



Department
for Transport

Highways England: Licence

*Secretary of State for Transport statutory directions
and guidance to the strategic highways company*

April 2015

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Foreword

In setting up Highways England as an arms-length, government-owned company, delivering a long term plan framed by Government's clear vision, and sustained by stable investment, an independent monitor and a user watchdog, we have fundamentally transformed the way our strategic roads are run.

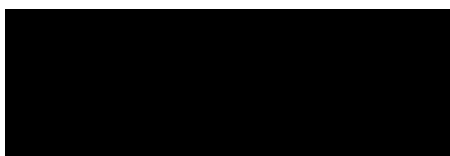
This change means better long-term planning, more efficient delivery, greater transparency, clearer accountability and ultimately a better service for the people and businesses that use and rely on the network on a daily basis.

Government remains responsible for strategic roads and Ministers will continue to be accountable for making sure that the network is managed responsibly, in a way that safeguards value for public investment, meeting the needs of road users, securing individual well-being and supporting economic purpose, both today and for future generations. We have put in place a robust system of governance that ensures we can effectively oversee management and delivery, and intervene to prevent or tackle any failures.

This document represents a crucial part of that system, by setting out the Secretary of State's statutory directions and guidance to Highways England. It makes clear, to both Highways England and the wider community of road users and stakeholders, what we expect Highways England to achieve and how they must behave in discharging their duties and in delivering our vision and plans for the network, set out in the Road Investment Strategy.

The Licence emphasises that the role of Highways England is about more than just complying with the letter of the law. We expect the company to go the extra mile in the way it engages with road users and collaborates with other organisations to develop shared solutions. And they must take a lead in promoting and improving the role and performance of roads in respect of broader communal responsibilities, such as the aesthetics of design, safety and the environment, as well as driving forward wider progress on technology and innovation.

Our reforms are more than a technical change, they are an opportunity to catalyse and drive forward a genuine transformation of the network over the long term. The Licence has a vital role to play in shaping the culture of Highways England and so shift the way we think about how our strategic roads are managed and developed.



The Rt Hon John Hayes MP

Minister of State for Transport



Part 1 - Scope

- 1.1** The Secretary of State has appointed Highways England Company Limited (the "Licence holder") as a strategic highways company by way of an Order in accordance with section 1 of the Infrastructure Act 2015. The effect of this appointment is to confer upon the Licence holder the legislative functions of a strategic highways company as regards the areas and highways in respect of which it is appointed. As a result, the Licence holder will be the highway authority, traffic authority and street authority for the strategic road network.
- 1.2** This Licence shall come into force on 1 April 2015 and shall continue in force unless and until revoked in accordance with the conditions of this Licence.

Part 2 - Interpretation

2.1 This document includes both statutory directions and statutory guidance issued by the Secretary of State to the Licence holder, as provided for in section 6 of the Infrastructure Act 2015. Directions must be complied with by the Licence holder. In the interests of clarity, in this document the statutory directions are indicated by use of the word “**must**” (where marked in bold). All other parts of the document should be considered statutory guidance.

2.2 In this Licence:

| | |
|---|--|
| "Activities" | means the functions carried out by the Licence holder in meeting its obligations and exercising its role as a strategic highways company appointed by the Secretary of State under section 1 of the Infrastructure Act 2015; |
| "Appointment Order" or "the appointment" | means the Appointment of a Strategic Highways Company Order 2015 (S.I.2015/376); |
| "Conditions" or "Licence conditions" | means the directions and guidance issued by the Secretary of State to the Licence holder under section 6 of the Infrastructure Act 2015 set out in this Licence; |
| "Consultation" | means consultation or engagement proportionate to the circumstances in accordance with government guidance on consultation principles ¹ ; |
| "Enforcement Policy" | means the Highways Monitor's policies that secure the Licence holder's compliance with the requirements of the Road Investment Strategy and the Licence. |
| "Highways Monitor" | means the organisation established under section 15 of the Railways and Transport Safety Act 2003, as amended, which will be responsible for monitoring the costs, efficiency and performance of the company. |
| "Licence holder's network" or "the network" | means the highways for which the Licence holder is appointed, as set out in the Appointment Order; |
| "Relevant assets" | means the Licence holder's network and other assets held by the Licence holder for the purposes of operating, managing and improving the highways for which the Licence holder is responsible; |

¹ [REDACTED]

| | |
|------------------------------|--|
| "Road Investment Strategy" | means any Road Investment Strategy set by the Secretary of State under section 3 of the Infrastructure Act 2015; |
| "Route" | A route is a strategic corridor through which strategic road network traffic flows between economically and socially associated centres of population and industry, and/or between strategic points of entry to and from overseas markets, such as ports and airports, and destinations; |
| "Transport Focus" | means the organisation established under section 19 of the Railways Act 2005, as amended, which will be responsible for representing and promoting the interests of users of the strategic road network; |
| "Secretary of State" | means the Secretary of State for Transport, or those acting on his behalf; |
| "Strategic highways company" | means a company appointed by the Secretary of State by way of an Order in accordance with section 1 of the Infrastructure Act 2015; |
| "Whole-life cost" | means the total cost of ownership over the life of an asset. |

2.3 Any reference in this Licence to a numbered paragraph is a reference to the paragraph bearing that number in the condition in which the reference occurs.

2.4 In interpreting this Licence, headings shall be disregarded.

2.5 Where in this Licence the Licence holder is required to comply with any obligation within a specified time limit, the Licence holder **must** comply with the obligation notwithstanding that the time limit has passed, and must do so as soon as practicable.

Part 3 - General conditions

- 3.1** The Licence holder **must**, without prejudice to the Licence holder's legal duties or other obligations, comply with or have due regard to (as appropriate) the conditions set out in this document, which constitute statutory directions and guidance issued by the Secretary of State to the Licence holder as provided for in section 6 of the Infrastructure Act 2015.
- 3.2** It is not intended that these conditions should be incompatible with other legal duties or statutory guidance, though they may affect the manner in which certain functions (including statutory functions) are discharged.
- 3.3** If the Licence holder becomes aware of any incompatibility between the Licence and its other legal duties, it **must** notify the Secretary of State and the Highways Monitor immediately.
- 3.4** Where in this Licence there is a provision for the Secretary of State to give his consent, the Secretary of State may give such consent subject to conditions².
- 3.5** The Secretary of State may make changes to this Licence at any time, but does not intend to do so without first consulting the Licence holder and the Highways Monitor, taking into consideration any advice or representations duly made.
- 3.6** Where in this Licence there is a provision for the Secretary of State to give a notice or to issue further directions or guidance to the Licence holder, the Secretary of State may first consult the Licence holder and take into consideration any representations duly made. The Secretary of State will notify the Highways Monitor of any such directions or guidance.
- 3.7** The Secretary of State may also issue additional directions and guidance to the Licence holder at any time, ensuring that such directions and guidance are made known to the Highways Monitor and published in accordance with section 6 of the Infrastructure Act 2015. The Licence holder **must** report on its progress in carrying out such directions and advice, as required by the Secretary of State.
- 3.8** Where any amendments to or the issuing of additional directions and guidance to the Licence holder by the Secretary of State under 3.6 or 7 would result in a significant impact on the ability of the Licence holder to fund or deliver its activities, the Secretary of State will consider making a proportionate change in the requirements on the Licence holder or the funding made available by the government.
- 3.9** Any significant alteration in the size of the network for which the Licence holder is the highway authority will be accompanied by consideration of a proportionate change in the requirements on the Licence holder or the funding made available by the government.

² This includes where Secretary of State consent may be conditional on any necessary approvals from other parts of government.

3.10 Any consideration of a significant change in the requirements on the Licence holder or the funding made available by the government, including under the circumstances described in 3.5 - 3.9, will be subject to the formal processes for considering changes to the Road Investment Strategy, as set out in Part 6.

Part 4 - Aims and objectives

- 4.1** The network for which the Licence holder is responsible is a critical national asset, which the Licence holder **must** operate and manage in the public interest, in respect of both current activities and needs and in providing effective stewardship of its long-term operation and integrity.
- 4.2** Without prejudice to the general duties on the Licence holder under section 5 of the Infrastructure Act 2015, the Licence holder **must**, in exercising its functions and complying with its legal duties and other obligations, act in a manner which it considers best calculated to:
- a. Ensure the effective operation of the network;
 - b. Ensure the maintenance, resilience, renewal, and replacement of the network;
 - c. Ensure the improvement, enhancement and long-term development of the network;
 - d. Ensure efficiency and value for money;
 - e. Protect and improve the safety of the network;
 - f. Cooperate with other persons or organisations for the purposes of coordinating day-to-day operations and long-term planning;
 - g. Minimise the environmental impacts of operating, maintaining and improving its network and seek to protect and enhance the quality of the surrounding environment;
 - h. Conform to the principles of sustainable development.
- 4.3** For the purposes of this section, "sustainable development" means encouraging economic growth while protecting the environment and improving safety and quality of life for current and future generations.

Part 5 - Exercising the role of a strategic highways company

Effective operation

- 5.1** In complying with 4.2(a) and relevant statutory duties, including the general duties relating to network management under the Traffic Management Act 2004, the Licence holder should:
- a. Seek to minimise disruption to road users that might reasonably be expected to occur as a result of:
 - i. Planned disruption to the network (including from road works);
 - ii. Unplanned disruption to the network (including from incidents on the network and the short-term effects of extreme weather conditions)
 - b. Proactively and reactively provide relevant, accurate and timely information about traffic and conditions on the network to road users, including when there is disruption.
- 5.2** When seeking prior authorisation from the Secretary of State of any non-prescribed traffic sign before it is erected on the network, in accordance with sections 64 and 65 of the Road Traffic Regulation Act 1984, the Licence holder should:
- a. Do so in line with any relevant procedures or guidance that the Secretary of State may specify by notice or in guidelines to the Licence holder;
 - b. Consider any non-prescribed traffic sign previously authorised by the Secretary of State for use on the strategic road network as already authorised;
 - c. Consider initial authorisation of a new non-prescribed traffic sign by the Secretary of State for use on the network to also cover any subsequent uses of the same sign on the network, without the need for further authorisation unless otherwise indicated by the Secretary of State.
- 5.3** The Licence holder **must not** display messages on the road network that do not relate to the Licence holder's statutory responsibilities or the wider management of the road network.

Maintenance, resilience, renewal, and replacement

- 5.4** In complying with 4.2(b), the Licence holder should take all reasonable steps to ensure the continued availability and resilience of the network as a strategic artery for national traffic, and as an effective part of the wider road and transport system.

- 5.5** The Licence holder **must** demonstrate in the Delivery Plan how it aims to comply with the general duty to maintain highways in section 41 of the Highways Act.

Improvement, enhancement and long-term development

- 5.6** In complying with 4.2(c), and Part 6 of the Licence, the Licence holder **must**:
- a. Cooperate with the Secretary of State in developing Road Investment Strategies, including taking the necessary steps to deliver any elements or information required for the development of future strategies;
 - b. Establish and maintain a clear understanding of the pressures upon and impacts of its network at both a national and route level (including in the preparation of route strategies, as required at 5.13), and be aware of the actions needed to improve conditions for users, and manage or mitigate existing problems, to inform the future development and improvement of the network and its performance;
 - c. Provide for sufficient flexibility and future-proofing in planning the long-term development and improvement of the network, taking account of long-term trends, uncertainties and risks - including new and emerging technologies and long-term trends in climate and weather conditions.
- 5.7** The Licence holder may carry out relevant research, development, demonstration and deployment of innovative technologies and applications in line with, and as a function of, the Licence holder's role as a strategic highways company, and is authorised to conduct experiments or trials under section 283 of the Highways Act 1980.
- 5.8** In carrying out any activities referred to in 5.7, including under section 283 of the Highways Act 1980, the Licence holder **must**:
- a. Agree its strategic plans for research, development, demonstration and deployment of innovative technologies and applications, including any experiments or trials which may have significant implications for user safety or government policy, with the Secretary of State;
 - b. Publish its plans for research, development, demonstration and deployment of innovative technologies and applications, as well as any final results from such activities; and
 - c. Where relevant, assist and co-operate with the Government on wider research, development and demonstration activities.

Asset management

- 5.9** The Licence holder **must** develop and maintain high quality and readily accessible information about the assets held, operated and managed by the Licence holder in line with, and as a function of, the Licence holder's

legal duties as a highway authority, including their condition, capability, and capacity, as well as their performance, including against any expectations set out in a Road Investment Strategy.

- 5.10** The Licence holder **must** develop, maintain and implement an asset management policy and strategy, taking into account the requirements of 5.12 - to be initially published to timescales specified in the Licence holder's Delivery Plan - setting out how it will apply a best practice approach to managing the lifecycle of its assets, including maintaining a registry of its asset inventory and condition.
- 5.11** In complying with 5.9 and 5.10, the Licence holder should adopt a long-term approach to asset management consistent with ISO 55000 standards.

Efficiency and value for money

- 5.12** In complying with 4.2(d), the Licence holder **must**:
- a. Adopt a Whole-life cost approach to managing its assets;
 - b. When presented with a significant choice between bearing short-term costs and increasing long-term costs, appraise the different options in line with relevant government policy and guidance to determine which represents the best overall value for money;
 - c. Ensure that it has in place robust internal arrangements to achieve, and to demonstrate how it has achieved, value for money;
 - d. Have due regard to circumstances in which it may be appropriate to carry out additional work as part of proposals where these can reduce or eliminate long-term costs or disruption to the network.

Route strategies

- 5.13** In accordance with section 4 of the Infrastructure Act 2015, the Licence holder **must** periodically prepare and publish route strategies covering the whole of the network, to develop and maintain an appropriate evidence base on the state and performance of the network, and issues affecting these, to inform the setting of Road Investment Strategies (as set out in Part 6) and the Licence holder's ongoing management and development of the network when planning and carrying out its activities.
- 5.14** In preparing route strategies under 5.13 the Licence holder **must**:
- a. Agree the process and timescales for preparing route strategies with the Secretary of State, including the definition of routes on the network;
 - b. Publish the process for preparing route strategies;
 - c. Identify current performance issues and future challenges for all routes on the network;
 - d. Establish outline operational and investment priorities for all routes on the network;

- e. Take account of relevant local plans and priorities concerning local road and other transport networks, wider socio-economic developments, and government policy;
- f. Consider the need for effective integration between the Licence holder's network and the rest of the transport system, including carrying out joint studies with other organisations where appropriate;
- g. Engage with and take account of the views of relevant national and local stakeholders, including those organisations or groups identified at 5.18;
- h. Engage with and take account of the views of Transport Focus and the Highways Monitor;
- i. Identify indicative options for intervention, covering operational, maintenance and, if appropriate, road improvement needs;
- j. Consider opportunities for collaborative solutions, including potential interventions off the Licence holder's network, that can improve the performance of the network and provide increased integration benefits over those that the Licence holder can achieve alone, where this delivers value for money;
- k. Include sufficient evidence to allow the Secretary of State to take informed decisions on the development of a future Road Investment Strategy – including preliminary assessments of deliverability and value for money of any proposed road improvement schemes.

Safety

- 5.15** In complying with 4.2(e) and its general duty under section 5(2) of the Infrastructure Act 2015 to have regard to safety, the Licence holder should, when exercising functions related to safety, have due regard to the need to protect and improve the safety of the network as a whole for all road users, including:
- a. Ensuring that protecting and improving safety is embedded into its business decision-making processes and is considered at all levels of operations;
 - b. Seeking to achieve the best possible safety outcomes across its activities, while working in the context of sustainable development and delivering value for money; and
 - c. Taking opportunities to engage with and support wider efforts to improve safety for road users.
- 5.16** The Licence holder **must** develop and implement strategic plans that demonstrate how it will meet its legal duties and other obligations with regard to safety, including the requirements of 5.15, to be published to timescales specified in the Licence holder's Delivery Plan.

Cooperation

- 5.17** In complying with 4.2(f) and its general duty to cooperate under section 5(1) of the Infrastructure Act 2015, the Licence holder should co-operate with other persons or organisations in order to:
- a. Facilitate the movement of traffic and manage its impacts;
 - b. Respond to and manage planned and unplanned disruption to the network;
 - c. Take account of local needs, priorities and plans in planning for the operation, maintenance and long-term development of the network (including in the preparation of route strategies, as required at 5.13);
 - d. Provide reasonable support to local authorities in their planning and the management of their own networks.
- 5.18** In complying with 5.17, the Licence holder should cooperate with, consult and take reasonable account of the views of:
- a. Local authorities and devolved administrations;
 - b. Other transport network operators (including local highway authorities, Network Rail, port and airport operators);
 - c. Operational partners (including, but not limited to, the emergency services);
 - d. Road users;
 - e. Local communities;
 - f. Other relevant stakeholders with a significant stake in the long-term development of the network.
- 5.19** In complying with 5.17 and 5.18, the Licence holder should co-operate with other persons or organisations in a way which is demonstrably:
- a. Open and transparent – involving relevant stakeholders, ensuring that essential information is available to affected and interested parties, and that the processes for engagement and communication are clear;
 - b. Positive and responsive – seek to build trusting and effective working relationships with key partners and stakeholders, engaging with due efficiency and economy and in a timely manner;
 - c. Collaborative – working with others to align national and local plans and investments, balance national and local needs and support better end-to-end journeys for road users.
- 5.20** The Licence holder **must** cooperate with and assist Transport Focus and the Highways Monitor to support the fulfilment of their statutory functions and must formally agree working practices with the respective organisations to facilitate this.
- 5.21** The Licence holder **must** develop and implement a stakeholder engagement plan that demonstrates how it aims to communicate, engage and cooperate with others in exercising its functions and complying with the requirements set out in 5.17 - 5.19, to be published to timescales specified in the Licence holder's Delivery Plan.

- 5.22** The Licence holder **must** establish a stakeholder advisory panel to provide advice to the Licence holder's Board on issues directly affecting local authorities and communities, and ensure that:
- a. The membership of the panel includes representation from a credible range of local government and other stakeholders, including environmental and safety groups, as appropriate;
 - b. The Licence holder seeks advice from the panel on a regular basis.

Environment

- 5.23** In complying with 4.2(g) and its general duty under section 5(2) of the Infrastructure Act 2015 to have regard to the environment, the Licence holder should:
- a. Ensure that protecting and enhancing the environment is embedded into its business decision-making processes and is considered at all levels of operations;
 - b. Ensure the best practicable environmental outcomes across its activities, while working in the context of sustainable development and delivering value for money;
 - c. Consider the cumulative environmental impact of its activities across its network and identify holistic approaches to mitigate such impacts and improve environmental performance;
 - d. Where appropriate, work with others to develop solutions that can provide increased environmental benefits over those that the Licence holder can achieve alone, where this delivers value for money;
 - e. Calculate and consider the carbon impact of road projects and factor carbon into design decisions, and seek to minimise carbon emissions and other greenhouse gases from its operations;
 - f. Adapt its network to operate in a changing climate, including assessing, managing and mitigating the potential risks posed by climate change to the operation, maintenance and improvement of the network;
 - g. Develop approaches to the construction, maintenance and operation of the Licence holder's network that are consistent with the government's plans for a low carbon future;
 - h. Take opportunities to influence road users to reduce the greenhouse gas emissions from their journey choices.
- 5.24** The Licence holder **must** develop and implement strategic plans that demonstrate how it aims to meet its legal duties and other obligations with regard to the environment, including the requirements of 5.23, to be published to timescales specified in the Licence holder's Delivery Plan.

Sustainable development and design

- 5.25** In complying with 4.2(h), the Licence holder should balance a range of factors in meeting the short and long-term needs of the network, in particular with regard to:
- a. Supporting national and local economic growth and regeneration;
 - b. Protecting and improving the safety of road users and road workers;
 - c. Protecting, managing and enhancing the environment;
 - d. Seeking to improve the well-being of road users and communities affected by the network;
 - e. Ensuring efficiency and value for money.
- 5.26** In exercising its functions, the Licence holder **must** have due regard to relevant principles and guidance on good design, to ensure that the development of the network takes account of geographical, environmental and socio-economic context.
- 5.27** The Licence holder **must** establish a Design Panel to provide advice to the Licence holder on design issues, and in doing so ensure that:
- a. The membership of the Design Panel includes representation from credible experts and relevant stakeholders, as appropriate;
 - b. The Licence holder seeks, and has due regard to, the views of the Secretary of State concerning the purpose, remit and membership of the Design Panel;
 - c. The Licence holder seeks advice from the Design Panel:
 - i. on the design of road improvement schemes, where these are in sensitive locations or expected to have a substantial impact on the surrounding landscape;
 - ii. on the development of relevant design standards concerning the visual impact of schemes; and
 - iii. at any other time where required by the Secretary of State.
 - d. The Licence holder has due regard to the advice and general recommendations of the Design Panel, and the particular observations of the Panel on specific schemes.
- 5.28** The Licence holder **must** develop and implement strategic plans that demonstrate how, in meeting its legal duties and other obligations, it aims to support and promote sustainable development, with particular regard to those factors specified in 5.25, and principles of good design, to be published to timescales specified in the Licence holder's Delivery Plan.

Government policy

- 5.29** In exercising its role as a strategic highways company and complying with the requirements in Part 4, the Licence holder **must** comply with or have due regard to relevant Government policy, as advised by the

Secretary of State, with full regard to any implications for the Licence holder's ability to deliver the Road Investment Strategy.

- 5.30** For the purposes of this section, "relevant Government policy" means all current policies which:
- a. Relate to the activities of the Licence holder, and
 - b. Have been:
 - i. Published in England by or on behalf of Her Majesty's Government, or
 - ii. Indicated to the Licence holder by the Secretary of State.

Standards, specifications and guidance

- 5.31** In carrying out its activities, the Licence holder **must** have due regard to any guidance, standards or specifications relevant to its statutory or other functions. This includes being mindful of where new standards or specifications are developing and seeking to ensure that new projects are brought into line.
- 5.32** In the event that the Licence holder departs from relevant statutory guidance, standards or specifications, the Licence holder **must** clearly record the justification for the departure, explaining why the provisions were not appropriate and (where applicable) how the alternative approach seeks to achieve the same outcomes through different means.

Planning

- 5.33** In addition to any requirements imposed by planning legislation, the Licence holder **must** take reasonable steps to assist those seeking to make planning applications for which the Licence holder is likely to be a statutory consultee under the Town & Country Planning (development management procedure) (England) Order 2010.
- 5.34** Where the Licence holder is consulted by a local planning authority in light of its responsibilities as a statutory consultee under the Town & Country Planning (development management procedure) (England) Order 2010, and where the Licence holder chooses to comment on an application, it **must** make clear which of its comments are:
- a. Information: intended to provide a general context the decision of the local planning authority; or
 - b. Formal recommendations: where, should the local planning authority be minded to disagree with a recommendation of the Licence holder, the Licence holder will put its recommendation to the Secretary of State to take a view.
- 5.35** In the event that the Licence holder makes a formal recommendation as described in 5.34(b), it **must** inform the Secretary of State at the earliest opportunity, ahead of any decision by the local planning authority, unless the Secretary of State waives this right. This information is in addition to any requirements made through the development management regime.
- 5.36** The Licence holder **must**, in making decisions under section 175B of the Highways Act about permission for any new connections to its network:

- a. Unless otherwise directed by the Secretary of State, consider granting permission in light of the nature of the road in question and the consequences of the new connection, having particular regard to:
 - i. In the case of sections of the network designed for high-speed traffic, with partially or comprehensively limited access, there should be a presumption against connection, except where it can be provided safely and where there is a demonstrable benefit to the economy;
 - ii. On all other sections of the network there should be a presumption in favour of connection, except where a clear case can be made to prohibit connection on the basis of safety or economic impacts.
- b. Include its section 175B decision in its consultation response to the local planning authority whenever it is consulted about a development which requires consent under that section.

Land and property

- 5.37** The Licence holder **must** hold and manage land and property in line with, and as a function of, the Licence holder's legal duties as a highway authority, and solely for the purposes of operating, managing and improving the highway, unless otherwise approved by the Secretary of State.
- 5.38** The Licence holder **must** establish, maintain and ensure ready access to all appropriate records relating to the purchase, sale, maintenance and condition of all land and property owned, held, used or occupied by the Licence holder and show how these are being or will be managed. This includes where compulsory purchase proceedings have (or are proposed to be) commenced.

Commercial activity and charging for services

- 5.39** The Licence holder may charge for ancillary services where the law allows, on a non-discriminatory and cost-recovery basis, providing either:
- a. Secretary of State, in his previous role as highway authority for the network, charged for or carried out the activity on a cost recovery basis; or
 - b. The Secretary of State has agreed to the introduction of new charges.
- 5.40** The Licence holder **must not** introduce any other new charges, expand the application or scope of any existing charges, undertake commercial services for profit, or form any subsidiary companies or joint ventures that generate profit, without approval from the Secretary of State.
- 5.41** Any introduction of new charges or new commercial services by the Licence holder, where the necessary government approvals - including those required by 5.39(b) or 5.40 - have been granted, **must** be in line with relevant government guidance.

5.42 The Licence holder **must not** receive commercial sponsorship or paid advertising without approval from the Secretary of State.

Part 6 - Setting and varying the Road Investment Strategy

Introduction

- 6.1 The Secretary of State may at any time set a Road Investment Strategy (RIS) for a strategic highways company, or vary a RIS that has already been set.
- 6.2 A RIS is to relate to such period ('Road Period') as the Secretary of State considers appropriate. For each RIS, the Secretary of State will determine the Road Period and set the timetable for developing and agreeing the RIS.
- 6.3 A RIS must specify the requirements to be delivered by the Licence holder during the Road Period to which it relates and the funding to be provided by the Secretary of State in order to deliver those requirements. Such requirements may include activities to be performed, results to be achieved and standards to be met.
- 6.4 The Licence holder **must** co-operate with the Secretary of State to reach an agreed position on a RIS and comply with the processes for setting and varying a RIS.
- 6.5 In the event that, for any reason, there is no current RIS in effect (for example, due to a delay between one RIS expiring and the commencement of a subsequent agreed RIS), the Licence holder **must** continue to comply with its legal obligations and the requirements set out in this Licence, as well as any further directions issued by the Secretary of State, until a new RIS has been agreed and comes into effect.

Setting the Road Investment Strategy

Step 1: The Strategic Road Network (SRN) Initial Report

- 6.6 Once informed of the Road Period by the Secretary of State, the Licence holder **must** prepare and provide to the Secretary of State a SRN Initial Report to inform the preparation of a draft Road Investment Strategy by the Secretary of State.
- 6.7 In producing a SRN Initial Report, the Licence holder **must** include:
 - a. An assessment of the current state of the network and user needs from it;
 - b. Potential maintenance and enhancement priorities; and
 - c. Future developmental needs and prospects.
- 6.8 In producing a SRN Initial Report, the Licence holder **must**:
 - a. Comply with the timetable set by the Secretary of State;
 - b. Take account of the evidence developed through the preparation of route strategies, as required at 5.13;

- c. Consider the need for effective integration between the Licence holder's network and the rest of the transport system;
- d. Engage with and take account of the views of relevant local and national stakeholders, including those organisations or groups identified at 5.18;
- e. Engage with and take account of the views of Transport Focus and the Highways Monitor;
- f. Take into account any directions and guidance that the Secretary of State may specify in relation to producing a SRN Initial Report by notice or in guidelines to the Licence holder; and
- g. Publish the SRN Initial Report.

6.9 As soon as possible following publication of the SRN Initial Report by the Licence holder, the Secretary of State will conduct a consultation on the SRN Initial Report.

Step 2: The Secretary of State's proposals and Draft RIS

- 6.10** The Secretary of State's response to the consultation referred to at 6.9 will include proposals for a Road Investment Strategy (the 'Draft RIS').
- 6.11** The Draft RIS will include details of the requirements to be delivered by the Licence holder along with the financial resources to be provided by the Secretary of State for the purpose of delivering those requirements, and the intended Road Period to which the proposals relate.
- 6.12** The Highways Monitor will assess the Draft RIS and provide advice to the Secretary of State, in accordance with the timetable set by the Secretary of State, on whether the Secretary of State's proposed requirements are challenging and deliverable with the proposed financial resources.
- 6.13** The Licence holder **must** assist the Highways Monitor in their assessment of the Draft RIS, including providing any additional information as necessary.
- 6.14** The Secretary of State, having taken account of advice from the Highways Monitor, will submit to the Licence holder:
 - a. A Draft RIS;
 - b. As part of the Draft RIS, a statement of his or her general strategy in respect of highways for which the Licence holder is the highway authority;
 - c. Any other information in support of the Draft RIS as the Secretary of State considers appropriate;
 - d. A clear timescale within which the Licence holder is required to respond with a Draft Strategic Business Plan.

Step 3: The Company's Draft Strategic Business Plan (SBP)

6.15 The Licence holder **must** respond to the Draft RIS issued by the Secretary of State in the form of a draft Strategic Business Plan (the 'Draft SBP'), detailing its plans for delivering the requirements set out in the Road Investment Strategy, for the whole period of that RIS.

- 6.16** In providing a Draft SBP to the Secretary of State, the Licence holder **must**:
- a. Clearly indicate whether the Licence holder agrees to the proposals in the Draft RIS, or make counter-proposals;
 - b. Take into account any directions and guidance that the Secretary of State may specify in relation to producing a SBP by notice or in guidelines to the Licence holder;
 - c. Engage with and take account of the views of the Highways Monitor;
 - d. Submit the Draft SBP to the Secretary of State within the specified timescales.

Step 4: The Efficiency Review

- 6.17** The Highways Monitor will assess the Draft SBP and provide advice to the Secretary of State, in accordance with the timetable set by the Secretary of State, on whether the Licence holder's proposed requirements are deliverable with the proposed financial resources, and the extent to which the Draft SBP is challenging and deliverable, including with regard to the levels of efficiency the Licence holder proposes to achieve.
- 6.18** The Licence holder **must** assist the Highways Monitor in their assessment of the Draft SBP, including providing any additional information as necessary.

Step 5: Finalising the RIS and the SBP

- 6.19** Following the Efficiency Review the Secretary of State, taking account of the advice of the Highways Monitor, will do one of the following:
- a. Approve the Draft SBP and finalise the RIS;
 - b. Direct the Licence holder to make revisions to the Draft SBP before granting approval; or
 - c. Produce a revised Draft RIS, at which point the Secretary of State and the Licence holder will follow the process as specified above between 6.14 and 6.16 in order to reach a mutually agreed position on a final RIS and a final SBP.
- 6.20** If necessary, the Secretary of State will request additional advice from the Highways Monitor on revised versions of the Draft RIS and/or the Draft SBP to facilitate their finalisation.
- 6.21** Once both the Draft RIS and Draft SBP have been finalised, they **must** be published by the Secretary of State and the Licence holder respectively.
- 6.22** In the event that the Secretary of State and the Licence holder fail to reach a mutually agreed position on the Draft RIS and/or the Draft SBP within the timetable set by the Secretary of State, the Secretary of State retains the right to determine the content of a final RIS and/or SBP.

Step 6: Mobilisation

- 6.23 Once the RIS has been finalised and the SBP finalised or determined, the Licence holder **must** take appropriate steps in advance of the next Road Period commencing to ensure that it is ready to undertake delivery of the RIS from the start of that period, including preparing a Draft Delivery Plan setting out the details of how the Licence holder aims to deliver the final SBP and submitting it to the Secretary of State for approval.
- 6.24 In preparing a draft Delivery Plan, the Licence holder **must** engage with and take account of the views of the Highways Monitor on the format and level of detail of the Delivery Plan to facilitate reporting arrangements.

Step 7: Delivery

- 6.25 Following approval of a Draft SBP and Draft Delivery Plan by the Secretary of State, and his issuing of a final RIS, the Licence holder **must** publish and deliver the final SBP and the associated Delivery Plan.
- 6.26 The Licence holder **must** report to the Highways Monitor on progress in delivering requirements set out in the final SBP and Delivery Plan on an annual basis, submitting a draft report to the Highways Monitor for approval (providing a copy to the Secretary of State), following which the Licence holder **must** publish the final report.
- 6.27 The Licence holder **must** update its Delivery Plan on an annual basis, submitting a draft update of the Delivery Plan to the Secretary of State for approval. Subject to the Secretary of State being satisfied that the update is consistent with, and contains no material revisions to, the original Delivery Plan, the Licence holder **must** publish the updated Delivery Plan.

Varying the Road Investment Strategy

- 6.28 The Secretary of State is able to vary a RIS once it has been agreed, and the Licence holder may also request a change to the RIS.
- 6.29 Small-scale changes to the RIS, beyond minor refinements that are within the Licence holder's discretion, will be handled through a formal change control process. Major variations, which would affect the Licence holder's overall funding, have a material effect on the integrity of the RIS or otherwise compromise the Licence holder's ability to comply with the RIS, would require the RIS to be re-opened.
- 6.30 In considering or proposing any variation of a RIS, the Secretary of State and the Licence holder **must** have due regard to the desirability of maintaining certainty and stability in respect of the existing RIS.

Change control

- 6.31 Small-scale changes to the RIS, which do not have a bearing on the overall funding envelope and do not materially affect the integrity of the RIS (including small-scale additions to the RIS, as at 6.32), will be subject to a formal change control process, as described at 6.32 – 6.36.
- 6.32 In the event that the Secretary of State considers that a small-scale change to the detail of an objective set out in the RIS may be necessary

(for example, a change to the way in which a particular objective is measured, or a change to the nature of a project identified in the RIS Investment Plan), he will notify the Licence holder, the Highways Monitor and Transport Focus. Where the Secretary of State is seeking additions beyond the current RIS, such as additional schemes or further metrics or indicators, the Secretary of State will consider making a proportionate increase in the funding made available by government to the Licence holder to deliver these, along with the existing RIS requirements.

- 6.33** In the event that the Licence holder requests a small-scale change to the RIS, or identifies that a specific project in the RIS Investment Plan may need to be replaced (due to a deterioration in the business case or difficulties in obtaining relevant consents) the Licence holder **must** provide sufficiently detailed proposals and supporting evidence to allow the Secretary of State to make an informed decision.
- 6.34** The Secretary of State will consider the viability and desirability of any request by the Licence holder under 6.33, seeking advice from the Highways Monitor, where appropriate, and will respond to the Licence holder within three months with a decision about whether or not to proceed with a change.
- 6.35** Following a notification under 6.32, or a response to the Licence holder by the Secretary of State under 6.34, the Secretary of State will begin discussions with the Licence holder and the Highways Monitor to agree the change, including any proportionate increase in the funding as described at 6.32. Once agreed, the Secretary of State will publish details of the change.
- 6.36** In the event that, under the circumstances described at 6.35, the Secretary of State and the Licence holder fail to reach a mutually agreed position, having sought advice from the Highways Monitor, the Secretary of State retains the right to make a final determination.

Re-opening the RIS

- 6.37** Where, in exceptional circumstances, a major variation is considered necessary, which would affect the Licence holder's overall funding, have a material effect on the integrity of the RIS, or otherwise compromise the Licence holder's ability to comply with the RIS, the Secretary of State will formally initiate the process for re-opening the RIS by publishing proposals for variation to the existing RIS and setting a timetable for the process.
- 6.38** In the event that the Licence holder requests that the Secretary of State initiate the process for re-opening the RIS, as described at 6.37, the Licence holder **must** provide sufficiently detailed proposals and supporting evidence to support its request. Following such a request, the Secretary of State will seek advice from the Highways Monitor on the deliverability of the RIS and the validity of the Licence holder's request.
- 6.39** Once the process for re-opening the RIS has been initiated, the Secretary of State will conduct a consultation on the proposals, or alternatively direct the Licence holder to conduct a consultation, depending on the nature of the proposed variation. In either case, the Licence holder **must** provide notification of the launch of the consultation process to those persons it considers appropriate.

- 6.40** Following the consultation process, the Secretary of State will formally respond to the consultation, setting out his or her decision on whether to proceed with the RIS variation process in light of consultation responses.
- 6.41** Should the Secretary of State decide to proceed with a revised RIS, the response to the consultation will include publication of revised proposals, equivalent to those produced in Step 2 of the process for setting the RIS, and set a timetable for finalising a revised RIS, SBP and Delivery Plan.
- 6.42** Following the publication of revised proposals, the Secretary of State, the Licence holder and the Highways Monitor will follow the standard process for determining and agreeing a final RIS, SBP and Delivery Plan, as set out at 6.14 to 6.24, above, in accordance with the timetable set by the Secretary of State under 6.41.

Part 7 - Data and information

Collection and provision of data and information

- 7.1** The Licence holder **must** provide data or information on its performance in complying with and/or delivering the requirements of the Road Investment Strategy, Strategic Business Plan, Delivery Plan and Licence, as required by the Highways Monitor for the purpose of fulfilling its statutory functions.
- 7.2** In complying with 7.1, the Licence holder **must** provide data or information in such form and manner and at such times as the Highways Monitor may reasonably specify in guidelines to the Licence holder.
- 7.3** The Licence holder **must** also collect, record and provide the following data or information as required:
- a. Data or information on performance of the Licence holder's network, assets or the movements and characteristics of traffic on the network not covered by 7.1, that is necessary or relevant to comply with its legal duties or other obligations in exercising its role as a strategic highways company, for example for the purposes of meeting environmental reporting requirements;
 - b. Information to the Secretary of State, annually and on request, on the numbers of planning applications received under the Development Management Order 2010, and how these have been dealt with, including cases involving permissions under section 175B of the Highways Act;
 - c. Information to the Secretary of State, annually and on request, on what actions the Licence holder has taken and is planning to take to encourage the development of an appropriate construction and design skills base to support delivery of the Road Investment Strategy, including:
 - i. the availability and take-up of apprenticeship and graduate programmes and training of existing staff within its own business; and
 - ii. its assessment of the capability and skills of its supply chain.
 - d. Any other data or information that the Secretary of State may reasonably require, including that required to fulfil statutory responsibilities or for official government statistics;
 - e. Any other data or information that Transport Focus or the Highways Monitor may reasonably require, where relevant to the fulfilment of their statutory functions.
- 7.4** The Licence holder **must** provide data or information in respect of 7.3(d) and 7.3(e) in such form and manner and at such times as the Secretary of State, Transport Focus and the Highways Monitor (as appropriate) may reasonably specify in guidelines to the Licence holder, and help with

the processing of data where it facilitates this goal. Where provision of such information under 7.3(d) and (e) would result in a significant impact on the ability of the Licence holder to fund or deliver its activities, the Secretary of State will consider making a proportionate change in the requirements on the Licence holder or the funding made available by the government.

- 7.5** The Licence holder **must** allow access to the network to persons authorised by the Secretary of State for the purposes of collecting traffic data or maintaining equipment used for this purpose, where arrangements for doing so have been agreed in advance with the Licence holder.

Publication of data and information

- 7.6** The Licence holder should have due regard to government policy on data and transparency.
- 7.7** In particular, the Licence holder **must** make publicly available all data and information required by 7.1, as well as any other data or information where publication is specifically required by the Secretary of State.
- 7.8** In complying with 7.7, the Licence holder should have due regard to the need to ensure interoperability with other systems and comply with recognised standards in order to enable the sharing of data for operational or other purposes and maximise the utility of data for third parties.
- 7.9** The Licence holder **must**, taking into account any relevant directions and guidance that the Secretary of State may specify, formulate and publish - to timescales specified in the Licence holder's Delivery Plan - policies as to how it will:
- a. Manage and provide data and information relating to its activities;
 - b. Provide and improve information services to road users.

Provision of expert and technical advice

- 7.10** The Licence holder **must**, where required, provide expert advice to the Secretary of State or other parts of government on relevant policy or technical matters. This includes advice to the Secretary of State in his role as 'competent authority' for the UK in relation to relevant EU activities.
- 7.11** Where appropriate, the Secretary of State may designate the Licence holder as the 'competent authority' for the UK, or require the company to represent the UK in other international activities, where such an arrangement complies with the law.
- 7.12** Where the Secretary of State makes any requirements or issues directions to the Licence holder under 7.10 - 7.11, the Secretary of State will seek to provide advance notice wherever possible, and these will be subject to the general conditions at 3.8 and 3.10 to ensure that the Licence holder is properly resourced to carry out this function.

Part 8 - Enforcement and revocation

Application

- 8.1** The Licence holder **must** act within the conditions of this Licence at all times.
- 8.2** Where the Licence holder fails to comply with the conditions of the Licence, the Highways Monitor may act to enforce these conditions, including through the issue of improvement notices or the levying of fines under section 11 of the Infrastructure Act 2015, in accordance with the Highways Monitor's published Enforcement Policy and any relevant agreement with, or with due regard to guidance from, the Secretary of State.
- 8.3** These conditions do not limit the ability of the Highways Monitor to apply sanctions to other situations that do not involve breaches of the Licence.
- 8.4** None of the conditions laid out in this part affect the Secretary of State's powers under other legislation or role as shareholder of the strategic highways company, or apply conditions to their use. However, where the Secretary of State intends to exercise these powers, for reasons that may relate indirectly to potential breaches of the Licence, the Secretary of State will consult with the Highways Monitor before taking action.
- 8.5** The Licence holder **must** ensure the Highways Monitor is aware, at the earliest opportunity, of:
- a. Any past or current breach of the Licence and of any action being taken to address the breach; and
 - b. Any issues likely to lead to a potential breach of the Licence, and of any action being taken to address the possibility.

Emergencies

- 8.6** Where an emergency situation is agreed to have taken place, as set out in 8.7(a), the application of enforcement activity by the Highways Monitor in relation to the Licence holder's performance or compliance with the obligations set out in this Licence may be suspended.
- 8.7** The nature and extent of any suspension of enforcement activity under 8.6 would be at the discretion of the Highways Monitor, provided that:
- a. The Secretary of State declares that an emergency is in progress or has recently taken place that may have implications for the Licence holder to comply with or deliver its obligations. This includes where this is the result of advice from the Highways Monitor or an application by the Licence holder to the Secretary of State for recognition that an emergency is in progress or has recently taken place;

- b. The Highways Monitor acts in accordance with any relevant agreement with, or has due regard to guidance from, the Secretary of State.

Revocation

- 8.8 If a failure to deliver or a breach of statutory duty or other obligation by the Licence holder is so great that it constitutes a loss of confidence in the ability of the Licence holder to fulfil its legal duties or other obligations, this may result in directions from the Secretary of State or revocation of the appointment by the Secretary of State.
- 8.9 The Secretary of State will not take such a course of action without evidence from the Highways Monitor that the Licence holder has failed to discharge its legal duties or other obligations.
- 8.10 In the event of revocation of the appointment, the Secretary of State will:
 - a. Notify the Licence holder of his intention to revoke the appointment;
 - b. Advise the Licence holder in writing of the date on which it is intended that the order which terminates the Licence holder's appointment as a strategic highways company will take effect;
 - c. Make a transfer scheme under section 15 of the Infrastructure Act 2015, to coincide with revocation of the appointment, ensuring that all property and contracts of the Licence holder, and rights and responsibilities therein, will revert to the Secretary of State.

Ordered handover

- 8.11 Following notification by the Secretary of State under 8.10(a) of a decision to revoke the Licence holder's appointment, the Licence holder **must** co-operate in any transitional arrangements, including:
 - a. The provision of information;
 - b. The transfer of lands, assets, contracts or staff associated with its activities under the Licence;
 - c. The delivery of the Road Investment Strategy and any protocol agreements.
- 8.12 The Licence holder's continued responsibilities during this period of transition, as described in 8.11, are ended only at the point at which the revocation comes into effect.