

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE – 19 DECEMBER 2000

MONITORING OF PUBLIC UTILITY REINSTATEMENTS

Report By Director of Development Services

1. PURPOSE OF REPORT

- 1.1 To inform the Committee of the performance of Public Utilities in reinstating road openings.

2. BACKGROUND

- 2.1 Whenever a Public Utility (or a contractor employed by them) digs up a public road or a prospectively maintainable road they have to comply with the rules and regulations as described by the 'New Roads and Street Works Act (NRSWA) 1991'. This Act also defines the duties of the Roads Authority with regard to Public Utilities works and sets limits on the Roads Authority's powers to regulate and supervise Public Utilities works in the road.

The NRSWA is supplemented by a series of national Codes of Practice which contain detailed instructions on co-ordination procedures, training, carrying out road works, safety procedures, reinstatement of the roads, inspections, guarantees and penalties. All Public Utilities and Roads Authorities must, by law, adhere to these Codes of Practice.

3. MONITORING AND INSPECTION PROGRESS

- 3.1 The Public Utilities must notify the Roads Division before any planned work in a road or footway/footpath.
- 3.2 However, if it is an emergency (e.g. gas leak), the Public Utilities do not need to notify the Roads Division, until after they have started work.
- 3.3 Whilst the work is in progress the Public Utilities must ensure that supervisors/operatives possess the appropriate Highway Authorities and Utility Committee (HAUC) certification.
- 3.4 The Roads Division inspects a random sample of Public Utilities works in progress, undertaken by the Clerk of Works, and the Public Utilities must pay for these inspections. The number of units of inspection on which payment by the Public Utilities to the Roads Division is based shall not exceed 30% of all inspection units. The Roads Division inspect a minimum of 30% per year of all inspection units. The current fee per inspection is £14.50.
- 3.5 When the works are complete, the Public Utilities must guarantee their reinstatements for two years (three years if their excavation is more than 1.5 metres deep).

3.6 The guarantee period does not apply if it is shown that the standard of workmanship and/or specification of materials for reinstatement have not complied with the prescribed requirements. Under these circumstances, a defect notice can be issued, at any time, to any reinstatement completed after the introduction of the 1991 NRSWA. This has recently been tested at the High Court where a ruling found in favour of Nottinghamshire County Council against British Telecom.

4. AUDIT OF ROAD OPENINGS

4.1 A check has been done on the Inspection process for the quarter July to September 2000.

	Scottish Power	West of Scotland Water	British Telecom	Transco
No. of Inspections carried out	21	157	36	72
No. of Satisfactory Reinstatements	11	67	12	38
No. of failures notified.	10	90	24	34
No. of failures repaired	8	32	15	16
Failures notified prior to completion Notice	3	16	0	12

4.2 Telewest is Registered as a Public Utility in accordance with Legislation. They are currently installing ducts throughout East Ayrshire, causing major disruption. At present there is insufficient information available to monitor performance of their reinstatements.

5. ADDITIONAL CHECKS

5.1 As part of the South West Roads Authorities and Utilities Committee (Scotland), the Roads Division participated in a national coring programme in 1998. The aim of the contract was to retrieve cores of a random sample, 2%, of Public Utility works reinstatements subject to the requirements of the NRSWA 1991. This involves extracting a small section of the reinstated surface for analysis of the quality of construction and materials used.

5.2 In East Ayrshire 33 core samples were taken. 67% met the standard expected compared to a published national average pass rate of 30%.

5.3 During the year 2000, a further 34 core samples were taken in East Ayrshire. 56% met the standard expected. There are no national figures available for the current year.

6. PERFORMANCE

6.1 As can be seen from the results of inspections and core samples, none of the Public Utilities is performing to a satisfactory standard.

6.2 Results are passed to the Public Utilities through the Susiephone computerised management system for action, which is monitored by the Clerks of Work.

6.3 The Roads Division is part of the South West Roads Authorities and Utility Committee (Scotland), where all matters including quality are raised.

6.4 Due to the deterioration in performance, the Roads Division also intends to take up areas of non compliance and/or performance with the Public Utility concerned, at a high level.

6.5 As previously reported to Committee, the Nottinghamshire County Council versus British Telecom court case added greatly to the Roads Authority powers by allowing the Roads Authority to recover costs or have faulty work reinstated. Previously Public Utilities denied responsibility whenever a reinstatement was out with its guarantee period. They can no longer do this.

7. LEGAL IMPLICATIONS

7.1 The Roads Division's inspections of Public Utilities are governed by the New Roads and Street Works Act 1991. (NRSWA 1991).

8. FINANCIAL IMPLICATIONS

8.1 The cost of inspections of reinstatements undertaken under the NRSWA 1991 is financed by the Public Utilities and is a continuing source of revenue for the Council.

8.2 Section 131 of the NRSWA 1991 also empowers the Roads Division to carry out such investigatory works (e.g. coring) as appear to be necessary to ascertain that Utilities are complying with reinstatement specification standards.

The cost of these investigatory works is borne by the Roads Division. Only when a failure is found can the cost of the investigatory works be recovered.

9. RECOMMENDATION

9.1 It is recommended that the Committee:

- (a) authorise the Director to make representations to the utility companies on the poor performance in reinstatements;
- (b) ask CoSLA to consider making representations at national level on behalf of all local authorities; and
- (c) seek through CoSLA a change in the legislation requiring utilities to pay for 100% inspections by Roads Authorities and improved inspection procedures.

Stephen Chorley
Director of Development Services

AW/YK
1 December 2000

LIST OF BACKGROUND PAPERS

Nil

For further information please contact Alastair Wyper on 01563 576310

AGENDA