

A licence is required in order to erect a scaffold on or above the public highway. The licence is issued under section 169 of the Highways Act 1980, generally by the Highway Authority responsible for the particular stretch of highway. The Highway Authority may be one of the various types of local authority, for example a County Council, City Council, District Council or even a private company carrying out the administration duties of the council. In certain instances the highways along two elevations of a corner site may be the responsibility of two different authorities and therefore separate licences will be required for each elevation.

Section 169 allows the licensing authority to determine the terms of the licence and the rules in relation to the issuing of licences. The licensing authority has a duty to issue a licence unless it believes the structure would cause unreasonable obstruction of the highway or a structure of an alternative design would cause less obstruction and could conveniently be used for the work.

If the licensing authority refuses to issue a licence or issues a licence containing terms to which the applicant objects the applicant may appeal to a magistrates court. The court may direct the authority to issue a licence or alter the terms of the licence.

Because each licensing authority can determine its own rules and the terms under which it will grant a licence the applicant should make enquiries with the relevant licensing authority to determine how when and what information is required by the authority in order to issue a licence. Many authorities have facilities to make applications over the internet and provide guidance on what information is required. The rules and terms of issuing a licence can include:

1. The identity of the applicant (some authorities require the scaffolding contractor to make the application while others may require the main contractor or the owner of the premises to do so).
2. A requirement for drawings and calculations to accompany the application.
3. Procedure for issuing licence. Many authorities require the application to be made at a site meeting on notice (usually seven days).
4. Details of the licence period.
5. Protection of underground services.
6. Considerations in relation to management of traffic and pedestrians, including the provision of signs, lighting and diversion of footpaths.
7. Type of scaffold and method of tying.
8. Protection and lighting of the structure.
9. Working hours during which structure can be erected, adapted and dismantled.
10. Method of erecting, adapting and dismantling the structure.

11. Level of public liability insurance cover required and to be maintained by the applicant.
12. Indemnity in favour of the authority for damage caused by or in connection with the structure.
13. Duties arising under other sections of the Highways Act and the New Roads and Street Works Act 1991.

**Breaches of licence terms could result in a fine.**

The cost and method of charging for licences is at the discretion of the licensing authority. Costs can vary considerably and may require a deposit to be placed with the licensing authority to cover remedial costs to the pavement. A conditions survey of the pavement is normally done at the site meeting but applicants are advised to make their own photographic record if a meeting is not held.

If the licensing authority requires the scaffolding contractor to hold the licence and the contractor is not required to have a permanent presence on site he should consider asking the main contractor for an indemnity from any loss arising from the use of the scaffold particularly if the licence imposes responsibility for maintaining and lighting the structure. An example of such an indemnity is set out below:

*“.....(company name) has obtained the pavement licence in respect of the scaffolds erected on .....(street name(s)). The responsibility for maintaining the terms of the licence will become that of the Hirer upon completion of the structures identified in the licence. Such responsibility will continue until the structure is finally dismantled. The hirer will indemnify .....(company name) against all costs incurred arising from the Hirer’s failure to maintain the structure(s) in accordance with the terms of the licence.”*

**To be read in conjunction with SG34 Guidance on Protection of the Public, also the National Pavement Licence Criteria document published by NASC (full download from NASC website).**

*Whilst every effort has been made to provide reliable and accurate information, we would welcome any corrections to information provided by the Writer which may not be entirely accurate, therefore and for this reason, the NASC or indeed the Writer, cannot accept responsibility for any misinformation posted.*



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