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HIGHWAY AUTHORITIES & UTILITIES COMMITTEE

Advice Note No. 2014/xx

NRSWA S58 & 58A RESTRICTIONS

(Applicable to ENGLAND only)

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Document Owner:	Paul Castleman and Paul Gerrard (Joint Chairs of the HAUC(UK) Coordination Working Group)
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1. BACKGROUND

There is currently no consistency in England in the implementation and understanding of the requirements for notification and imposition of restrictions under sections 58 and 58A of the New Roads and Street Works Act, 1991 (NRSWA) and associated regulations.

Variations range from;

- statutory notifications being served for **less than** the required 3 month period,
- non-posting of section 58 / 58A proposals on local authority web-sites,
- incorrect or no notification of restrictions in EtoN,
- lack of scrutiny of section 58's / 58A's by work promoters when planning works in newly surfaced highways – leading to unnecessary conflict.

These “variations” in application are causing several issues including;

- preventing positive planning by works promoters by not enabling them to know of resurfacing works in advance and so encourage planned works to be brought forward where practical,
- non-statutory section 58 / 58A restrictions in place which has led to unnecessary conflict and extra resource time being involved in agreeing “consent” for subsequent works in the restrictive period,
- disturbance of the new highway surface leading to both aesthetic nuisance and poor public perception of street and road works co-ordination.

Key Point

The issues may be due to lack of training / education in NRSWA administrative roles but the consequences can lead to excessive time involvement to resolve the problems, and most importantly the poor public perception of our work planning methods.

2. OBJECTIVE

The objective of this HAUC (UK) Advice Note is to provide street authorities (authorities) and statutory undertakers (undertakers) with guidance when applying section 58 and section 58A work restrictions on the highway network.

The key principles are that authorities and undertakers are strongly encouraged to;

- use their best endeavours to utilise this process for road and street works that have working restrictions applied on them as defined within NRSWA and as-

sociated regulations; and

- that each individual situation for a restriction being applied **is** considered on its own merit.

3. SCOPE

This advice note and process has been developed as part of HAUC (UK)'s desire to support its members in helping them manage section 58 and section 58A restrictions efficiently and effectively.

Section 58 of NRSWA refers to 'Restriction on works following substantial road works'; likewise section 58A of NRSWA refers to ' Restriction on works following substantial street works'

The information and details contained in this advice note do not override any requirements of the New Roads and Street Works Act 1991, Traffic Management Act 2004 and/or any associated Street Works Regulations.

It is strongly recommended that this advice is briefed to all works promoter staff involved with work planning and notification and highway authority staff responsible for the co-ordination of street and road works

HAUC (UK) advocates 'Forward Planning Information' as good practice when proposing a section 58 / 58A notification as this then allows all organisations advance notice of the proposed restrictions.

The formal announcement of a proposed restriction must be supported by publishing the section 58 / 58A notice on the publicly accessible local authority web-site.

HAUC (UK) strongly advocates that the section 58 / 58A notification is also put onto the EToN Register as another means of early identification of a works restriction.

Key Point

The Technical Specification for the Electronic Transfer of Notifications (EToN) notification is most important as this will effectively flag the proposed restriction to any works promoter trying to plan works via EToN.

The following procedural advice is therefore offered as a reminder to all.

4. PROCEDURE

4,1 Authorities

HAUC (UK) strongly advocates that the following steps are followed when creating a section 58 / 58A works restriction

1. The authority should discuss any potential section 58 / 58A restriction at the relevant co-ordination meeting as best practice.
2. The authority shall publicise proposed section 58 / 58A works restriction notices on the local authority web-site.

3. The authority shall notify all interested parties of the proposed section 58 / 58A works restriction giving a **minimum 3 months notice** of the intended commencement date.
4. The authority is strongly recommended to issue section 58 / 58A proposed works notices via EToN, ensuring that the road restriction data is entered correctly within EToN.
5. The authority should also issue a section 58 / 58A restriction in force notice via EToN when the works are completed.
6. If the proposed works are no longer required the authority should send an EToN cancellation notice to all the previously notified interested parties.

4.2 Works Promoters:

The following steps regarding restrictions are advocated for promoters:

1. Ensure that all authorities that you work with are aware of your interest in their area and know which Operational District you want EToN restriction notifications to be sent to.
2. Ensure that the systems you use are configured to draw your attention to any restrictions that may be proposed or in force when you are proposing your own works.
3. If a restriction is found which applies to your works then contact the authority immediately to obtain agreement if you still feel it is important to proceed with the works.
4. Use the EToN “Get Restrictions” mechanism to obtain details of current restrictions when you start working in a new area.

4.3 Notes:

1. The “Proposed Restriction” field is statutory and the “Restriction in Force” field optional – see EToN – “Restrictions & Diversionary Works” Section – Table 3.1).
2. Attention is also drawn to the restriction periods outlined in Table 6.1 of the Code of Practice, the validity of the section 58 / 58A notice in sections 6.3.1 and 6.6, and the exemption rules outlined in section 6.5.
3. Failure to give 3 months advance notice as prescribed will lead to the section 58 / 58A restriction having no statutory backing and the totally avoidable potential for conflict caused by works being promoted after the resurfacing / reconstruction has taken place.
4. If the road works have not started within 6 months of the proposed start date the notice ceases to be valid; hence it is vitally important that the correct notification process is followed to ensure a fully legal and compliant restriction comes into force.

5. Exemptions

Planned street works and works for road purposes may be carried out following substantial road or street works either:

- (a) after any relevant statutory section 58 / 58A restriction period has ended; or
- (b) within the section 58 / 58A restriction period, where allowed under NRSWA and associated regulations and permit schemes.

However, it is accepted that breaking up of a “newly surfaced” highway may have an aesthetically detrimental effect on the appearance of the highway surface in certain locations such as town centres or conservation areas.

As there is currently no legislation in force to support any process for half-width, full width or “extended footprint” (e.g. a larger patch) reinstatement to be carried out by the works promoter, it is imperative that wherever possible discussions take place with the relevant authority in advance of any such planned works.

6. TERMS OF REFERENCE

New Roads and Street Works Act 1991

Traffic Management Act 2004

The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 No. 1951

Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters – Fourth Edition October 2012

Code of Practice for Permits - March 2008

Specification for the Reinstatement of Openings in Highways - Third Edition (England) April 2010.

7. FOOTNOTE

Adherence to this advice note is considered by HAUC(UK) to be ‘good practice’ and should ensure that all section 58 and section 58A restrictions are legally compliant, easily identified by works promoters and any potential conflicts are avoided.

END