

Yorkshire Common Permit Scheme For Road Works and Street Works



Traffic Management Act 2004

Permit Durations, Challenges, etc.

Yorkshire Common Permit Scheme: Advice Note No. Fifteen

| | | |
|---------------------------|--|------------------------------|
| Document Name: | <i>Permit Durations, Challenges, etc.)</i> | Document No: YPAN/015 |
| Date Issued: | 19 April 2013 | |
| Date Revised: | 3 March 2016 | |
| Related Documents: | | |

Background:

The Yorkshire Common Permit Scheme (YCPs) provides that permit authorities can agree to extend the estimated end date of a permit without agreeing to extend the ‘reasonable period’ under Section 74 (S74). This allows the permit to reflect the promoter’s continued presence on site but enables the authority to apply S74 overrun charges. Permit authorities have been asked to clarify the circumstances in which this would be done.

The Amendment Regulations which came into effect on 1 October 2015 provided some clarification regarding works which have continued beyond the permitted duration.

Permit authorities have identified a number of scenarios where they may need to challenge the duration of a permit and, in doing so, have also considered whether S74 overrun charges and/or fixed penalty notices (FPN) might apply.

Under the Yorkshire Common Permit Scheme (YCPs), permit authorities can:

- Agree to extend the estimated end date of a permit without agreeing to extend the ‘reasonable period’ under S74 (YCPs, 8.2.2 and 12.8.)
- Apply S74 charges to overrunning street works (see YCPs, 12.2 and Appendix D, 1.3.)
- Give a FPN for breach of permit conditions (YCPs, 13.2(2).)
- Permit authorities have the right individually to waive or reduce any S74 charge (YCPs, 12.12.)
- Decide individually whether or not to give any FPN (YCPs, 14.1.)
- Charges for S74 overruns and FPNs are payable only by utility companies (YCPs, 12.1 and 14.1.)

Advice:

The following scenarios set out the approach to be taken by permit authorities:

1. PAA/PA/Variation Application received before works commence.

- a) Where the permit authority is satisfied that the revised duration is reasonable, the authority will grant the Permit/Permit Variation (subject to no other changes to conditions that are not agreed).
- b) If the permit authority is not satisfied that the revised duration is reasonable, the Permit/Permit Variation will be refused.
 - i. *Process for managing the situation in YCPs, 12.5 – “Until a dispute is resolved, the activity may proceed, provided a permit has been issued.” – dealt with on a case-by-case basis.*

2. Duration Variation Application received after works are in progress but before the current permit duration expires

- a) Where the permit authority is satisfied that the extended period is reasonable, the authority will grant the Permit Variation (subject to the DVA not including other changes to conditions that are not agreed).
- b) Where the permit authority is not satisfied that the extended period is reasonable and the authority's duty to coordinate is not compromised, the authority will:
 - i. Grant the Permit Variation; and
 - ii. Send a Duration Challenge, setting the estimated finish date as required.
 - iii. Where the works overrun the estimated finish date contained in the Duration Challenge then the permit authority may apply S74 overrun charges.
- c) Where the permit authority is not satisfied that the extended period is reasonable and the road space required would compromise the authorities' coordination duty, the authority will:
 - i. Refuse the Permit Variation, informing the promoter of the reasons for the refusal;
 - ii. Where the works overrun the estimated finish date contained in the last agreed permit/varied permit then the permit authority:
 - a) Can apply S74 overrun charges; and
 - b) Can give an FPN for breach of permit conditions

3. Duration Variation Application received after works are in progress but after the current permit duration expired

- a) Where the permit authority is satisfied that the extended period is reasonable, the authority
 - i. May grant the Permit Variation (subject to the DVA not including other changes to conditions that are not agreed) and consider giving a FPN for breach of permit conditions before granting the DVA.
 - ii. Where a permit is granted, authorities would not apply S74 overrun charges;
- b) Where the permit authority is not satisfied that the extended period is reasonable and the authorities duty to coordinate is not compromised, the authority:
 - i. May grant the Permit Variation; and
 - ii. Send a Duration Challenge, setting the estimated finish date as required.
 - iii. Where the works overrun the estimated finish date contained in the Duration Challenge then the permit authority:
 - a) Can apply S74 overrun charges.
 - b) Can give an FPN for breach of permit conditions.
- c) Where the permit authority is not satisfied that the extended period is reasonable and the road space required would compromise the authorities' coordination duty, the authority:
 - i. Will refuse the Permit Variation;

- ii. Where the works overrun the current permit end date then the permit authority:
 - a) Can apply S74 overrun charges.
 - b) Can give an FPN for breach of permit conditions.

4. Works still in progress after the current permit duration has expired, no Duration Variation Application received

- a) The works are considered to be “breach of permit conditions” and so the permit authority:
 - i. Applies S74 overrun charges;
 - ii. Gives an FPN for breach of permit conditions.

The circumstances in which permit authorities would use the facility to grant a permit variation but then issue a duration challenge are:

Where works are in progress and the revised duration is not considered by the authority to be reasonable but there are no other overriding calls on the road-space, including other works or events on the network

End of Doc
Yorkshire Common Permit Scheme Authorities