



1 Schedule 42 – Statutory Powers Protocol

Nominated Contact

- 1.1 The Service Provider's Network Manager shall be responsible for the application of the Protocol and for decisions regarding the exercise of the delegated Statutory Powers.

General Principals

- 1.2 The Service Provider shall ensure that when carrying out its obligations under this Statutory Powers Protocol that it shall, and shall procure that all of its Personnel shall, act in a reasonable and proportional manner. The detailed processes below demonstrate this approach.

Detailed Processes

- 1.3 Removal or repositioning of skips pursuant to section 140 of the Highways Act 1980 or enforcement of the terms of a skip licence pursuant to section 139 of the Highways Act 1980.
- 1.4 Service Provider Programmed Works shall be noticed in accordance with the requirements of NRSWA 1991 and TMA 2004. This shall ensure that the Authority's Traffic Manager is able to co-ordinate the issuing of skips licences with the Service Provider's Programmed Maintenance.
- 1.5 The Service Provider shall check the Street Work's Register (SWR) 3 days prior to Programmed Works starting on site to identify any open licences on the relevant part of the Project Network.
- 1.6 If there is a licence in force that could affect the Programmed Maintenance then the Service Provider's Network Manager (or suitable deputy) shall contact the skip owner and request that it is repositioned or removed. The Authority's Traffic Manager shall be made aware of the presence of the skip and the actions the Service Provider has undertaken. A record will be produced on the MIS detailing actions taken.
- 1.7 The Service Provider shall undertake a survey of the part of the Project Network that is affected by the Programmed Works. This shall be undertaken at least one hour prior to the Programmed Works commencing.
- 1.8 If there is a skip obstructing the works, the Service Providers scheme owner shall check the Street Works Register to ascertain whether or not the skip has a valid licence that conflicts with Programmed Works.
- 1.9 If the skip has a valid licence then the scheme owner shall contact the owner of the skip to request the temporary removal / repositioning of the skip. The Scheme Owner shall also contact the Service Provider's own skip company to make them aware that they could be called upon.
- 1.10 If the skip owner is unable to remove/ reposition the skip in a reasonable timescale then the Scheme Owner shall request the Service Provider's skip company to temporarily remove the skip from the area of the Programmed Maintenance . A photographic record of the location and condition of the skip shall be taken. Once the Programmed Maintenance has been undertaken the skip shall be returned to its original position (or as close as



reasonable in the circumstances). There will be no charges made to the licensed skip owner.

- 1.11 If the skip does not have a valid licence then the Scheme Owner shall contact the owner of the skip to request the removal of the skip within a reasonable timeframe and inform them that the skip has been illegally placed on the highway. The Scheme Owner shall also contact the Service Provider's own skip company to make them aware that they could be called upon.
- 1.12 If the skip owner is unable to remove/ reposition the skip in a reasonable timescale then the Scheme Owner shall request the Service Provider's skip company to remove the skip from the area of the Programmed Maintenance and the skip company charged for the removal. A photographic record of the location and condition of the skip shall be taken by the Service Providers scheme owner and appended to the MIS record. The Service Provider's skip company shall remove and retain the skip at their compound and its contents for a period of 28 days date at which it was removed from the site.
- 1.13 If the scheme owner, having made a reasonable attempt to identify the appropriate owner, is unable to identify the owner of the unlicensed skip then the Service Provider's skip company shall be requested to attend site and remove the skip. The Service Provider's skip company shall retain the skip and its contents for a period of 28 days from the date it was removed from the site.
- 1.14 The Network Manager shall ensure that a record is made in the Service Provider's MIS to record the actions taken in paragraphs 1.6 to 1.13.

Removal of builders materials from a highway pursuant to section 171 of the Highways Act 1980

- 1.15 Service Provider Programmed Maintenance shall be noticed in accordance with the requirements of NRSWA 1991 and TMA 2004. This shall ensure that the Authority's Traffic Manager is able to co-ordinate the issuing of builders materials licences with the Service Provider's Programmed Maintenance.
- 1.16 The Service Provider shall check the Street Works Register 3 days prior to Programmed Maintenance starting to check that there are no open licences on the part of the Project Network that the Programmed Maintenance are due to be undertaken on.
- 1.17 If there is a licence in force that could affect the Programmed Maintenance then the Service Provider's Network Manager (or suitable deputy) shall contact the owner of the builder's material to request that it is repositioned or removed. The Authority's Traffic Manager shall be made aware of the presence of the builder's material and the actions the Service Provider has undertaken.
- 1.18 The Service Provider shall undertake a survey of the part of the Project Network that is affected by the Programmed Maintenance. This shall be undertaken at least one hour prior to the Programmed Maintenance commencing.



- 1.19 If there are builders materials obstructing the works, the scheme owner shall check with the Street Works Register to ascertain whether or not the builders material has a valid licence that conflicts with Programmed Maintenance.
- 1.20 If the builders material has a valid licence then the Scheme Owner shall contact the owner of the builders material to request the temporary removal / repositioning of the builders material within an agreed reasonable timescale.
- 1.21 If the builders material owner is unable to remove the builders material in a reasonable timescale then the Scheme Owner shall arrange for the builders material to be temporarily removed from the area of the Programmed Maintenance. A photographic record of the location and condition of the builders material shall be taken. Once the Programmed Maintenance has been undertaken the builders material shall be returned to its original position with no charge to the owner of the materials..
- 1.22 If the builders material does not have a valid licence then the Scheme Owner shall contact the owner of the builders material to request the removal of the builders material.
- 1.23 If the builders material owner is unable to remove/ reposition the builders material in a reasonable timescale then the Scheme Owner shall arrange for the builders material to be removed from the site of the Programmed Maintenance and the owner of the materials will be charged for their removal. A photographic record of the location and condition of the skip shall be taken. The Service Provider's shall retain the builders material at the Olive Grove Depot for a period of 28 days from the date at which it was removed from the site.
- 1.24 If the scheme owner is unable to identify the owner of the unlicensed builders material (because the material has no identifying marks and having spoken to residents) then the Service Provider shall remove the builders materials from area of the Programmed Maintenance. The Service Provider's shall retain the builders material at the Olive Grove Depot for a period of 28 days from the date at which it was removed from the site.
- 1.25 The Network Manager shall ensure that a record is made in the Service Provider's MIS to record the actions carried out in paragraphs 1.17 to 1.24.

Issuing of notices in respect of things deposited on the highway which are causing a nuisance pursuant to section 149 of the Highways Act 1980

- 1.26 The Service Provider shall undertake a survey of the part of the Project Network that is affected by the Programmed Maintenance. This shall be undertaken at least one hour prior to the Programmed Maintenance commencing. [see comments above re impact]
- 1.27 If the presence of an item deposited on the highway is identified the site supervisor shall make enquiries with local residents to try and identify the owner of the item.
- 1.28 If the owner of the item is identified then the site supervisor shall request that it is removed immediately.



- 1.29 In order to not delay the progress of the Programmed Maintenance any illegally deposited items will be removed from area of the Programmed Maintenance immediately if the owner is unwilling to remove the item or it has not been possible to identify the owner.

Application for a court order to remove scaffolding on the highway pursuant to section 169 of the Highways Act 1980

- 1.30 Service Provider Programmed Works shall be noticed in accordance with the requirements of NRSWA 1991 and TMA 2004. This shall ensure that the Authority's Traffic Manager is able to co-ordinate the issuing of scaffolding licences with the Service Provider's Programmed Maintenance.
- 1.31 The Service Provider shall check the SWR 3 days prior to Programmed Maintenance starting to check that there are no open licences on the part of the Project Network that the Programmed Maintenance are due to be undertaken on.
- 1.32 If there is a licence in force that could affect the Programmed Maintenance then the Service Provider's Network Manager (or suitable deputy) shall contact the scaffold owner and request that it is removed. The Authority's Traffic Manager shall be made aware of the presence of the scaffold and the actions the Service Provider has undertaken via a full record within the MIS.
- 1.33 If the scaffold owner is unable or unwilling to remove the scaffold in a reasonable timescale then the Scheme Owner shall rearrange the Programmed Maintenance with due regard to the scaffolding.
- 1.34 The Service Provider shall undertake a survey of the part of the Project Network that is affected by the Programmed Maintenance. This shall be undertaken at least one hour prior to the Programmed Maintenance commencing.
- 1.35 If there is scaffolding obstructing the works, the scheme owner shall check the Street Works Register to ascertain whether or not the scaffolding has a valid licence that conflicts with the Programmed Maintenance.
- 1.36 If it is found that the scaffolding has a valid licence then the Scheme Owner shall rearrange the Programmed Maintenance with due regard to the scaffolding.
- 1.37 If it is found that the scaffolding does not have a valid licence the Scheme Owner shall liaise with the Network Manager. The Network Manager shall inform the Traffic Manager of the presence of the unlicensed scaffold. The Network Manager shall then apply for a court order to get the scaffolding removed.

Service of a notice and to enforce the terms of such notice pursuant to section 115K of the Highways Act 1980

- 1.38 The Authority shall allow access to the Service Provider to the copies of the permissions granted under Section 115E of the Highways Act 1980.
- 1.39 When devising the Annual Investment Programme the [Service Provider] [Senior Planner] shall review the permissions granted under Section 115E of the Highways Act. If it is found that a licensed item is present on the



street that the Service Provider is due to undertake Programmed Maintenance on, and then the Scheme Owner shall be made aware of the presence of the item. The Scheme Owner will assess whether the licensed item requires temporary removal to allow the works to be completed.

- 1.40 Through the design process the Scheme Owner shall liaise with the Network Manager to arrange for the owner of the item to remove or relocate the item for the duration of the Programmed Maintenance.
- 1.41 If the owner of the item refuses to remove or relocate the item then a notice shall be served in accordance with Section 115K of the Highways Act 1980 requesting that the owner removes or relocates the item 2 days prior to the commencement of the Programmed Maintenance and for the duration of the Programmed Maintenance.
- 1.42 If the owner refuses the request to remove or relocate the item then the Network Manager shall ensure that a notice is served under section 115K of the Highway Act. [do we have to comply with any timeframe or does it help us that all we're saying is that we will ensure that "at some stage" a 115K notice will be issued?]
- 1.43 The Service Provider shall undertake a survey of the part of the Project Network that is affected by the Programmed Maintenance. This shall be undertaken 2 days prior to the Programmed Maintenance commencing.
- 1.44 If the licensed item is present at the time of the survey and a notice under section 115K of the Highway Act has been previously issued then the site supervisor shall arrange for the prompt removal/ relocation of the item.
- 1.45 If a notice has not been previously served then the Network Manager shall arrange for a notice under section 115K to be issued requesting the prompt removal/relocation of the item.
- 1.46 If on the day that the Programmed Maintenance is due to commence then the site supervisor shall arrange for its immediate removal/relocation in order for the Programmed Maintenance to commence.
- 1.47 The Network Manager shall ensure that a record is made in the Service Provider's MIS to record these actions.

Liaison Requirements

- 1.48 The Senior Planner shall ensure a copy of the Annual Investment Programme and any approved amendments are submitted to Sheffield Parking Services.
- 1.49 Please see the vehicle removal section for the liaison proposals when the Service Provider wishes to use the assistance of the Authority for the removal of parked vehicles, the provisions of / procedure set out in para 1.5.23 - 1.5.36 ("vehicle removal section") shall apply.

Method of removal, placement and storage for obstructions

- 1.50 Skips shall be removed/relocated and stored by the Service Provider's specialist supply chain.



- 1.51 All other items shall be removed and stored by the Service Provider. These items shall be stored in a separated compound area in the Olive Grove Depot.
- 1.52 The Service Provider's depot manager shall be responsible for maintaining a register of items that have removed from the Project Network by the Service Provider. The register shall contain the following information;
- The owner of the item (if known)
 - A description of the item
 - The location on the Project Network which it was removed from
 - The date it was removed
 - The date that the item can be disposed of.

Provisions for dealing with the costs of enforcement and recovery of costs

- 1.53 Through the detailed processes described above the information shall be recorded in the Service Provider's MIS.
- 1.54 The MIS shall record all items that have been removed in order to allow the Programmed Maintenance to proceed. A record shall be made for each item that has been removed as using these delegated Statutory Powers. Each record shall contain;
- The owner of the item (if known)
 - A description of the item
 - Relevant photos that could be used as evidence
 - The location on the Project Network which it was removed from
 - The date it was removed
 - The date that the item can be disposed of
 - The storage costs associated with the item
 - The disposal costs (if applicable) associated with the item.
- 1.55 Once the item has been either collected by the owner or disposed of an invoice shall be raised and submitted to the Authority for the associated costs and expenses.

Liaison with skip and scaffolding companies

- 1.56 The Service Provider shall ensure that all approved companies are made aware of the presence of the Service Provider's Annual Investment Programmes on the internet.