

Policy for Road and Street works Permit Scheme

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Forward

The purpose of this document is to explain and demonstrate the requirements set out by the Department for Transport (DfT) and to explain how Torbay Council is going to exercise their version of the Permit Scheme.

Introduction

What is a Streetworks Permit Scheme?

The Torbay Council Permit Scheme is a new way of managing requested access for use or excavation of the highway, developed in accordance with the DfT Statutory Guidance for Highway Permit Schemes (October 2015).

The Permit Scheme is designed using Part 3 of the Traffic Management Act 2004(Sections B2-39)(TMA), the Traffic Management Permit Scheme (England) Regulations 2015 and the DfT advice note for Local Authorities developing new or varying existing permit schemes (June 2016).

Torbay will be operating a Single-Authority Permit Scheme, Torbay Council will be managing submitted permits in accordance with the statutory guidance and this policy.

What has changed in terms of the Permit Scheme?

EToN v6.0 is) is the term used for the two way transmission of notices between Statutory Undertakers and Highway Authorities in England and Wales. Systems and Techniques vary across the UK, Torbay operates EToN through Yotta Mayrise Streetworks.

EtoN v6.0 originally pre-determined that unconfirmed notices were classified as “denied” by the highway authority and as such, statutory undertakers were not granted permission to work, occupy or excavate the public highway. The Permit Scheme changes this, and as such; puts the responsibility on the authority to ensure that permits are answered within their pre-determined time scales and are either accepted or denied.

In return, changes to the charges system for the permit scheme encourage “utilities and statutory undertakers” (to be referred to as “Promoters” to assess the impact that their work has on the highway network and to reduce the amount of time they occupy the network, as applicable charges must be sought by the authority for the administration of the permit scheme and the occupation of the highway.

What is the objective of the Permit Scheme?

The key objective of the DfT, and participating Highways Authorities, is to make the highway network more efficient in terms of traffic congestion and to minimise the disruption on the highway caused by vital utility works.

How was the Streetwork Permit Scheme Policy developed and how will it operate?

The Streetworks Permit Scheme Policy was developed in conjunction with PART 3 of the TMA and the Traffic Management Permit Scheme Regulations 2007, and has been designed in line with guidance from the DfT and Secretary of Transport which has set out the guidelines for authorities moving to the permit scheme.

The Streetworks Permit Scheme Policy will operate in accordance with the HAUC Guidance and Statutory Guidance for Highway Permit Schemes. The Streetwork Permit Scheme will be operated by Torbay Council, and within Network Management.

Rather than the industry standard term of “Statutory Undertakers” Torbay Council will now refer to those undertaking works on the highway as “Promoters” which will include utility companies previously referred to “Statutory Undertakers”, the Highways Authority itself and its Contractors (both Short Term and Long Term Maintenance Contractors) as well as Private Undertakers works.

Permitting Applicable Area

Area covered by the Permit Scheme

The area covered by the Streetworks Permit Scheme Policy is within the boundary defined areas of Torbay Council.

Chargeable Permits will apply to all sections of the carriageway defined as a “Street” below.

Definition of “Street”

The Term “Street” refers to any length of a highways carriageway asset associated with a ‘Unique Street Reference Number’ (USRN), and where by a site intersects more than one USRN, an application for multiple permits will be required; one for each USRN concerned.

Streets or section of Streets with a USRN which are not Publicly Maintainable/Adopted do not require a permit, however permission must still be sought by the owner of the Street. If works on a “Private Street” fall outside of the Private Streets Boundary and USRN into a street which is publicly maintainable, then a permit must be applied for.

Streets which are not currently listed with USRN do not require a permit for works.

Motorways and Trunk Roads

Torbay currently has no Trunks Roads or Motorways under its jurisdiction.

Streets covered by the Streetworks Permit Scheme

The Streetworks Permit Scheme will apply to all adopted and publicly maintainable streets.

Torbay Council currently operates a Street Gazetteer, and this information is published through GeoPlace.

Streets not covered by the Streetworks Permit Scheme

Streets which are not covered by the Streetworks Permit Scheme are defined below

1. Roads which are not currently listed by Torbay as Publicly Maintained or Adopted
2. Roads which are not currently listed by Torbay as Publicly Maintained or Adopted, but are expected to be adopted.
3. Works on a Public Right of Way, which is not part of the Adopted Highway Network.

Registerable/Non-Registerable Activities, and Exemptions

Activities covered by the Permit Scheme

The following activities or works are registerable for all promoters and will require permitting on “streets” as defined above;

1. Works involving the excavation/reinstatement or resurfacing of the surface of any part of the adopted highway or USRN assigned street.
2. Works involving traffic management on the carriageway or cycleway of a traffic sensitive street within restriction times; this includes road closure, stop and go, traffic lights or reduction in width of lanes/carriageway.
3. Works which involve a Temporary Traffic Regulation order or the suspension of pedestrian crossing facilities or implementation of temporary crossing facilities.

Highway Authority Activities covered by the Permit Scheme

The Permit Scheme covers both Statutory Undertakers and Highway Authorities (and their Promoters) However, Direct Highway Authority works (by itself, subcontractors or promoters) will not be charged the permitting fee.

Ruling on classification of works and sensitive streets will apply to all works, regardless of undertaker or promoter.

Non-Registerable Activities

The following activities are non-registerable and do not require a permit.

1. Traffic Census Surveys
2. Pole Testing
3. Lifting or Replacing Covers – (Where the surface or frame is not disturbed)
4. Replacing of poles, bollards, columns or signs - (Where the surface is not disturbed or broken)

Activities not requiring a permit before they start

1. Immediate or Emergency works, where the situation is deemed urgent and there is risk to public safety and/or damage to surrounding infrastructure.
2. A Promoter can start work before applying for a permit, providing that they apply for a permit within 2 hours of work being undertaken, unless the work is undertaken out of hours, then a permit application must be submitted before 10am the next working day

Section 50 Activities

Activities which involve a Section 50 under the 'New Roads and Street Works Act (1991)' (NRSWA) are covered by the Streetworks Permit Scheme; a new Section 50 Licence must be applied for, and the use of Road Space and excavation are to be applied for as a "Permit" under the Streetwork Permit Scheme.

Permitting – General Guidance

What does a permit do?

Any Promoter looking to undertake any activity that requires highway space, or excavation needs to obtain a permit from the permitting authority (in this case, Torbay Council)

The Permit, when granted by Torbay Council will allow the Promoter to

1. Undertake a predetermined activity
2. At a specific location
3. Between the specified dates and times.
4. And meeting all conditions or restrictions that may be agreed.

Activities that cover several streets

A single Permit application can only be for a single street, which applies to a single USRN. Where by an activity or phased work affects more than one USRN, a permit will be needed for each activity, per USRN.

Discounts may be applied where applications or works are phased or grouped together.

Activities or Works that cover multiple phases

Only one permit can be submitted for one phase of works or activities. A phase is defined as "an activity or scheme of works which results in the continuous occupation of a street."

As such, separate permits would be required for works for temporary or interim reinstatements. The dates submitted as part of the permit application and in the agreed permit will denote, and where multiple permits are submitted for different phases of works, these works must have the same works reference and be related to the other phases.

Interruptions, Delays and Stoppages

Interruptions or Delays to works will be the responsibility of the promoter; the promoter will be required to contact Torbay Council in the first instance, and it is to be agreed with the Streetworks Coordinator on what action should be taken.

Potential Actions to be considered:

1. Closure of Site, temporarily reinstate and to defer phased works: this will require the submission of a new permit, the promoter may be charged for a new permit to the discretion of the Streetworks Coordinator.

2. Extended open of site: A variation of a permit should be submitted and is to be confirmed by Torbay Council.

The decision on the potential actions will be considered using a variety of factors such as;

1. Traffic Sensitivity
2. Overall Time of Delay or Extension.
3. Extent of works.
4. Other activities in the area.
5. Other permits submitted within the phase for the promoter.

Cross Boundary Activities

Where Works or Activities cross a boundary between two authorities, two permits will be required; one for each authority.

Whereby cross boundary activities operate different processes for streetworks, one as NRSWA and one permitting, then the two authorities must collaborate to agree on the ruling for timing and restrictions.

A single project reference should be included for all phases, applications, notices/permits, so that both authorities can correctly consider the impact of the works.

Collaborative Working.

One of the key aspects of the Permit Scheme is the encouragement of collaborative working on both Streetworks and Authority Schemes. Every opportunity should be taken to ensure that collaborative working can be done.

Where an agreement is made between two promoters to undertake collaboration; one promoter should be the lead promoter with responsibility for the activities and will be the primary point of contact for the authority. The details required of collaborative working should be:

1. Details of Promoters involved in collaborative working
2. Dates of Promoters expected to be working on site (where site is shared throughout different dates)

Remedial Works

Where works are required after the expiry of a permit, an application should be made for a new permit, with reference made to the previous permit using the works reference number and phase number.

Starting and Ending of Works

For roads which meet the following criteria

1. Category 0, 1, 2
2. and/or Traffic Sensitive Streets

The start and end dates submitted with the permit are the commencement and finish dates, Permits are not valid outside of these dates, unless a variation is granted with co-ordination from the Streetworks Coordinator.

For roads which meet the following criteria

1. Category 3 and 4
2. And Non Traffic Sensitive.

The Start Date is designated as a “proposed” start date, which can be altered with 5 Days either side as long as the change is agreed between the Streetworks Coordinator and no significant effect to Traffic flow will be anticipated.

Early Starting

Where ‘Early Starts’ are considered, the promoter will have to submit a variation to the authority with a revised start and end date.

The permit should be of the same duration as initially submitted, with a revised start and end date. Should the original permit submission be already confirmed, then a variation charge may be required.

It is at the discretion of the authority to grant early start permissions, reasonable considerations should be taken to ensure minimal disruption caused by an early start.

Overrunning Duration and Working without a Permit

Where works may overrun their duration or permitted area, it is the responsibility of the promoter to alert the permitting authority to this at the earliest instance.

Where works will be considered for an extension, a fee will be applied as well as a variation fee. The authority reserves the right, where it is reasonable to instruct the promoter to temporarily reinstate the site and return when a newly submitted and agreed permit is issued, once proper warning has been given to the authority and traffic user.

Where an overrun or occupation of site exceeds the agreed permit duration without any notification, a penalty will be applied in accordance with Section 74 of the NRSWA, as well as a variation cost to change the permit dates, and the authority reserves the right to charge a site attendance fee to the promoter.

If works are found to be undertaken without a permit submission, and are found to not be of an urgent nature, then the permit authority will assign the promoter a fixed penalty notice, as well as a site attendance fee. A result of this may be that the site is closed immediately, and if not possible, then the promoter will have to temporarily reinstate the site immediately and apply for a permit and be liable for all associated costs.

Permits

There are two types of Permit covered under the Permit Scheme

1. PAA – Provisional Advance Authorisation
2. Permit

PAA

A PAA is used in place of an advanced notice under the NRSWA, and is used as an advanced permit to warn of Major Activities, to enable the authority and its Streetworks officers to appropriately coordinate, plan and identify the needs of the public, while the proposed major works are undertaken.

In order for a PAA to be considered, the following criteria must be met:

1. A PAA for Major Activities must be submitted 3 months in advance to any works being undertaken on the highway, in regards to any promoter.
2. Any Permits in relation to works that are submitted, but not preceded by an authorised PAA will be refused automatically.
3. Each PAA will be limited to a single USRN/Street
4. A full Description of activity being undertaken must be submitted
5. A full list of contractors and/or subcontractors must be provided, if this is known at the time of submission, if it is not known, then this can be submitted later as a variation and will be free of charge.
6. A PAA will be subject to a Fee.
7. The agreement of a PAA does not prevent the refusal of subsequent permits in relation to the PAA; should the authority believe that circumstances have been subject to change, an explanation will be provided by authority and works reviewed and re-coordinated by the streetworks team.

Permit Classes

There are 4 key classes of Permit, covered under the Permit Scheme.

- Major
- Standard
- Minor
- Immediate

Major Activities are defined as follows:

1. Activities that are identified in an organisation's (whether authority or promoter) yearly operating programme, or have been part of a planned works scheme with 6 months advanced notification in advance of the start date.
2. Works that require a Temporary Traffic Regulation Order (That do not fall under the immediate works category)

Further to these two designations, there are 3 sub-categories which will affect how "major works" are defined

- Major Works Category 1 - Over 10 days duration and all major works requiring a Traffic Regulation Order (that doesn't fall under immediate works)
- Major Works Category 2 – Works that run from 4 to 10 days duration and fall under major Activities
- Major Works Category 3 – Up to 3 days duration, and fall under Major Activities

A major activity may be subject to individual conditions set out by the authorities' Streetworks Coordinator or permitting officer, these may include restrictions on working times, which will be pre-agreed with a promoter.

Standard Activities are defined as:

Standard Activities are activities that have a planned duration between 4 to 10 days duration inclusive. If works last less than 10 days, but require a 'Temporary Traffic Regulation Order' (TTRO), then they shall be classified as Major Works and will be subject to the rules set out in Major Activities

Standard Activities shall be submitted within the allotted timescales and shall include the following details

- Proposed Activity
- Proposed Start Date
- Proposed End Date

A standard activity may be subject to individual conditions set out by the authority's Streetworks Coordinator or Permitting Officer, these may include restrictions on working times, which will be pre-agreed with a promoter.

Minor Activities are defined as:

Works which last 3 days duration or less; however if works last 3 days or less, but require a TTRO, then they shall be classified as Major Works.

Minor Activities shall be submitted within the allotted timescales and shall include the following details

- Proposed Activity
- Proposed Start Date
- Proposed End Date

Immediate Activities

Immediate Activities are either Emergency or Urgent

Emergency Works are defined in Section 52 of the NRSWA

Urgent Activities are defined as works undertaken:

- To prevent or stop an unplanned interruption of any supply to service provided by the permit promoter
- To avoid substantial loss to a promoter in relation to an existing supply or service
- To reconnect supply where the Promoter would be under civil or criminal liability if the connection is delayed until after the expiration of the permit period.

Works that are considered as Emergency or Urgent can commence without a permit, however where an excavation is necessary, the promoter should contact the Authority immediately by Email or Telephone and then in any case, the Promoter must apply to the permit authority within 2 hours of the activity starting.

Permit Applications Timings

Below are the Minimum application timings for Promoters (TABLE 1)

Permit Class - Activities	PAA – Provisional Advance Authorisation	Permit Application	Minimum period before Permit Expires to apply for variations (whichever period is longer)
Major	3 Months	10 Days	2 working days or 20% of original time
Standard	NA	10 Days	2 working days or 20% of original time
Minor	NA	3 Days	2 working days or 20% of original time
Immediate – Urgent or Emergency	NA	2 Hours after work commences, or before 10am next working day	2 working days or 20% of original time

Below are the contact timings for response to Permit Applications for the Authority (TABLE 2)

Permit Class - Activities	PAA – Provisional Advance Authorisation	Permit Application	Minimum period before Permit Expires to apply for variations (whichever period is longer)
Major	1 Month	5 Days	2 working days
Standard	NA	5 Days	2 working days
Minor	NA	2 Days	2 working days
Immediate – Urgent or Emergency	NA	2 Days	2 working days

Refusal of Permit Application

The authority reserves the legal right to refuse a permit or request a permit application modification where they deem that elements of the permit are unacceptable or not feasible.

The authority will abide by “contact timings for response to Permit Applications” set out in Table 2 and provide an adequate response or reason as to why the refusal or modification has been requested, this information may be used to resubmit or modify the application by the promoter to allow a successful granting of a permit application.

Error Identifying and Correction

Where the Authority identifies an error with a permit application, it will either; depending on previous discussions and the scale of the error:

- Send a modification request
- Send a clarification request
- Refuse the Permit entirely.

Whereby the promoter sends a modification request, the promoter should include any details of agreed verbal agreement between the authority's staff and the promoter's staff.

Permitting Conditions

Torbay Council recognises the DfT 2015 guidance; the nationally agreed conditions and, will adopt any approved changes set out and issued by the DfT

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878497/statutory-guidance-document.pdf

Breach of Conditions

If Torbay Council considers that a Promoter is failing to comply with the conditions of a Permit, then they may revoke the Permit.

Should this be considered, then a Permitting Officer will contact the Promoter to inform them of the intention to revoke the Permit and begin discussion, and depending on the severity and risk presented in the Breach, the Permitting Officer reserves the right to completely close a site.

Conflicting Conditions

Any Promoter applying for a Permit should bring all issues or conflicts with conditions to the attention of a Permitting Officer at the earliest opportunity.

Granting and Refusal of Permits

Permit Granting will be issued electronically through Torbay Council's Streetworks Management System, which is currently Yotta Mayrise. The Authority will endeavour to meet the time scales for responses listed above in Permit Application Timings

Permit Refusals will be issued electronically through Torbay Council's Streetworks Management System, which is currently Yotta Mayrise, an explanation of refusal will be given.

Right of Appeal

The Promoter has the right of appeal, which is set out below in Dispute and Appeals if an agreement cannot be reached with the Permitting Officer

Should activities be stopped by a Permitting Officer, then a defined reason and evidence will be issued, including any associative legislation.

Permit Application – Deemed to be Approved (Failure to Acknowledge)

Torbay Council is required to reply within the Timescale for an application for a permit. If the authority fails to do so, the Permit is deemed “approved” or “granted” under the full terms of the Permit Application.

In such cases, all details pertaining to the Permit Application will be deemed accepted. There will be no fee applied when Permits are automatically “Deemed to be to Approved”

Permits – Review, Variations and Conditions

Once the permit has been accepted or approved, the Promoter should have reasonable confidence and expectation that the road space will be available to them during the approved period.

Torbay Council will avoid, wherever possible, to seek to make changes to an already approved permit, however circumstances outside of Torbay Council’s control will inevitably mean that a small minority of permits will need to be changed. These events may include

- Flooding
- Interfering Emergency Works
- Dangerous Buildings
- Traffic Collisions

These circumstances may mean that the occupied road is closed, or the occupied road may be used as a vital traffic diversion route.

If at any time such instances should occur, Torbay Council will contact any affected promoters immediately, and a variation or revocation may be discussed, and may be submitted with no charge.

Powers of the Authority

Any activities that run past the agreed permit period will be committing an offence under Section 74 of the NRSWA 1991 and the Promoter will be charged if they do not have a reasonable excuse for additional occupation and not notifying Torbay Council.

Within the Permit Scheme, Torbay Council has the power to review, vary or revoke permits on its own initiative or on behalf of the Promoter. Torbay Council is under no obligation to allow Promoters activities to run past the permitted dates.

Promoter Variation/Revocation of a Permit

If a Promoter wishes to withdraw or cancel a permit, they must do so through an electronic management system.

Permits cannot be “lengthened” or “shortened”. In any case where a change is needed, a variation must be submitted.

Permits cannot be “postponed” or “delayed”. In any case where a change is needed, a variation must be submitted.

Immediate Activities – Variations

Where an immediate activity takes place, the promoter must submit a permit within the required timescales.

Some immediate activities may require more than one single excavation, where fault finding is necessary. The first application should therefore note the initial location.

1. Any successive locations within 50m should be either advised to the Permitting Officer by telephone or emailed to Streetworks@torbay.gov.uk, no variation will be required.
2. Permit variations will be required for each successive excavation 50m away from each other, extra excavations in these locations will require Torbay Council to be notified.
3. Where the works go into another USRN or street, a new permit will be required.

Disagreement on Variations

Where a variation cannot be agreed, Torbay Council will issue an Imposed Variation on the terms that the Permitting officer deems reasonable.

If the Promoter disagrees with this, they have the option to invoke a dispute resolution.

Non Compliance and Review

Where Torbay Council believes that a Promoter is failing to comply with conditions of a permit, they will collect evidence of the issue and where they are satisfied conditions have been breached, shall either:

- Revoke the current permit
- Issue a fixed penalty notice.

The Promoter will be warned of any impending revocation in such cases.

If the Promoter refuses to cease activity where instructed to do so (except to secure site or temporarily reinstate), it will be classified as an offence and any penalty or prosecution will be pursued by Torbay Council.

Cancellation of Permits

If a Promoter wishes to withdraw or cancel a permit, they must do so through an electronic management system.

Torbay Council is not obligated to either refund or waive the request for payment for these cancelled notices.

Sanctions

Sanctions will be considered by Torbay Council against Promoters that “Operate without a Permit”

It is a criminal offence for a Promoter or Sub-Contractor operating on behalf of a Promoter to operate without a permit (except where works are classed as immediate or emergency and a permit is to be submitted)

The following actions shall be sought by Torbay Council against a Promoter or Sub-Contractor operating on behalf of a Promoter, operating without a permit, using the following steps

1. Serve a notice that requires the Promoter to take reasonable action to remedy the situation within a specified time scale.
2. Failing Step 1. The authority may undertake the steps to remedy the situation itself and will seek to reclaim the costs either via Invoice or Legal Action.
3. Issue a Fixed Penalty Notice against the Promoter or Sub-Contractor operating on behalf of a Promoter
4. Seek Prosecution.

Step 1 and 2 may include; Closure of Site and either temporary reinstatement or measure to make the site safe. The promoter should then re-apply for a permit to return at a suitable time to undertake works.

Any other offences relating to breach of NRSWA 1991 may still include separate fixed penalty notices or actions.

Fees

Regulation 30 gives Torbay Council the power to charge a fee for the following processes. Fees will be charged for the following

1. The Application for a PAA in order to arrange Major Activities
2. The assessment and granting of a Permit
3. The submission and assessment of a Permit Variations.
4. Instances where a Permit Variation would change the nature of the works and place it in a higher category. In this instance the Promoter would have to pay for a variation fee as well as an uplifted rate for the higher classification of works

Fees will not be charged

for the following

- By the Highway Authority in respect of its own works and schemes
- Any work undertaken on a fire hydrant
- Where a permit is “Deemed to be to Approved” because Torbay Council failed to assess and approve a permit within the specified time scale.
- If a Permit variation is initiated by Torbay Council or a revocation through no fault of the Promoter.
- Where a Promoter cancels a Permit which has not yet been granted.

Discounted Fees

will apply to the following, the rate of discount will be 30%

- Where multiple Permits for works that are part of the same project and affect multiple USRN's but adjoin at a junction of 2 roads or corner of a road that does not require regulation order
- The Permitting officer will assess these sites where possible and adjust the Permit fees accordingly.
- Where multiple promoters are working within the same site and submit applications through collaboration. The promoter should liaise with Torbay Council with this matter.
- Where works take place completely outside of traffic sensitive times.
- Where the works are proven to provide economic benefit to Torbay.

Fees and Review

Torbay will review its Permit fees on a yearly basis, to ensure that the overall fee income does not rise above allowable costs, and in return, Torbay Council has the right to raise fees, up to the maximum permissible level, set out by the DFT to fund the Permitting Scheme.

Torbay Council will seek to manage fee systems as efficiently as possible, but whereby overhead costs surpass charged fees, Torbay Council will seek to raise fees to cover the extra expenditure incurred, this will not exceed the maximum allowable costs.

The Annual Fee Review will take place (TBD)

Payment of Fees

Costs of Fees will be calculated automatically by Yotta Mayrise.

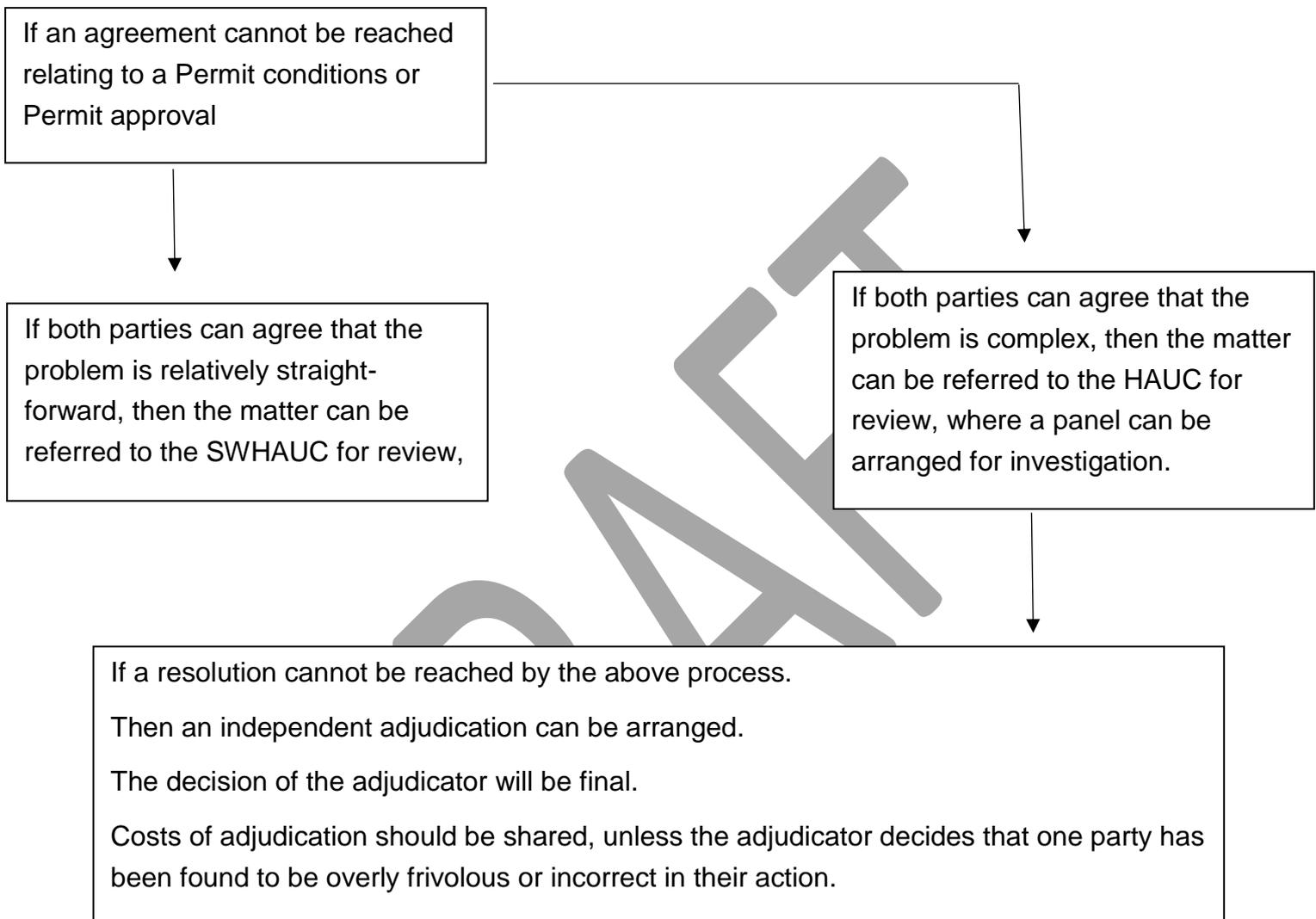
A monthly invoice will be produced by a Permitting Officer and forwarded onto the Promoter via their preferred means of communication.

Dispute and Resolution

Torbay Council would like to commit to opportunities for discussion and collaborating together with Promoters to resolve working issues than resort to formal Dispute Resolutions.

Once a dispute has been opened, after 14 days if the dispute is not resolved, then it will be forwarded to HAUC England/SWHAUC

Dispute Resolution Process



Register of Works

Torbay Council operates an Electronic Streetworks Management system with Yotta Mayrise, this handles incoming and outgoing permits, as well as storing information.

The management system stores information on old, current and upcoming works, as well as information held under noticing and EToN.

USRN and GIS (Easting, Northing) information is used to locate works.

Transition from Noticing to Permitting

Torbay Council intends to transition from September to October 1st, with September as a transitional period for internal works and fault finding.