from the date of referral. East Sussex County Council will accept the result as binding.

Complex Issues. If East Sussex County Council and the Promoter(s) involved in the dispute think the issues are particularly complex, HAUC(England) will be asked to set up a review panel of four members - two Utilities and two Highway Authorities. One of the four persons will be appointed as Chair of the panel by the HAUC(England) joint chairs.

Each party must make all relevant financial, technical and other information available to the review panel.

The review would normally take place within the timescales set-out in the HAUC(England) dispute process, from the date on which the issue is referred to HAUC(England). The conclusions of the review panel will be binding on all parties.

Adjudication. If agreement cannot be reached by the procedure above, the dispute can be referred to independent adjudication. Adjudication within the ESLRS will only be used if East Sussex County Council and the Promoter(s) agree in relation to the matter under dispute, that

- the decision of the adjudicator is deemed to be final; and

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- the costs of adjudication will be borne equally unless the adjudicator considers that one party has presented a frivolous case, in which case costs may be awarded against them.

Where the adjudication route is followed, East Sussex County Council and the Promoter(s) will apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from a suitable recognised professional body.

Arbitration. Disputes relating to matters covered by the following sections of NRSWA may be settled by arbitration, as provided for in Section 99 of NRSWA:

- Section 74 (2) - charges for occupation of the highway where works are unreasonably prolonged;
- Section 74A (12) - charges determined by reference to duration of works;

SANCTIONS

Regulations 21 to 28 of the Traffic Management Act Permit Scheme (England) Regulations 2007 (and Schedules 1 & 2) authorise ESCC as a Permit Authority to issue Fixed Penalty Notices in respect of criminal offences.

OFFENCES

Fixed Penalty Notices offer the offender an opportunity to discharge liability for an offence by paying a penalty amount.

These powers and any subsequently amended powers will continue to apply to all roads within the roads managed by ESCC.

Similarly, any offences under NRSWA continue to be offences and ESCC as a Permit Authority maintains the right to take such action, as is appropriate, including prosecution where such offences have been committed.

SECTION 74 OF NRSWA

East Sussex County Council will continue to apply its powers under Section 74 of NRSWA.

Section 74 overrun charges will apply in accordance with the Section 74 Regulations following the end of the agreed reasonable period, in addition to the ESLRS charges. The charge will consist of a single payment of £100 in the circumstances set out in paragraph (8) of the Regulations.

IT SYSTEMS AND STREET GAZETTEER

IT SYSTEMS

As defined with the East Sussex Permit Scheme, all permit applications must comply with the definitive format and content of electronic permit applications.

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NATIONAL STREET GAZETTEER

The National Street Gazetteer (NSG) and associated additional street data (ASD) will contain the related information for the ESLRS specified locations.

This data will be kept up to date by the Permit Authority, as NSG Custodian, and no variations to the ESLRS will come into effect without the relevant updates to the NSG and/or ASD, as required.

SCHEME VARIATIONS

Demands on the East Sussex highway network are always subject to change and therefore ESCC will always seek to change the ESLRS in order to help manage that demand.

It is therefore expected that the ESLRS and scope may vary in order to ensure it is providing the necessary powers and tools required by the Permit Authority to meet their statutory duty. There may be a requirement to amend the waivers and/or charge reductions to ensure the incentives from the ESLRS charges are achieving the desired objectives.

In circumstances where ESCC wants to change the ESLRS, subject to Regulation, any such changes will be formally consulted on including via SEHAUC. Where applicable, for example, in the amendment to locations or charge bands, associated evidence will be provided to justify the changes requested.

Any changes will not vary the total road length or number of streets or alter the overall ratio of charge bands covered by the ESLRS from the current number by more than +/- 3% (three per cent). Any minor variations to the Schedule may be applied no more than once per year of Scheme operation.

For more substantial changes to the ESLRS such as the scope and structure of the scheme, these cannot be made without the consent of the Secretary of State, in which case a new application and legal Order may be required. In this case a Lane Rental Scheme Joint Development Group will be established which will Consider, review and comment on documentation prepared to support formal consultation with stakeholders by East Sussex County Council for proposed changes to the ESLRS.

The Joint Lane Rental Development Group will be made up of Officers of the Council, Environmental Health officer(s), local Utility representatives who are members of the Joint Utilities Group (JUG), any consultants or support staff employed by the Council, National Highways, and neighbouring Local Authorities as appropriate.

Formal consultation will follow the most recent published DfT Guidance available at the time the consultation is undertaken.

EVALUATION AND GOVERNANCE

PARITY OBLIGATION

ESLRS will apply to East Sussex’s own works in the same way as it applies to all Promoters activities.

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The principles applied to the application of the surplus revenues will be applied equally, without any consideration to the source of the revenue and in consistency to the parity treatment for all Promoters within the ESLRS.

LANE RENTAL SCHEME EVALUATION

East Sussex County Council recognises the need to evaluate the operational performance of the ESLRS, both in terms of its efficiency and the effectiveness at meeting its objectives.

The ESLRS will be evaluated on an annual basis. The first evaluation report will cover a full year from the commencement date specified in the Statutory Instrument / Lane Rental Scheme Order.

See the East Sussex Lane Rental Scheme Evaluation Plan for further details.

Prior to the ESLRS coming into effect ESCC will prepare a full cost-benefit analysis to demonstrate that the overall benefits are sufficient to justify the full costs involved in running the ESLRS.

The Permit Authority will collect data, prior to the ESLRS coming into effect, in order to provide a clear evaluation of the benefits achieved from operating the ESLRS.

SURPLUS REVENUE POLICY

In accordance with the Regulations, the East Sussex County Council will retain revenues obtained from charges to meet the costs incurred for operating the ESLRS, including any subsequent costs required for ESLRS evaluation.

Any surplus revenues will be applied towards initiatives that are associated to the objectives of the ESLRS, within the areas shown below.

- Investments in innovation and developing new disruption saving products, services or techniques;
- Trials of new disruption saving products or techniques;
- Transportation;
- Installing infrastructure to enable apparatus to be accessed without disruption;
- Measures to improve systems and records;
- Measures to improve noise, pollution or safety relating to activities;
- Measures to mitigate congestion and disruption caused by activities, particularly major projects;
- Enabling infrastructure; and
- Industry practices and research and development.

Surplus funds may be used for either capital or revenue projects.

To determine the use of any surplus revenue; the East Sussex County Council or its agent will establish a ESLRS Board. This Board will comprise of representatives of:

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- Representatives from the Joint Utilities Group (comprising water, gas, electricity and communications);
- Representatives from ESCC;
- An independent Board Chair;
- Representatives from the team or body that administers the process that evaluates opportunities or requests for funding and monitors and reports on the results.

Requests will be submitted with a business case setting out estimated costs, benefits; expected outcomes; and time scales.

If the person or organisation submitting the request for funding does not have the skills or resources to prepare business case, a request can be made to the team or body that administers the process for support. Details of relevant forms will be provided on the East Sussex County Council web site and are available upon request from East Sussex County Council.

The results of the initiatives undertaken will be published and an objective measurement will be recorded and also published to in order to identify the end benefit towards the network management and road users in East Sussex.

The management of the revenues from the ESLRS will be separate from other ESCC revenues.

East Sussex County Council or its agent will keep an account of the revenues and costs associated to the ESLRS, including a record of the application of surplus revenues. These accounts will be published on an annual basis.

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GLOSSARY

TERM	EXPLANATION
Activity	Means street works as in Part 3 of NRSWA and works by licences under Section 50 of NRSWA and works for road purposes as defined by Section 86 of NRSWA.
Additional street data ("ASD")	Additional Street Data (“ASD”) refers to other information about streets held on the National Street Gazetteer (NSG) hub alongside the NSG adjudication.
Adjudication	See the Dispute Review section of the ESLRS.
Apparatus	As defined in Section 105(1) of NRSWA "apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus".
Appeal	Where there is an unresolved disagreement between the works promoter and the Permit Authority about a Permit Authority’s decision or actions the promoter may appeal against the Permit Authority’s decision to either their regional HAUC or HAUC England.
Arbitration	As defined in Section 99 of NRSWA, "any matter which under this Part is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers".
Bank holiday	As defined in Section 98(3) of NRSWA, "bank holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated".
Carriageway	As defined in Section 329 of the HA 1980 “means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles.
Cycle Track	As defined in Section 329(1) of the Highways Act1980, "cycle track means a way constituting or comprised in a highway, being a way over which the public have the following, but not other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot".
Day	In the context of the duration of activities, a day refers to a working day, unless explicitly stated otherwise.
DfT	Department for Transport.

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Diversionary	As defined in Regulation 2(2) of The Street Works (Sharing of Cost of Works) (England) Regulations 2000 and further outlined in the code of practice “Measures Necessary Where Apparatus Is Affected by Major Works (Diversionary Works) 1992”.
Immediate Works also known as Emergency Works	As defined in Section 52 of NRSWA, “emergency works means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property".
Fixed Penalty Notice (FPN)	As defined in schedule 4B to NRSWA, "fixed penalty notice means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty".
Footway	As defined in Section 329 of the Highways Act 1980, "footway means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only".
HAUC(UK)	The Highway Authorities and Utilities Committee for England.
Highway	As defined in Section 328 of the Highways Act 1980, "highway means the whole or part of a highway other than a ferry or waterway".
Highway Authority	As defined in Sections 1 and 329 of the Highways Act 1980.
Highway works	"works for road purposes" or "major highway works".
Lane Rental Regulations	The Street Works (Charges for Occupation of the Highway) (England) Regulations 2012 (as amended)
In	As defined in Section 105(1) of NRSWA, "in, in a context referring to works or activities, apparatus or other property in a street or other place includes a reference to works or activities, apparatus or other property under, over, along or upon it".
Maintenance	As defined in Section 329 of Highways Act 1980, "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly".

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Major highway works	As defined in Section 86(3) of NRSWA, "major highway works means works of any of the following descriptions executed by the Highway Authority in relation to a highway which consists of or includes a carriageway – (a) a reconstruction or widening of the highway; (b) works carried out in exercise of the powers conferred by Section 64 of the Highways Act 1980 (dual carriageways and roundabouts); (c) substantial alteration of the level of the highway; (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway; (e) the construction or removal of a road hump within the meaning of Section 90F of the Highways Act 1980; (f) works
Major Infrastructure	Deliver significant infrastructure improvements or upgrades that substantially extend the longevity of, improve, or renew an asset. Are recognised to be nationally significant infrastructure projects; or Install infrastructure specifically to minimise detrimental impact of future works.
National Street Gazetteer (NSG) – also referred to as Nationally Consistent Street Gazetteer	A database defined as "an index of streets and their geographical locations created and maintained by the local Highway Authorities" based on the BS7666 standard.
Network Management Duty	As stated in Part 2 of TMA.
NRSWA	New Roads and Street Works Act 1991.
NSG Custodian	The body appointed to manage the NSG on behalf of the local Highway Authorities.
Permit	The approval of a Permit Authority for an activity Promoter to carry out activity in the highway subject to conditions.
Permit application	See the East Sussex Permit Scheme. The application that is made by a Promoter to the Authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (Section 55 of NRSWA) given under the Co-ordination regime.
Permit Authority	A Local Authority or other “Highway Authority” which has been given approval by the Secretary of State to operate a permit scheme on all or some of its road network
Permit Scheme	A scheme approved by the Secretary of State or Local Order under which permits for highways activities are sought and given.

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Promoter	Any organisation carrying out works in the highway regardless of whether they are working directly for, or on behalf of an authority or an undertaker. See also “Undertaker” or “Works Promoter”.
Prescribed	As defined in Section 104 of NRSWA, "prescribed means prescribed by the Secretary of State by regulations, which may (unless the context otherwise requires) make different provision for different cases".
Reasonable period	As defined in Section 74(2) of NRSWA, "a reasonable period means such period as is agreed by the Authority and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question".
Registerable	As stated in NRSWA, registerable activities correspond to specified works in the regulations and codes of practice.
Reinstatement	As defined in Section 105(1) of NRSWA, "reinstatement includes making good".
Remedial work	Remedial works are those required to put right defective reinstatements identified in accordance with the provisions of the Code of Practice for Inspections and regulations.
Road	"highway".
Road category	This means one of the road categories specified in paragraph 1.3.1 of Chapter S.1 of the code of practice entitled “Specification for the Reinstatement of Openings in Highways” dated June 2002 and approved by the Secretary of State for Transport on 30th June 2002, as revised or re-issued from time to time.
Road works	Works for road purposes. See below.
Seasonal	The period between 01 April to 30 September inclusive.
SEHAUC	South East regional group of the Highway Authorities and Utilities Committee.
Section 74 Regulations	The Regulations made under Section 74 current at the time of issue of the Scheme, namely the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009
Specified Locations	Are the locations designated in a Lane Rental record within the current version of TfL’s Additional Street Data (ASD) file, which is published on the National Street Gazetteer hub.
Specified Times	Are the operational times designated in a Lane Rental record within the current version of the Additional Street Data (ASD) file, which is published on the National Street Gazetteer hub.

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Statutory right	As defined in Section 105(1) of NRSWA, "statutory right means a right (whether expressed as a right, a power or otherwise) conferred by an enactment (whenever passed or made), other than a right exercisable by virtue of a street works licence".
Street	As defined in Section 48(1) of NRSWA, "street means the whole or any part of any of the following, irrespective of whether it is a thoroughfare (a) any highway, road, lane, footway, alley or passage; (b) any square or court; (c) any land laid out as a way whether it is for the time being formed as a way or not".
Street Authority	As defined in Section 49(1) of NRSWA, "the Street Authority in relation to a street means, subject to the following provisions (a) if the street is a maintainable highway, the Highway Authority, and (b) if the street is not a maintainable highway, the street managers".
Street works	As defined in Section 48(3) of NRSWA, "street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street".
Street works licence	As stated in Section 50(1) of NRSWA, "the Street Authority may grant a licence (a "street works licence") permitting a person (a) to place, or to retain, apparatus in the street, and (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).
TMA	The Traffic Management Act 2004.
Traffic	As defined in Section 105(1) of NRSWA, "traffic includes pedestrians and animals".
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works".
Traffic flow	The number of vehicles using the particular street at specified times of the day and year, measured in accordance with DfT guidelines.

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Traffic Regulation Order (or Traffic Order)	This means an Order made under Section 1, 6, 9 or 14 of the Road Traffic Regulation Act 1984.
Traffic Sensitive Street	This means a street designated by a Street Authority as Traffic Sensitive pursuant to Section 64 of NRSWA and in a case where a limited designation is made pursuant to Section 64(3) any reference to works in a Traffic Sensitive street shall be construed as a reference to works to be executed at the times and dates specified in such designation.
Transportation	Transport or transportation is the movement of humans, animals, and goods from one location to another. In other words, the action of transport is defined as a particular movement of an organism or thing from a point A to a Point B. Modes of transport include air, land (rail and road), water, cable, pipeline, and space. The field can be divided into infrastructure, vehicles, and operations. Transport enables trade between people, which is essential for the development of civilization.
Undertaker	As defined in Section 48(4) of NRSWA, "undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be".
Working day	As defined in Section 98(2) of NRSWA, "for the purposes of this Part a working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and a notice given after 4.30 p.m. on a working day shall be treated as given on the next working day".
Works	“Specified works” as defined in The Traffic Management Permit Scheme (England) Regulations 2007; Works executed under Section 50 of NRSWA; and Works executed pursuant to an agreement under section 278 of the Highways Act 1980
Works clear	A works clear notice is used following interim reinstatement.
Works stop	A works stop notice notifies that works are no longer occupying the highway.
Works closed	A works closed notice is used following permanent reinstatement.

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Works for road purposes	As defined in Section 86(2) of NRSWA, "works for road purposes means works of any of the following descriptions executed in relation to a highway: (a) works for the maintenance of the highway; (b) any works under powers conferred by Part V of the Highways Act 1980 (improvement); (c) the erection, maintenance, alteration, or removal of traffic signs on or near the highway; or (d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles".
Works Promoter	Means a person entitled by virtue of a statutory right to carry out street works or works for road purposes.

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APPENDIX A – LANE RENTAL SCHEME DATA PREPARATION

Lane Rental can only be applied to streets that are already Traffic Sensitive.

ESCC will review Traffic Sensitivity regularly, between every one (1) to three (3) years, to ensure it is accurate and up to date.

The National Street Gazetteer (NSG) and Associated Street Data (ASD) contain the relevant data for all ESLRS specified locations.

Prior to implementing the ESLRS, ESCC will ensure the quality and accuracy of the ASD.

ESCC will contact the National Street Gazetteer (NSG) concessionaire before going live with the ESLRS to ensure that the data is submitted, published, and communicated in a timely manner.

END OF DOCUMENT

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