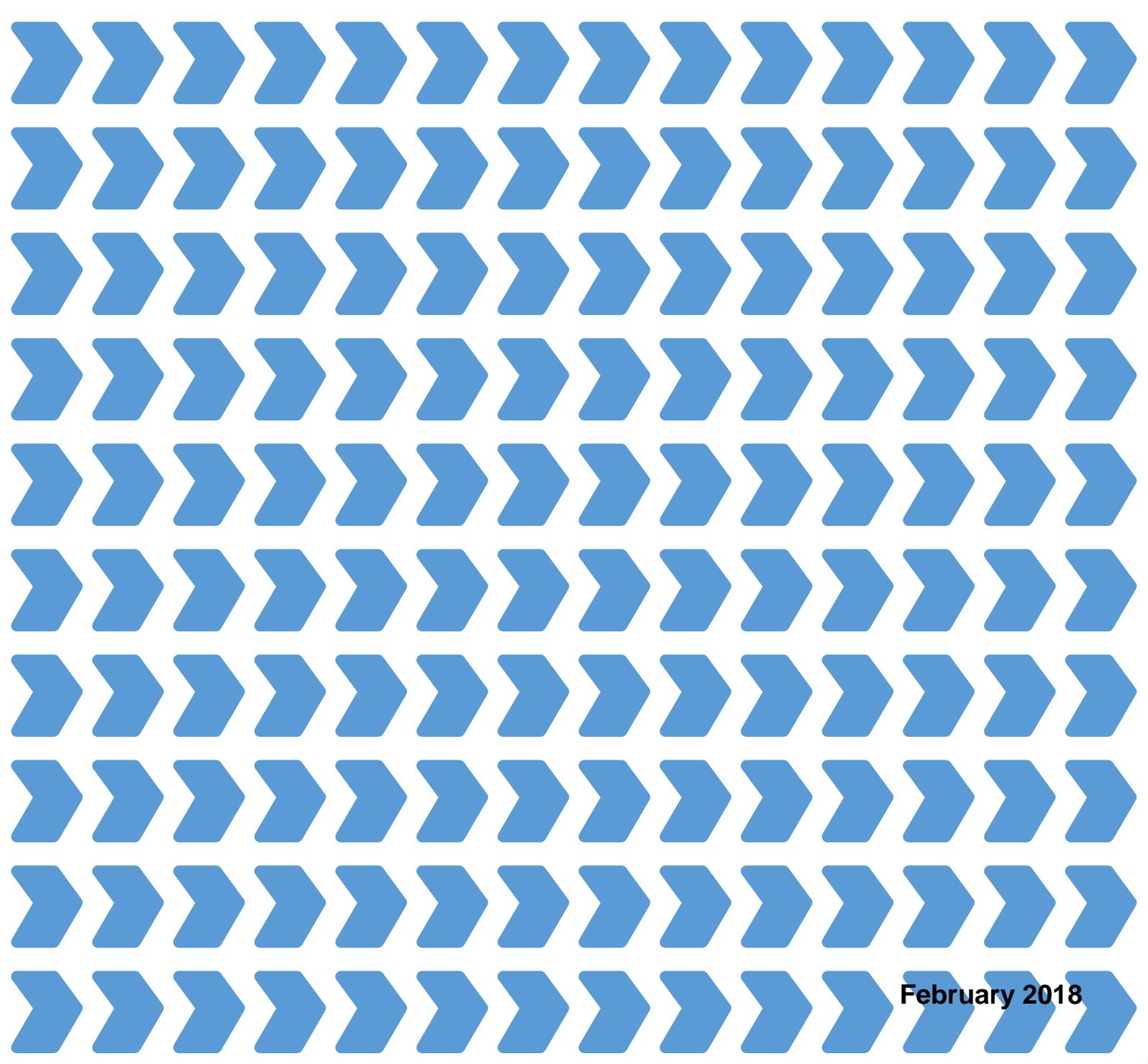




Department
for Transport

Government response to consultation on the future of lane rental

Moving Britain Ahead



February 2018

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Introduction

- 1 The Government consulted on the future for lane rental schemes between 2nd September and 28th October 2017. Lane rental involves charging promoters who carry out road and street works for the time their works occupy the highway. Charges are focused on the busiest streets at the busiest times.
- 2 Lane rental allows the local highway authority to impose a charge of up to £2,500 for each day the highway is occupied by the works. The charge was set at a level that reflected the costs of congestion caused by the works to encourage works promoters to:
 - Reduce the time taken to carry out the works
 - Improve planning, coordination and working methods
 - Carry out more works outside of peak times, for example, making greater use of weekend and evening working where the local environmental impact was acceptable
 - Complete works to the required standard first time and with a permanent reinstatement, reducing the need for the works promoter to return to the site to carry out remedial work
- 3 The consultation asked for comments on the following four options for the future of lane rental:
 - Baseline Option (do nothing). This would mean the current schemes would end and no new schemes would be permitted. Permit schemes would be the main way that all road works were managed on all roads.
 - Option 1: Retaining lane rental as it currently exists but only in London and Kent. This would require a minor amendment to secondary legislation to remove the sunset clause. The Government announced on 26th September 2017 that we will remove the sunset clause. A link to the Government's response to the separate consultation on this proposal can be found at: <https://www.gov.uk/government/consultations/lane-rental-schemes-for-roadworks-removal-of-sunset-clause>
 - Option 2: Roll-out lane rental to other local authority areas. This would allow other local authorities to operate lane rental schemes but on condition that certain other criteria were met, for example, a permit scheme was in operation. This could be on a limited basis or it could be deployed more widely. It would be for authorities to ask for approval from the Government for schemes.
 - Option 3: Using permit schemes to deliver the key objectives of lane rental, i.e. stricter control and planning of works on the busiest roads at the busiest times. This would involve amending permit schemes and adding a new 'super permit' for

works on the most congested roads. This would use permitting, which applies to all works on all local roads, to implement the key policy aims of lane rental and would allow those 60% of permitting local authorities that operate permit schemes to vary their schemes and include this new level of permit without the need for any approval from the Government.

- 4 This document summarises the responses to the consultation on the future of lane rental <https://www.gov.uk/government/consultations/future-of-lane-rental-schemes-for-roadworks> and sets out the Government's response.

Summary of responses

5 145 responses to the consultation were received, broken down as follows:

57	Local highway authorities
32	Utility companies
27	Members of the public
8	Public sector organisations
5	Contractors
<u>16</u>	On behalf of another organisation or stakeholder
145	Total

6 The following themes came out clearly:

- Views are polarised between local authorities and utility companies, reflecting their respective aims and objectives. Authorities want to manage the road network as effectively and efficiently as possible, and so are broadly supportive of lane rental. Utility companies want to carry out their works as quickly as possible and at the lowest cost, so they are not supportive.
- Authorities would like the flexibility and a range of tools to be available to them, so that they can manage their network appropriately. Some believe that this can be achieved by permit schemes, and these are supportive of the idea of a super permit to help manage works on the most congested roads. Others would like to be able to use lane rental as a way of reducing congestion on the most heavily congested and strategic parts of the network.
- Most of the utility companies said that they would prefer to have consistently applied permit schemes across the country, rather than a combination of noticing, permits schemes being inconsistently applied and lane rental in a few areas. Variation creates an administration overhead for them, especially those companies who work across England. There was therefore a plea for greater consistency, and a standard interpretation of legislation.

Response to individual questions

Question 4: Would your local highway authority want to introduce a lane rental scheme?

7 54 local highway authorities and Transport for Greater Manchester (TfGM) answered as follows:

19	Yes, as soon as possible
10	Yes, within 5 years
1	Yes, within 10 years but longer than 5 years
11	Yes, but only on a limited basis
<u>14</u>	No
55	Total

8 The geographical location of authorities wanting lane rental either as soon as possible or within 5 years was varied. There were 5 authorities from West Yorkshire, 5 from the North West, 5 London boroughs, 7 from the South East and 7 from the Midlands, West and East of England. The authorities who would consider lane rental but on a limited basis also varied in terms of location. A majority were cities but there were 2 rural county councils. The authority that would consider it in the longer term was a city council. Those not wanting lane rental included 6 London boroughs, 6 county councils and 2 city councils.

9 For authorities who want lane rental, the reasons given included:

- Those authorities that are developing and operating a Key Route Network on the most strategic local roads would like to use lane rental as an additional tool to manage street and road works on that network to reduce disruption, encourage collaborative working and to reduce overall occupation of the highway.
- It provides a direct financial incentive to bring about the required cultural change in works planning and delivery.
- The benefits of lane rental are clear from the London and Kent schemes and should be available to other parts of the country. Several authorities made this point.
- Lane rental is a good way of reflecting the wider societal cost impact of the disruption caused by street and road works
- Materials and techniques used in street and road works remain much the same today as they did 25 or more years ago. Surplus lane rental funds would support the development of new technology and methodologies, delivering benefits for the industry as a whole.

- Unoccupied works sites represent one of the largest categories of complaints received from the public. Lane rental would reduce these periods of inactivity on key parts of the network.
- Permits alone do not provide the strongest incentive to work in less disruptive ways, think outside the box and work at less disruptive times. Lane rental counter balances the shareholder interests of the street work promoters.
- Permit schemes, combined with lane rental, would be the most effective way of managing the road network. Several authorities made this point.
- Many authorities want to be as proactive as possible in terms of management of the road network. Lane rental would form an integral part of efforts to protect the strategic local road network.
- There are proven environmental benefits from reducing congestion.
- If more local authorities were able to operate lane rental schemes, there would be much more of an incentive for works promoters to change their behaviour and be more innovative in the ways they work.
- Congestion is a hot topic. Any scheme which seeks to reduce congestion is welcomed.

10 For authorities who did not want lane rental schemes, the reasons given included:

- Permit schemes provide enough powers to manage their specific part of the network. Several of the authorities who responded 'no' made this point.
- Their part of the road network did not experience severe levels of congestion.
- Some would prefer the use instead of 'super permits' (see below).
- Lane rental would only be feasible on a small number of roads and this did not justify the administrative costs that might be involved in setting up a lane rental scheme.
- Some authorities had not yet moved to permit schemes.
- A small number were concerned about the potential cost impact and the impacts of out-of-hours working on, for example, inspectors.
- One authority responded 'no' but noted that they would like the option should they need it in the future.

11 The following additional comments were made:

- Some authorities were interested in lane rental but not immediately. Some wanted to make sure they had a permit scheme operating first. Others would want to trial run a lane rental scheme, and to wait until others had ones in place so that they could learn from their experience.
- Almost all authorities recognised that lane rental should be targeted on the most congested parts of the network only.

- Some would want to carry out more detailed impact assessments and local consultation before deciding.

Q5. If 'super permits' were available, would your local highway authority use them as part of your permit scheme?

12 54 local highway authorities and TfGM answered as follows:

21	Yes, as soon as possible
20	Yes, within 5 years
3	Yes, within 10 years but longer than 5 years
<u>11</u>	No
55	Total

- 13 The geographical location of authorities wanting super permits was varied. They include 7 London boroughs, 8 from the Midlands, East and West of England, 8 from the South East, 7 from Yorkshire and 4 from the North West. Several wanted super permits rather than lane rental powers. Those not wanting super permits included 4 London boroughs, 3 from the Midlands, East and West of England, and 1 each from Yorkshire, the North West, the North East, the South West and South East.
- 14 A common theme in the comments given by authorities who responded positively was that super permits are not the preferred option but they would adopt them should lane rental not be available to them. Around 75% preferred lane rental over super permits.
- 15 Other reasons given by authorities who said they would adopt super permits included:
- More time may be spent with key stakeholders arranging permits on strategic routes where the impact is higher on, for example, bus routes. A higher fee for these cases would help to cover the costs involved.
 - A 'super permit' within existing permit schemes could provide highway authorities with more control over their key routes, as an alternative to lane rental.
 - Works promoters would be clearly incentivised to consider and limit their impact on the most important parts of the network and, as a result, this would provide a benefit to the public in terms of reduced disruption.
 - Would provide a single streamlined process within one framework which the whole industry can both understand and deliver consistently.
 - Already operate a successful permit scheme. Super permits would form an integral part of the authorities efforts to protect strategic road network etc.
 - Would provide similar powers to lane rental but would be a simpler way.
 - Although existing permit schemes provides the opportunity to manage works more effectively, this could be enhanced even further if more powers available.
 - Would appear to be another potential tool for getting street works to be completed faster.

- Some authorities may want only to use permits and super permits, while some would want to switch to a three tier system of permits, super permits and lane rental.
- One authority already operating a successful permit scheme has seen the benefits that result from more proactive involvement in the management of road and street works. If 'super permits' were introduced, they would be the next step in the improvement and development of their scheme.
- Super permits should be allowed to generate surplus funds. However, the surplus should be subject to similar rules to those currently applying to lane rental schemes. The surplus is important for stimulating innovation.

16 For authorities who would not adopt super permits, the reasons given included:

- Implementation costs and resource demand would outweigh the benefit.
- Not required in our authority.
- Do not operate an existing permit scheme.
- Labour intensive. All sites must be checked daily.
- Permit scheme legislation is ineffective. A super permit would not add value. Lane rental is more appropriate.
- Super permits would not deliver the same benefits as lane rental.
- They do not provide sufficient incentive for road works promoters to change their practices.
- There may be a case for super permits, but only on roads that do not meet lane rental criteria.
- There are insufficient sanctions for non-compliance.

Q7. What is your preferred option for the future of lane rental?

17 144 preferences (some multiple) were expressed as follows:

36	Baseline: lane rental schemes end
8	Option 1: lane rental schemes remain in London and Kent
66	Option 2: roll-out lane rental to other local authority areas
<u>35</u>	Option 3: use permitting to deliver aims of lane rental
145	Total

18 The reasons given by respondents for supporting the baseline option of ending lane rental included:

- Authorities already have sufficient powers to manage their networks effectively.
- The current penalties and fines already provide an incentive to utilities to expedite works.
- The current system is not broken but it is ineffectively implemented.

- If permit schemes are failing to achieve their goals, this should lead to an investigation into the operation of permit schemes, not more bureaucracy.
 - Greater early involvement of utilities in the planning process and more effective coordination have the potential to provide significant efficiency gains.
 - A stakeholder group representing utility companies estimate that implementation of lane rental across England and Wales could increase annual costs of street works by £327m.
 - They also estimate that it would deter over £2.2 billion of investment in infrastructure.
 - Lane rental schemes should not be used for profit making.
 - The cost of utility street works and road works are ultimately borne by consumers and tax payers.
 - Lane rental is a tax on utility customers rather than an incentive to expedite works.
 - Ending the current lane rental schemes would help to reduce the cost of regulation on business.
 - Lane rental makes utilities pay for necessary work so consumers end up paying more. Penalties for overrunning work would be better.
 - DfT's review of the benefits of lane rental was inconclusive as to whether it reduced disruption.
 - There is insufficient evidence to show that lane rental provided the benefits it was brought in to achieve.
 - Lane rental schemes make it harder for utilities companies to deliver vital infrastructure.
 - There is a danger that lane rental schemes could delay long termed planned works as there is a clear disincentive for utilities to undertake work in these areas.
 - Any extension of lane rental schemes will substantially impair Government's goal of delivering full-fibre broadband to 10 million premises by 2025.
- 19 The reasons given by respondents for Option 1, lane rental schemes remaining in London and Kent were also made in response to the separate consultation on removing the existing sunset clause. These are summarised in the Government's response to that consultation: <https://www.gov.uk/government/consultations/future-of-lane-rental-schemes-for-roadworks>.
- 20 Several respondents gave the success of lane rental in London and Kent as reasons for supporting Option 2, a wider roll out of these schemes. Many also said it enabled authorities to charge for the real cost of disruption and it provided funds for research into ways of reducing congestion. Some suggested that lane rental and permit schemes could be used in combination. Other reasons given for supporting Option 2 included:
- Lane rental offers the best option for highway authorities to effectively manage street and road works.
 - It supports the needs of an authority to reduce congestion.

- Lane rental offers the greatest incentive towards better working practices to produce the desired reduction in congestion.
- It will mean promoters must think about the impact of their works on the network.
- It would fundamentally change the way works are planned and co-ordinated, and incentivise cooperation between promoters.
- Lane rental is not a panacea for every local authority area but it should be available for any authority if they can build a case.

21 The reasons given by respondents for supporting Option 3, where permits and super permits are used to deliver aims of lane rental, included:

- It would be more cost effective and easier to expand permit schemes to incorporate super permits.
- It would be a simpler process to vary an existing permit scheme.
- It would be easier to administer and offers a more holistic approach to managing street and road works.
- The overall costs for utility companies would be lower than for lane rental.

Q8. Do you agree that Transport for London and Kent County Council should continue operating lane rental on parts of the road network in London and in Kent?

22 This question duplicates the separate consultation that was published on removing the existing sunset clause. Responses are summarised in the Government’s response to that consultation: <https://www.gov.uk/government/consultations/future-of-lane-rental-schemes-for-roadworks>.

Q9.1 Do you support lane rental, on the busiest roads at the busiest times, as a way of planning road works?

23 Responses were as follows:

70	Strongly support
18	Support
7	Neutral
10	Oppose
<u>25</u>	Strongly oppose
130	Total

Q9.2 Do you support lane rental, on the busiest roads at the busiest times, as a way of managing road works?

24 Responses were as follows:

69	Strongly support
17	Support
8	Neutral
8	Oppose
<u>26</u>	Strongly oppose
128	Total

Q10.1 What do you believe are the main advantages of lane rental?

25 Many utilities claim there are no advantages. Claimed advantages included:

- Greater control over strategic/heavily congested routes.
- Potential for surplus funds to be used innovatively.
- Provides a significant incentive for works to be completed on time.
- Encourages collaborative working.
- Higher road user satisfaction.
- Greater incentive to work outside peak times.
- Clear relationship between occupancy of the road network and cost.
- Likely to improve air quality.
- More first time permanent reinstatements.
- Applies equally to utilities and highway authorities.
- Would reward better planning and management of works.
- Internalises external costs to the road user.

Q10.1 What do you believe are the main disadvantages of lane rental?

26 Claimed disadvantages included:

- Increased supervision by highway authorities required.
- Working outside peak hours may be vetoed by environmental legislation.
- Increased costs to authorities, utilities, and possibly customer's utility bills.
- Uplift of costs, for example, plant hire and materials.
- May find it difficult to secure enough resource to carry out work at unsociable hours.
- Potential increase in the cost of delivering both infrastructure and highway projects in the future with cost outstripping benefit.
- Creates perverse incentive for utilities to delay non-urgent works.
- Potential loss of focus on lower category roads which make up far greater percentage of overall works.
- Lack of transparency around outputs from money collected through lane rental.
- Attempts to re-coup incorrectly charged fees difficult with onus always falling on the utility.
- Danger that a nationwide rollout will result in more inconsistency.

Q11.1 What would be the main costs of lane rental for you?

27 For most local authorities, the main costs were those of:

- Initial set up.
- Implementation.
- Administration.
- Coordination.
- Monitoring.
- Fees for highway works.
- Governance Boards to manage lane rental income.
- Training.
- System changes.
- Compliance enforcement.

28 Operational costs can be recovered from lane rental charges.

29 For utilities, unquantified costs included those arising from:

- Lane rental fees on several thousand excavation schemes per annum.
- Increased labour rates for out of hours working.
- Loss of workforce during core business hours, or employing additional staff to cover staff working out of hours.
- Stand down time.
- Delays over material availability.
- Measures to mitigate environmental impact/noise.
- Health and safety risk mitigation.
- Additional administration, including system for evidence of occupation.
- Additional resources to expedite works.
- Impact on reinstatement operations i.e. more interim surfaces due to time constraints.
- Customer complaints and reduction in reputation.

30 A member of the public mentioned increased utility bills.

Q11.2 What would be the main costs of lane rental for your company or organisation?

31 Many of the responses here were reiterations of those submitted for Q11.1 and are therefore not repeated below. One local authority estimated costs of £400,000 per annum and another estimated set up costs of £200,000. All other additional information on costs, mainly from utilities, included:

- Third party (quarries etc.) premiums added to facilitate out of hours working.

- Use of enhanced materials to expedite completion
- Delays in completing regular maintenance and other works.
- Revisits where interim reinstatement is carried out.
- Impact on Customer appointments.
- Changes to contractual frameworks.
- Some companies provided estimates of costs:
 - Additional cost of approximately £3,000 per year.
 - One utility estimated roll-out may cost them £14.6m per annum (based on 5% of roads being covered).
 - Another company noted that charges currently cost them £12,300 per year in London and in Kent.
 - Approximate cost for lane rental in 2016/17 was £80,000.
 - Currently spending £288,000 per year in London and in Kent. They estimated an additional cost of between £125,000 and £1.7m per year for Option 2, and £1.2m to £6.5m per year for Option 3.
 - Administration of lane rental is estimated at £1,300 per year per scheme.
 - One company estimated it would cost them £9.4m in charges, assuming a full charge of £2500 per day on 5% of all category 0,1 & 2 roads (A and B roads).

Q11.3 What would be the main costs and benefits of lane rental for the general public?

- 32 The most common cost increases suggested were for increased utility charges. The main benefits were reductions in delays and congestion, and improved air quality.

Q11.4 What would be the main costs and benefits of lane rental in your local area?

- 33 Comments on costs and benefits included:
- Network reliability during traffic sensitive times, reduced occupation and reduced complaints relating to congestion and delays.
 - More powers to manage the road network.
 - Better managed street and road works and reduced works durations.
 - Greater surety and control on road and street works.
 - Possible increase in residential areas affected by noise pollution on evenings and weekends.

Q12 What would be the main benefits of lane rental?

- 34 This question was divided into four parts asking about the benefits to *you* (12.1), *your company or organisation* (12.2), *the general public* (12.3), and *your local area* (12.4). However, many of the responses were mixed up and answers to, for example, Q12.1

were actually responses to Q12.4. The responses to all four questions were therefore considered en bloc. They included the following additional comments which have not been made elsewhere in this report:

- Better for bus operators and vehicle breakdown recovery providers.
- Safer journeys.
- Less inconvenience and delay costs on local businesses and residents.
- Helping to support economic growth through an efficient and reliable key route network.
- Less time spent dealing with issues/complaints from traveling public.

Q13 Do you think that lane rental charges should be daily or hourly?

35 Responses were as follows:

64	Daily
<u>54</u>	Hourly
118	Total

36 One response was "Both". 14 utilities and organisations representing them qualified their preference for daily charging. Comments included:

- A daily charge is easier to administer and less prone to challenge/dispute.
- An hourly charge would be more reflective of time on site but it is unclear how it would be managed fairly.
- Hourly charging would be challenging to instigate and monitor. It is therefore likely to increase costs.
- Could consider giving option to use hourly charging for short duration works only (e.g. 3 hours max).

Q14 Should the maximum daily charge remain at £2,500?

37 Responses were as follows:

47	Stay at £2500
32	Should be higher
<u>45</u>	Should be lower
124	Total

38 Comments from those who thought the charge should stay at £2500 included a request for guidance on setting charges according to disruption caused and a mechanism for reducing the charge where work causes disruption but all measures are in place to mitigate and minimise that disruption. Other comments included:

- The daily charge needs to be more than the costs to utilities for carrying out works outside traffic sensitive times.

- The should be a regular review to ensure the fee is set at the optimum level to balance benefits and costs.

39 Comments from those who thought the charge should be higher included:

- Charge needs to be significant enough to drive change.
- Regulations should be revisited to ensure charges are increased in line with growing congestion and inflation.
- A mechanism should be in place for charges to increase over time.

40 Comments from those who thought the charge should be lower included:

- Should be lower because costs ultimately reflected in utility charges to their customers.
- Fee should be proportionate to the level of scrutiny required to effectively review and coordinate the works.
- If lane rental is to remain the charges should be based on works type with automatic discount for any planned major investment programme.

41 Comments from those who expressed no preference included:

- Charges should be set on the basis of robust analysis.
- Extent of traffic management should be the most relevant consideration in setting charge.

Q15 Do you think that 'super permits' as part of a permit scheme would deliver the same benefits as lane rental?

42 Responses were as follows:

52	Yes
<u>72</u>	No
124	Total

43 Comments from those who agreed included:

- Would appear to be a more holistic approach to combine lane rental and permit schemes.
- Will allow more flexibility and less cumbersome to initiate and operate.
- It could be built into the permit scheme and work seamlessly
- A super permits system would arguably be more effective than lane rental.
- Permitting in general is a less damaging mechanism than lane rental.
- A 'super-permit' is preferable to a daily charge, although difficult to envisage what it could deliver that a permit scheme could not.

44 A number of utilities commented extensively (one response covered 5 sides) on how they felt a possible super permit scheme should be designed and included several recommendations for consideration by the DfT. Several comments related to the unsuitability of classifying certain types of route as traffic sensitive, particularly

gritting routes.

45 Comments from those who disagreed included:

- Super permits would be unlikely to incentivise the required behaviour.
- Permit schemes in tandem with lane rental would provide the best framework for delivering a less congested network.
- It would add more confusion.
- It seems over complicated.
- Super permits would not provide same level of incentive for promoters to work collaboratively and to reduce occupation of highway.
- No potential for investment in measures that reduce congestion.
- Permit schemes are non-profiting making.
- Permit schemes as they stand can reduce disruption if implemented correctly and consistently.

46 Five respondents who expressed no preference made comments similar to those directly above.

Q16 Should surplus lane rental funds only be available for ways to reduce disruption and other adverse effects caused by street works?

47 Responses were as follows:

47	Yes
<u>31</u>	No
78	Total

Q17 What type of work or projects do you think should be eligible for lane rental funds?

48 Responses were as follows:

22	Traffic Management measures
20	Traffic management equipment, such as variable message signs
19	Data gathering and information provision
21	Other

49 There was an extensive set of suggestions for the *Other* category, ranging from road repairs, monitoring traffic and pollution, bike hire schemes, infrastructure for pedestrians, cyclists and public transport, innovative technology, materials and ways of working, through to major infrastructure projects.

50 Several comments related to the need for proper governance of the use of such funds should the scope of eligible projects be expanded. There was a concern that otherwise, there was a risk of these funds being seen as a revenue raising opportunity.

Q18. Are there any further comments you would like to make on lane rental?

- 51 Around 70 further comments were made, several of which were extensive and many covered a wide range of issues relating to street works, network management, and other transport issues.

Government response

- 52 The Government has decided to proceed with Option 2 and to allow other local authorities to bid for and set up lane rental schemes as a way of reducing the impact of street works on the busiest roads at the busiest times.
- 53 Option 1 in the consultation document about Transport for London and Kent County Council retaining their existing schemes will be achieved when the existing sunset clause in the regulations is removed.
- 54 On the additional issues that were included in the consultation.
- The existing maximum daily charge permitted in the regulations is up to £2,500 per day. The Government has decided to retain the current level. The existing schemes in London and in Kent have shown that this level effectively changes behaviour.
 - We asked whether the charge should be a daily charge or whether it should be applied hourly. A majority of organisations responding wanted to keep the existing daily arrangement as hourly charges would be costly to administer. The Government has therefore decided to keep the charge at a daily rate.
 - The existing regulations allow authorities to use any surplus funds from lane rental schemes on ways 'to reduce the disruption and other adverse effects caused by the street works'. We asked whether this should be amended but there was little support for a change. The Government has, therefore, decided to keep the current restriction.
- 55 New lane rental schemes will need to be approved by the Secretary of State for Transport in line with existing primary legislation. The Department for Transport will draft and issue bidding guidance for authorities that will be available in the autumn 2018. It typically takes an authority around 12 months or so to develop, consult and implement a scheme.
- 56 We proposed in the consultation that approval would be subject to certain conditions:
- Authorities would need to have a well-run permit scheme, for example, permit fees were proportionate, discounts were offered for joint works, compliance with permitting regulations and guidance, schemes fully supported the delivery of national infrastructure projects like HS2 and broadband/full fibre roll-out.
 - Schemes would apply to a local authority's own works in the same way as in Kent and London.
 - Lane rental charges should be used to incentivise work outside of peak times, they are waived for joint works, caps are put in place for major works to install and to replace apparatus so that these works are not unfairly penalised and delayed.

- Schemes are trialled for a period of time before 'going live' and reviewed annually to ensure charges remained proportionate and are applied to the most congested roads. We proposed in the consultation that lane rental should apply to around 5% of the network, as is the case in Kent.

57 The bidding guidance will be developed on the basis of these conditions.