



Private Street Works Code of Practice



**Blackburn with Darwen
Borough Council**

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Document control

Title: Private Street Works Code of Practice

Description:

This Code of Practice describes in detail how the council will implement the Private Street Works Code set out in sections 205 to 218 of the Highways Act 1980.

Version	Description	Author	Approver	Date
V 1.0	First Draft	George Bell	Carmel Foster-Devine	

The Private Street Works Code of Practice should be reviewed and updated every 5 years as a minimum.

Any major changes in high-level strategy, technologies or the development of new solutions or political changes that may alter the Councils philosophy, vision or views may trigger an earlier review to take place.

Comments and Feedback:

Blackburn with Darwen Borough Council welcome constructive comments and feedback on the content of this Code of Practice, which will enable us to revise the content improve and tailor our service to our customer’s needs.

Comments can be emailed to highways@blackburn.gov.uk , please enter “Comments on Private Street Works Code of Practice” as your subject.

Glossary of terms and Key Points

Terms and Abbreviations

The Council Blackburn with Darwen Borough Council

CoP Private Street Works Code of Practice

The Act Highways Act 1980

Adopted Highway Highway maintainable at public expense

Private Street A street that is not maintainable at the public expense

PSWC Private Street Works Code set out in sections 205 to 218 of the Act

Key Points

Key Points will be points of importance that have a significant or direct effect on the Plans targets or outcomes

Key Points will be highlighted like this throughout the document.

Critical Items

Critical Items will be items that have a direct effect on meeting the targets or timescales set within the Plan. These Items will ultimately determine the scope and success of the Plan.

Critical Items will be highlighted like this throughout the document.

Financial Implications

£ Items that present potential financial implications will be highlighted like this throughout the document

Executive Summary

The Private Street Works Code set out in sections 205 to 218 of the Act provides the legal framework by which the council, as the Highway Authority, can resolve to make up a private street to 'adoptable standard' before carrying out the necessary procedures to adopt the street as a 'highway maintainable at the public expense'.

The Council has considerable discretion in exercising its powers to adopt highways under the Highways Act 1980. Under the legislation, the council has the power to instigate private street works, however in practice schemes are only progressed if the majority of frontagers on the street have requested the works and shown that they understand that they will be responsible for paying for the cost of this work upon completion.

This CoP describes how frontagers may request that a scheme be progressed on their street and the subsequent process and procedure that will take place.

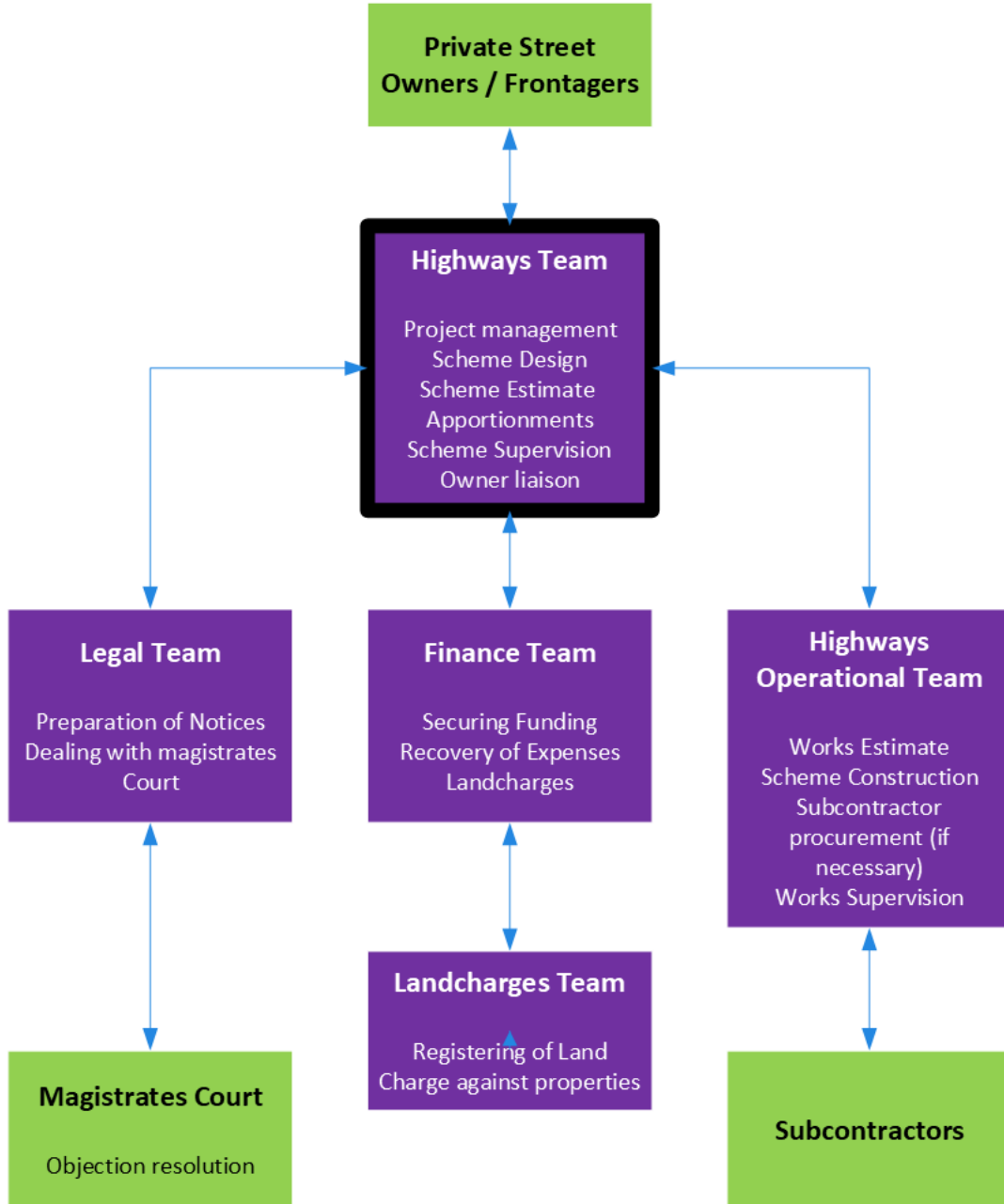
Document Hierarchy

Highway Adoption



Areas of Influence

Inter Departmental and Outside Bodies Links



Private Street Works Code

Introduction

Under the legislation, the council has the power to instigate private street works, however in practice schemes are only progressed if the majority of frontagers on the street have requested the works and shown that they understand that they will be responsible for paying for the cost of this work upon completion. This request is usually in the form of a petition to the council, a sample template of which is set out in [Appendix 1](#).

The council would expect a minimum of 80% of the frontagers on the street to request the works before they would consider progressing a scheme.

Irrespective of the desire of the majority of frontagers to progress a scheme, the council will not normally instigate private street works unless:

- The private street links directly to an existing adopted street
- The private street complies or can be made to comply, with the authority's layout and constructional adoptable standards
- Those seeking adoption have legal title to the land over which the private street runs, and the frontage property or property gaining benefit / access from the private street;
- The private street, if adopted, would provide sufficient wider public benefit.

Resolution to execute street works

Upon receipt of a request from the frontagers of a street to carry out private street works, a report will be prepared for submission to the Executive Board where a decision will be made as to whether to reject or accept the request.

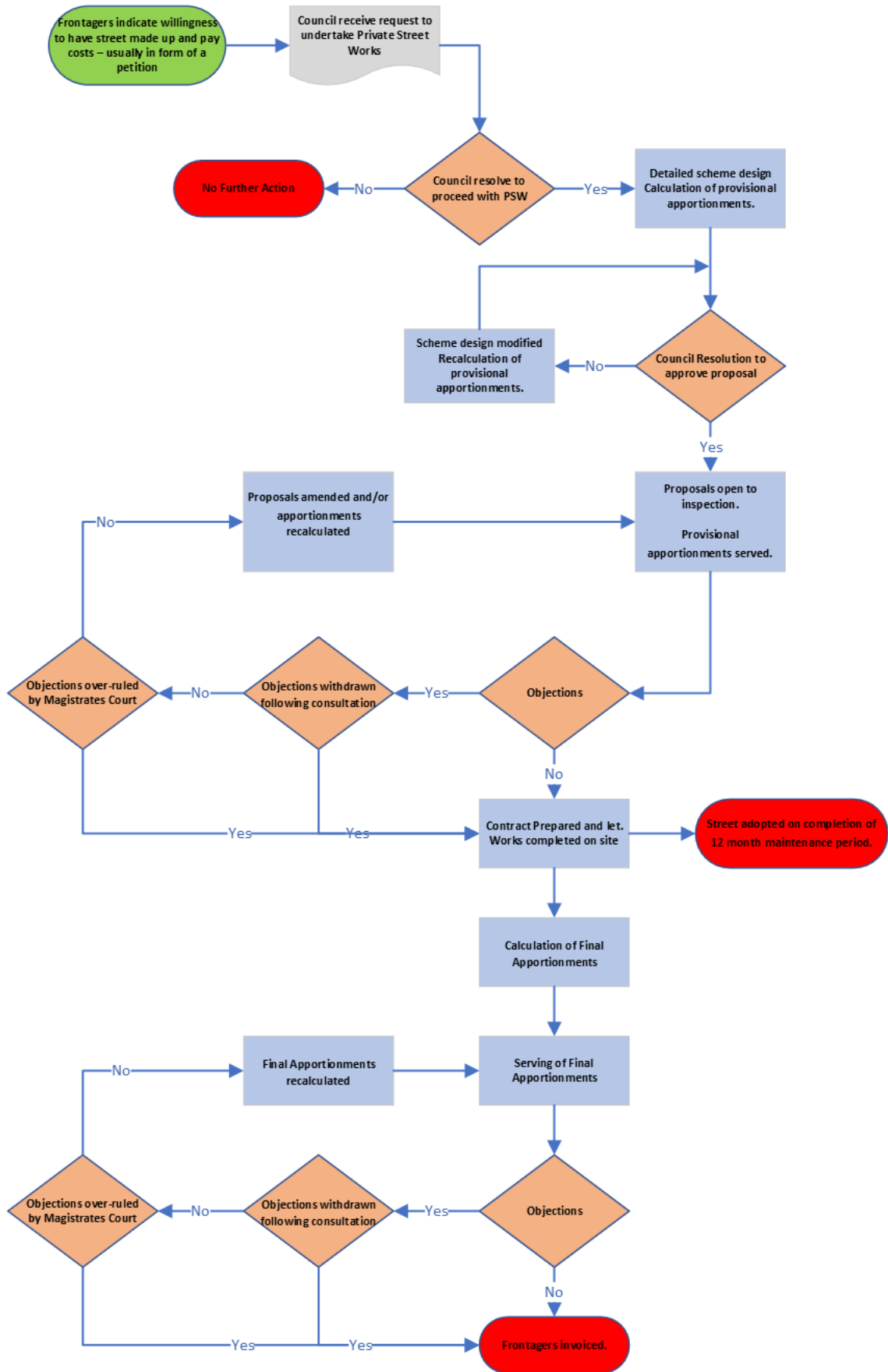
Should the request be accepted, the council will pass a resolution in accordance with Section 205(1) of the Highways Act 1980, to execute street works on the named street and, subject to the Private Street Works Code, apportion the costs in undertaking the works between the premises fronting the street.

The resolution will:

- Recognise that the street is not constructed to a standard suitable for adoption as a publicly maintained highway.
- Authorise the execution of a Private Street Works Scheme.
- Instruct the appropriate Director ('proper officer of the council') to design the scheme, (drawings/specifications etc) and prepare an estimate of the cost of the works and Provisional Apportionment's in accordance with Section 205(3) of the Highways Act 1980.

The procedure following the passing of the resolution is as outlined in the flowchart in the next section.

Private Street Works Procedure



Scheme Design and Costs

Schemes will be designed in accordance with the current Specification for Estate Roads together with any other relevant specifications, British Standards and Codes of Practice in force at the time.

The overall scheme cost will include the provision where necessary of any drainage and new street lighting works. The council will meet the cost of any upgrading of any existing street lighting that is already adopted. The costs of any necessary diversion works of statutory undertakers apparatus will be added to the overall scheme cost.

A standard fee of £1,500 will be charged and added to the overall scheme cost for administrative and legal costs only. Disbursements e.g. advertising costs, etc, will be added to the administrative/legal charge at cost.

Design, supervision and contract administration will be charged as follows and added to the overall scheme cost:

Tender Value (£,000)	Fee (%age of tender value)
10 – 50	10
50 – 60	9.5
60 – 70	9.0
70 – 80	8.5
80 – 90	8.0
Over 90	7.5

Resolution of Approval

Once the scheme has been designed and an estimate of the cost of the works and Provisional Apportionment's has been prepared, a report will be submitted to the appropriate Executive Member seeking approval. In accordance with Section 205(3) and paras. 1 to 4 of Schedule 16 of the Act, the report will contain the specification, plans, sections, estimate and provisional apportionments.

The approval of the Executive Member, with or without any modifications or additions, is referred to as 'the resolution of approval'.

Notices

Following the 'resolution of approval', Notices shall be published once in each of 2 successive weeks in a local newspaper circulating in the area of the street works authority and at least once in each of 3 successive weeks shall be posted in a prominent position, in or near to the street to which the resolution relates.

In addition, within 7 days of the first Notice being published in the local newspaper, notice shall be served on the owners shown to be liable to be charged in the provisional apportionment.

A sample notice can be found at [Appendix 2](#)

Provisional Apportionment

The overriding consideration when calculating the provisional apportionments shall, in accordance with Section 207 (1) of the Act, be the frontage of the respective premises.

Section 207 (2) of the Act allows the street works authority to consider ‘*the greater or less degree of benefit to be derived by premises from the street works*’ when settling the apportionment. In this respect, the council will designate an ‘effective length’ for each frontage as follows:

Type of Frontage	Level of Access to Private Street	Effective Length	
Normal Frontage	Main Access	100% of Frontage Length	or the average effective length of Normal Frontages (whichever is least)
Flank Frontage (Domestic) Or Rear Frontage	Vehicular Access	66% of Frontage Length	
	Pedestrian Access Only	50% of Frontage Length	
	No Access	33% of Frontage Length	
Flank Frontage (Industrial / Business)	n/a	100% of Frontage Length	
Premises not fronting the street	Access through a court, passage, or otherwise,	To be determined individually depending upon circumstances but not to exceed 25% of the average effective length of Normal Frontages	

Provisional apportionments will be based on this ‘effective length’ of frontage for each parcel of land although the Council still needs to subsequently consider the greater or lesser degree of benefit to be derived by any premises from the street works in settling any apportionment..

Sample provisional apportionment letters and notice are set out in [Appendix 3](#).

Final Apportionment

£ In accordance with Section 211 of the Act, once the street works have been completed and expenses and costs of the scheme have been finalised, notice of the final apportionment will be served on the owners in the same proportions, either original or amended, as per the provisional apportionment.

A sample notice and covering letter can be found at [Appendix 4](#)

Objections to Apportionments

An owner of premises that has been served a notice of apportionment, either provisional or final, may, during one month from the date of the notice, on certain grounds object to their proposals by serving notice on the council.

Provisional Apportionment

Under Section 208 of the Act the grounds on which objection may be made by owners with regard to the provisional apportionment are:

- that the alleged private street is not a private street or as the case may be that the alleged part of a private street is not a part of a private street,
- that there has been some material informality defect or error in or in respect of the resolution notice plans sections or estimate,
- that the proposed works are insufficient or unreasonable,
- that the estimated expenses of the proposed works are excessive,
- that any premises ought to be excluded from or inserted in the provisional apportionment,
- that the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or, where the provisional apportionment is made with regard to other considerations than frontage in respect of the degree of benefit to be derived by any premises or the amount or value of any work already done by the owner or occupier of premises.

Final Apportionment

Under Section 211 of the Act the grounds on which objection may be made by owners with regard to the provisional apportionment are:

- that there has been an unreasonable departure from the specification, plans and sections;
- that the actual expenses have without sufficient reason exceeded the estimated expenses by more than 15 per cent.;
- that the apportionment has not been made in accordance with this section

Recovery of Expenses

On completion of the objection period individual invoices should be raised for each property and sent to each owner together with a covering letter, a sample of which can be found at [Appendix 5](#).

Every attempt should be made to recover the costs in full within the invoice timescales; however, should this not be possible, the Council may have to allow payment over a period which should not normally exceed 10 years but this may, in cases of undue hardship, be extended up to a maximum period of 30 years. In these cases, interest is chargeable on the debt from the date of the final apportionment (Section 212 (2) of the Act). The appropriate interest rate should be obtained from the Council's finance officers and included in the covering letter sent out with the invoices.

Adoption

At the end of any maintenance period on the works and on the completion of any remedial works required, notices should be displayed in a prominent position on the street declaring the council's intention to adopt the street as a highway maintainable at the public expense.

A sample notice can be found at [Appendix 6](#)

Appendix 2 – Advertising and Street Notice

Blackburn with Darwen Borough Council

(Insert street name)

s205 Highways Act 1980 (Private Street Works Code)

NOTICE is given that:

- 1 Blackburn with Darwen Borough Council being the street works authority, having resolved to execute street works in the Private Street known as *(insert street name)* under the provisions of the Highways Act 1980, on *(insert date)* duly passed the further resolution on *(insert date)* by the Executive Member for *(insert portfolio name)* of the Council (known as the Resolution of Approval).
2. For a period of one month from *(insert date)* copies certified by the Council's proper officer of the specification, plans, sections, estimate and provisional apportionment referred to in such resolution will be kept deposited at the offices of the Information Desks, Town Hall, Blackburn and Town Hall, Darwen on Mondays to Fridays inclusive between the hours of 10.00 a.m. and 4.00 p.m. (excluding Bank Holidays).
3. During one month from *(insert date)* an owner of premises liable to be charged with any part of the expenses of executing the street works may object to the proposal to execute the works.
4. The grounds on which objection may be made by you are:
 - 4.1 that the alleged private street is not a private street or as the case may be that the alleged part of a private street is not a part of a private street,
 - 4.2 that there has been some material informality defect or error in or in respect of the resolution notice plans sections or estimate,
 - 4.3 that the proposed works are insufficient or unreasonable,
 - 4.4 that the estimated expenses of the proposed works are excessive,
 - 4.5 that any premises ought to be excluded from or inserted in the provisional apportionment,
 - 4.6 that the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or, where the provisional apportionment is made with regard to other considerations than frontage in respect of the degree of benefit to be derived by any premises or the amount or value of any work already done by the owner or occupier of premises.
- 5 Where premises are owned jointly by two or more persons, a notice of objection may be given on behalf of those persons by one of their number if he is authorised in writing by a majority of them to do so.

Dated *(insert date)*

(insert designated officer's name and title)

Blackburn with Darwen Borough Council
Town Hall, Blackburn BB1 7DY

Appendix 3 – Provisional Apportionment

Sample Letter

Name

Date:

Address Line 1

My Ref:

Address Line 2

Please ask for:

Town

Tel.No.:

Postcode

Dear (*insert owners name*),

**Re: (*insert street name*) – s205 Highways Act 1980 (Private Street Works)
Provisional Apportionment - (*insert property address*)**

I hereby give notice that Blackburn with Darwen Borough Council being the street works authority, having resolved to execute street works in the Private Street known as (*insert street name*) under the provisions of the Highways Act 1980, on (*insert date*) duly passed the further resolution on (*insert date*) by the Executive Member for (*insert portfolio name*) of the Council (known as the Resolution of Approval).

I attach an official notice of works which has been advertised in the local newspaper and posted on site at (*insert street name*) and which you can now consider as having been served on you.

The provisional apportionment of costs between the premises liable to be charged with them under the private street works code has been carried out in accordance with the Council's Code of Practice on Private Street Works and is based on each property's linear frontage to the street, but with some discounts for flank frontagers. The total scheme cost has been estimated at £(*insert cost*) which includes a cost of £(*insert cost*) to upgrade the existing street lighting. The street lighting costs are the responsibility of the council and therefore the actual cost to be apportioned to the frontagers is £(*insert cost*). The total effective frontage length of (*insert street name*) has been measured at (*insert length*) metres which means that the cost apportioned to each linear metre of frontage equates to £(*insert cost*) (not including VAT).

I am writing to you as the owners of the above premises to inform you that the sum apportioned to your premises by the provisional apportionment is £(*insert owners share pre VAT*) excluding VAT (£(*insert owners share inc VAT*) incl. VAT).

As explained in the attached notice, within one month from (*insert date*), owners who are liable to be charged with any part of the expenses of executing the street works may, by notice to the street authority, object to the proposals on specific grounds. The grounds for objection are outlined in s4 of the attached notice served on you or alternatively can be found in Section 208(1) of the Highways Act 1980. Any objection made under Section 208(1) which is not withdrawn may be referred to a magistrate's court to be resolved.

Yours sincerely

Sample Notice

Blackburn with Darwen Borough Council

(insert street name)

s205 Highways Act 1980 (Private Street Works Code)

NOTICE is given that:

1. Blackburn with Darwen Borough Council being the street works authority, having resolved to execute street works in the Private Street known as *(insert street name)* under the provisions of the Highways Act 1980, on *(insert date)* duly passed the further resolution on *(insert date)* by the Executive Member for *(insert portfolio name)* of the Council (known as the Resolution of Approval).
2. For a period of one month from *(insert date)* copies certified by the Council's proper officer of the specification, plans, sections, estimate and provisional apportionment referred to in such resolution will be kept deposited at the offices of the Information Desks, Town Hall, Blackburn and Town Hall, Darwen on Mondays to Fridays inclusive between the hours of 10.00 a.m. and 4.00 p.m. (excluding Bank Holidays).
3. During one month from *(insert date)* an owner of premises liable to be charged with any part of the expenses of executing the street works may object to the proposal to execute the works.
4. The grounds on which objection may be made by you are:
 - 4.1. that the alleged private street is not a private street or as the case may be that the alleged part of a private street is not a part of a private street,
 - 4.2. that there has been some material informality defect or error in or in respect of the resolution notice plans sections or estimate,
 - 4.3. that the proposed works are insufficient or unreasonable,
 - 4.4. that the estimated expenses of the proposed works are excessive,
 - 4.5. that any premises ought to be excluded from or inserted in the provisional apportionment,
 - 4.6. that the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or, where the provisional apportionment is made with regard to other considerations than frontage in respect of the degree of benefit to be derived by any premises or the amount or value of any work already done by the owner or occupier of premises.
5. The amount of the estimated expenses of the street works apportioned in the provisional apportionment against the premises known as *(insert property address)* of which you are the owner or reputed owner is £*(insert owners share pre VAT)* excluding VAT (£*(insert owners share inc VAT)* incl. VAT).
6. Where premises are owned jointly by two or more persons, a notice of objection may be given on behalf of those persons by one of their number if he is authorised in writing by a majority of them to do so.

Dated *(insert date)*

(insert designated officer's name and title)

Blackburn with Darwen Borough Council
Town Hall, Blackburn **BB1 7DY**

Appendix 4 - Final Apportionment

Sample Letter

Name	Date:
Address Line 1	My Ref:
Address Line 2	Please ask
Town	for:
Postcode	Tel.No.:

Dear (*insert owners name*),

**Re: (*insert street name*) – s205 Highways Act 1980 (Private Street Works)
Final Apportionment – (*insert property address*)**

Blackburn with Darwen Borough Council being the street works authority, have completed the street works in the Private Street known as (*insert street name*) under the provisions of the Highways Act 1980, as outlined in the Resolution of Approval passed on (*insert date*) by the Executive Member for (*insert portfolio name*) of the Council.

The final apportionment of costs between the premises liable to be charged with them under the private street works code has been carried out in accordance with the Council's Code of Practice on Private Street Works and is based on each property's linear frontage to the street, but with some discounts for flank frontagers. The estimated cost used for the provisional apportionment to the frontagers was (*insert estimated cost used for provisional apportionment*) however, I can now inform you that the final cost to be apportioned is (*insert final scheme cost*).

The total effective frontage length of (*insert street name*) has been measured at (*insert length*) metres which means that the final cost apportioned to each linear metre of frontage equates to £(*insert cost*) (not including VAT).

I am writing to you as the owners of (*insert property address*) and hereby give notice that the sum apportioned to your premises by the final apportionment is £(*insert owners share excl. VAT*) excluding VAT (£(*insert owners share inc VAT*) incl. VAT).

As explained in the attached notice, within one month from the date of the notice, owners who are liable to be charged with any part of the expenses of executing the street works may, by notice to the street authority, object to their final apportionment on specific grounds. The grounds for objection are outlined in s2 of the attached notice served on you or alternatively can be found in Section 211(2) of the Highways Act 1980. Any objection made under Section 211(2) that is not withdrawn may be referred to a magistrate's court to be resolved.

Yours sincerely,

Sample Notice

Blackburn with Darwen Borough Council

(insert street name)

s205 Highways Act 1980 (Private Street Works Code)

NOTICE is given that:

- 1 Blackburn with Darwen Borough Council being the street works authority, having resolved to execute street works in the Private Street known as *(insert street name)* under the provisions of the Highways Act 1980, on 9th February 2012 and having passed the further resolution on 23 August 2013 by the Executive Member for Regeneration of the Council (known as the Resolution of Approval).
5. During one month from the date of this notice, an owner of premises shown in the apportionment as liable to be charged may, by notice to the authority, object to the apportionment on the following grounds contained in Section 211 of the Highways Act 1980, or any of them:-
 - a) that there has been an unreasonable departure from the specification, plans and sections;
 - b) That the actual expenses have without sufficient reason exceeded the estimated expenses by more than 15 per cent.;
 - c) That the apportionment has not been made in accordance with this section
6. The amount of the final costs of the street works apportioned in the final apportionment against the premises known as «Number» «Street», Blackburn, «Postcode» of which you are the owner or reputed owner is £«Owners_Share_pre_VAT» excluding VAT (£«Owners_Share_inc_VAT».00 incl. VAT).
- 6 Where premises are owned jointly by two or more persons, a notice of objection may be given on behalf of those persons by one of their number if he is authorised in writing by a majority of them to do so.

Dated *(insert date)*

(insert designated officer's name and title)

Blackburn with Darwen Borough Council
Town Hall, Blackburn **BB1 7DY**

Blackburn with Darwen Borough Council

(insert street name)

s205 Highways Act 1980 (Private Street Works Code)

Final Apportionment of Ascertained Expenses of Street Works Executed in *(insert street name)* Pursuant to Resolution of the Council dated *(insert date)*

Scheme Details (all sums pre VAT):

Estimated expenses£
To be contributed by council under section 236£
Total amount provisionally apportioned£
Total ascertained expenses.....£
To be contributed by council under section 236£
Amount to be finally apportioned£

Property Details:

Property.....*(insert property address)*
Owner(s).....*(insert owners name and address)*

Provisional Apportionment (pre VAT).....£
Gross Final Apportionment (pre VAT).....£
Contribution by council under section 236.....£
To be borne by council under section 215.....£
Net final apportionment (pre VAT).....£

Total Final Apportionment (incl VAT)£

Dated: *(insert notice date)*

(insert designated officer's name and title)

Blackburn with Darwen Borough Council
Town Hall, Blackburn **BB1 7DY**

Appendix 5 – Recovery of Expenses

Sample Letter

Name

Date:

Address Line 1

My Ref:

Address Line 2

Please ask

Town

for:

Postcode

Tel.No.:

Dear (*insert owners name*),

**Re: (*insert street name*) – s205 Highways Act 1980 (Private Street Works)
Request for Payment - (*insert property address*)**

I refer to the final apportionment letter of the (*insert date*) sent to all owners of property fronting onto (*insert street name*). I can confirm that any objections received to this notice have now been resolved and I now enclose for your attention the invoice for your section of the works.

As indicated in the final apportionment letter, the sum invoiced to your premises is £(*insert owners share excl. VAT*) excluding VAT (£(*insert owners share inc VAT*) incl. VAT). The Council expects this invoice to be paid in full within the timescales outlined on the invoice. If you need to arrange finance terms then this preferably should be with a conventional lending institution e.g. Banks and Building Societies. In the event that you are not able to obtain finance through these institutions then the Council might act as 'lender of last resort'. Should this be the case then you may be allowed to extend your payments over a period not exceeding 10 years with interest charged at Base Rate plus (*insert rate*)% on the date of serving the Final Apportionment's. In exceptional circumstances, where the Council is satisfied that undue hardship will be caused, this period may be extended but not exceeding 30 years

Should you have any queries regarding your payment, please see the invoice for the appropriate contact details to use.

Yours sincerely

Appendix 6 - Adoption

Sample Notice

Blackburn with Darwen Borough Council

Adoption of (*insert street name*) following Private Street Works

Notice Pursuant to Section 228 Highways Act 1980

NOTICE is given that:

- (1). Pursuant to Section 228 of the Highways Act 1980, and following the execution of street works, Blackburn with Darwen Borough Council as street works authority DECLARE the section of (*insert street name*) defined in the schedule below to be a highway which, for the purposes of the Highways Act 1980 is a highway maintainable at the public expense and on the expiration of one month from the date of this Notice shall, subject to (2) below, become such a highway.

Schedule

the private street known as (insert street name) between (insert description of length of works).

- (2). An owner of any part of the street defined in the schedule above may object to the declaration of the Council that the street is a highway maintainable at the public expense by making such objection in writing to the address set out below within one month from the date of this Notice.

Dated (*insert date*)

(insert designated officer's name and title)

Blackburn with Darwen Borough Council

Town Hall, Blackburn, **BB1 7DY**