

## Erection of Hoarding or Fencing on or adjoining the Highway Notes and Standard Conditions

### HIGHWAYS ACT 1980 SECTION 169, 172 & 173

#### NOTES

- 1 Section 172 of the Highways Act 1980 requires that any person proposing to erect or take down a building in a street or court, or to alter or repair the outside of a building in a street or court, shall before beginning the work, erect a close boarded hoarding or fence to the satisfaction of Westmorland & Furness Council. This obligation to erect a hoarding or fence may be only dispensed with following agreement in writing from Westmorland & Furness Council.
- 2 A Licence to erect or retain hoarding or fencing will normally only be issued to the Company intending to erect the hoarding or fencing.
- 3 The highway authority has a duty to issue a Licence unless it considers that the hoarding or fencing would cause unnecessary obstruction to the highway or that an alternative structure would cause less obstruction than the structure proposed.
- 4 The applicant may appeal to a Magistrates Court against a refusal or against any conditions or special conditions attached to a Licence.
- 5 The Licensee is reminded that it is his responsibility to ensure that the hoarding or fencing or structure, is structurally sound, is properly erected and maintained, and that adequate provision is made for the safe passage of highway users.
- 6 A risk assessment in the form of a Hoarding Plan (see attached document) including the system of signing and guarding work must be included with the application form for high-risk sites that are on or adjoining a primary or secondary walking route (see attached list).
- 7 Persons wishing to erect hoarding or fencing on the highway should complete and submit an application form with a sketch of the site **7 days before** the date when any hoarding or fencing is to be erected. On low-risk sites the notice period can be

reduced to 3 working days.

- 8 Should a Temporary Road Closure be required a minimum of 12 weeks' notice is required. A standard application form is available from the Westmorland & Furness Council local office.

## STANDARD CONDITIONS

- 1 No person shall use any hoarding / fence on or adjoining the highway unless it is securely fixed to the satisfaction of the highway authority. Westmorland & Furness Council must be informed when the hoarding/fence is ready to be inspected.
- 2 **Contractors carrying out works must at their own cost effect and maintain with a reputable insurance company a policy of public liability insurance with a limit of indemnity of not less than £5,000,000 (FIVE MILLION POUNDS) in relation to any one claim or series of claims without limit on the number of claims in any one year or other period.** Such insurance must indemnify the Highway Authority from and against all actions, claims, losses and expenses whatsoever caused in respect of loss of life or personal injury or damage to property, howsoever caused, arising out of or in any way attributable to the presence or the placing of the hoarding or fencing.
- 3 The structure should be erected and maintained to meet the general requirements of the Health and Safety at Work Act 1974 and The Management of Health and Safety at Work Regulations 1999. In particular employers are required to carry out assessments of risks to the health and safety of those they employ and others who may be affected by their work, i.e., members of the public. Designers of structures have a duty under the CDM Regulations to address the risks associated with their design, including erection and dismantling operations.
- 4 During erection, modification or dismantling of the hoarding or fencing, care must be taken to exclude the public from the area of work and a sufficient area around it. Where the Highway Authority considers that erection and dismantling must take place during quiet hours, a special condition will be inserted in the Licence. In most cases, whilst the structure is being erected or dismantled, so that the public can be excluded from the works area a temporary footway may be required in the carriageway which may require single file traffic control to be put into operation or



even a temporary road closure arranged. A risk assessment in the form of a Hoarding Plan (see attached document) including the system of signing and guarding should be included with the application form where the hoarding or fencing is on or adjoining a primary or secondary walking route (high risk route). When planning the works, it must be remembered that it can take up to 12 weeks to arrange a temporary road closure.

- 5 The works must be signed, guarded and lit in accordance with the Code of Practice "Safety at Street Works" which is published by HMSO. Where a footway exists, a pedestrian way must be always maintained, alongside the hoarding/fence. This temporary pedestrian way should never be less than 1.2m wide and wherever possible; it should be 1.8m or more in width.
- 6 Where it is not possible to maintain a footway alongside hoarding or fencing a temporary walkway should be provided in the carriageway. Clear signage should be used to indicate the diversion route. This route should ideally be 1.8m wide well-guarded with pedestrian barrier rails at a height of 1.1m, with a tapping rail at 75mm which is 100mm deep. Concrete barriers should be provided on rural A roads. To cater for the disabled a level platform 1400mm long by 1200mm wide (min) the same height as the footway must be fitted at each end of the obstruction. A ramp maximum gradient of 1 in 12, ideally 1 in 20, should be attached to the platform.
- 7 The Licensee must do such things in connection with the hoarding or fencing that Westmorland & Furness Council or any Statutory Undertaker reasonably requests for the purpose of protecting or giving access to any apparatus belonging to or used or maintained by them.
- 8 If any part of the hoarding or fencing is closer than 0.5m to the carriageway or the site of the hoarding or fencing is particularly liable to impact by passing vehicles, then adequately secured, and properly signed, guarded and lit barriers shall be provided alongside the structure.
- 9 Hoarding or fencing erected within the highway shall be adequately always lit between half an hour after sunset to half an hour before sunrise, or in fog. Lamps shall, wherever possible be electrically operated. They may be secured to the hoarding or fencing and must be regularly maintained.



- 10** Westmorland & Furness Council must be given one working days' notice of when the hoarding or fencing is to be removed, by sending a Works Closed Notice, so that an inspection of the footway/carriageway can be carried out. In the event of any damage being caused to the highway as the result of the hoarding/fencing being placed on it, an account will be rendered to the Licensee for the cost of repairing the damage. The onus of proof that damage to the highway was not consequent upon the applicant's operations shall fall on the applicant.
- 11** Westmorland & Furness Council shall have the right to revoke the Licence at any time by written notice addressed to the Licensee if any of the conditions or special conditions subject to which the Licence is granted is not complied with. On receipt of this notice the Licensee shall immediately remove the hoarding or fencing. In default, and after giving 5 calendar days' notice, Westmorland & Furness Council may themselves remove the hoarding or fencing and recover any reasonable expenses incurred in doing so from the Licensee. If the hoarding or fencing is in a dangerous state or liable to cause danger to highway users and the Licensee fails to respond within 2 hours to a request to make the structure safe Westmorland & Furness Council will take immediate action to make it safe. The Licensee will be charged reasonable costs for any work carried out or for any time spent safeguarding the public.
- 12** The name, address and telephone number of a responsible person must be provided in case urgent contact is necessary outside working hours. This number will be retained by the Highways Call Centre.
- 13** An information board must be displayed on the hoarding or fencing. This board must give the name of the company and a telephone number which can be contacted at any time in case of emergencies.
- 14** No door forming part of any hoarding shall be hung to open outwards across any part of the public highway.
- 15** In approving an application, Westmorland & Furness Council may limit the duration of the Licence if the presence of the hoarding or fencing may lead to unacceptable traffic congestion, unacceptable disruption to pedestrians or conflict with other street activities. It is a requirement of the Licence that the hoarding or fencing shall remain

on or adjoining the highway for the minimum time possible.

- 16** A standard charge (please see Westmorland and Furness Council's web site for the current fees and charges – [www.WestmorlandandFurness.gov.uk](http://www.WestmorlandandFurness.gov.uk)) will be made for each hoarding/fence application to cover the cost of inspections and consideration of the application for a Licence.
- 17** No hoarding or fencing shall remain on or adjoining the highway once a Licence has expired. If the agreed duration for a Licence is likely to be exceeded due to unforeseen circumstances the Licensee should request an extension at least three working days before the Licence expires. An extension may be granted if the company can demonstrate that a longer period is necessary due to unforeseen circumstances. In any event the maximum period for a Licence is 3 calendar months. Should it be necessary to have permission for hoarding or fencing beyond 3 calendar months a fresh application must be made, at least three working days in advance, for which a standard fee will be charged.
- 18** Where it is necessary to hold a site meeting during consideration of an application for a Licence or to dispense with the need for a hoarding a standard charge will be made (please see Westmorland and Furness Council's web site for the current fees and charges – [www.WestmorlandandFurness.gov.uk](http://www.WestmorlandandFurness.gov.uk)).
- 18** No charge will be made for an application to dispense with the need for hoarding.