

CABINET
11 JULY 2019**QUALITY OF UTILITY WORKS ON THE PUBLIC HIGHWAY**

Relevant Cabinet Member

Mr A Amos

Relevant Chief Officer

Director of Economy and Infrastructure

Recommendation

- 1. The Cabinet Member with Responsibility for Highways recommends that Cabinet:**
 - a) notes the following information in response to the Notice of Motion submitted to Council on 14 February 2019; and**
 - b) endorses the approach to holding those undertaking utility works on the highway to financial account and scrutiny.**

Background

2. The Council agreed a Notice of Motion on 14 February requesting that the Cabinet Member with Responsibility for Highways brought a report to Cabinet setting out how the Council can ensure that statutory undertakers, utility companies and 3rd parties not meeting our excellent standards when undertaking works on the highway are held to financial account and scrutiny. The Notice of Motion referred to poor performance of some utility companies in delivering and managing works on the Highway.
3. This report seeks to set out the detail of utility works on the highway, the County Council Street works team's role in managing this activity through the permit scheme and the inspection monitoring and fining of poor performance.
4. The Traffic Management Act 2004 and New Roads and Street Works Act 1991 (TMA 2004 and NRSWA 1991) confer various responsibilities on both the local authority and other works promoters (the utility companies). Specifically, the local authority has a duty to coordinate all works and the right to protect the highway infrastructure it manages and maintains. The works promoter is responsible for carrying out the works safely and expeditiously to minimise impact.
5. There are broadly three types of activity carried out by the utility companies as works promoters:
 - a) Planned maintenance and repair to their existing networks / assets;

- b) Connections of new developments to the existing network, that may or may not involve wider reinforcement works;
- c) Works in response to unplanned failures, strikes etc. or other 'emergency works'.

6. The Council, as the relevant local authority, influences, manages and coordinates a) and b) through regular meetings of all works promoters, reviewing their maintenance and investment programmed works and checking as far as possible that the road space requirements of each promotor does not clash with others. The delivery of these works is then achieved by notification from all works promoters through our Permitting Scheme.

7. The permitting process further checks that disruption from roadworks is considered appropriately. This is done at the application stage by restricting daily working periods, checking for suitable traffic management and challenging the overall works duration, especially on the defined traffic sensitive network. As over 300 enquiries regarding road space occupation are received daily, detailed scrutiny of works proposals is not feasible.

8. More difficult is 'emergency works' where the works promotor is only obliged to inform the authority after the event, events that can account for up to 30% of any one utility company's works.

9. Site checks are carried out in line with the provision made in the NRSWA for a resource to inspect approximately 10% of live works, 10% at works completion and 10% of expiring guarantees (period covered by utility to rectify any arising defects).

10. Importantly the utility companies are responsible throughout for their works and the main areas we scrutinise are:

Applications for:

- location to prevent clashes
- time of day when working to reduce congestion
- days when working to reduce congestion
- length of works to reduce congestion
- the ability to work collaboratively.

Site works for:

- safety of operations and traffic management
- suitability, extent and sufficiency of traffic management
- application of any imposed conditions
- adequacy of reinstatement.

11. The utility companies are held to account for all works to the public highway and are responsible for rectifying all noted defects. Specifically, we pursue the following:

Financial:

- **Fixed penalty notice (FPN)** - charges (£80 increased to £120 for late payment) are issued for all breaches of permit conditions and for any late start/stop and registration notices. Where utilities are found to be working

without a Permit there is an increased FPN charge (£300 which is further increased to £500 for late payment);

- **Defect charges** - (£47.50) are issued for reinstatement issues; these are monitored and repeat fines issued every 17 days until the defect is repaired
- **Overrun charges** - this charge varies for each works site depending on various factors and agreed charges as noted below.

<u>Incursion of Carriageway</u>	<i>(2) Description of street</i>	<i>(3) Amount (£) (each of first three days)</i>	<i>(4) Amount (£) (each subsequent day)</i>
1.	Traffic-sensitive street or protected street not in road category 2, 3 or 4.	5000	10000
2.	Other street not in road category 2, 3 or 4.	2500	2500
3.	Traffic-sensitive street or protected street in road category 2.	3000	8000
4.	Other street in road category 2.	2000	2000
5.	Traffic-sensitive street or protected street in road category 3 or 4.	750	750
6.	Other street in road category 3 or 4.	250	250

<u>Non-Incursion of Carriageway</u>	<i>(2) Description of Street</i>	<i>(3) Amount (£) (each day)</i>
1.	Street not in road category 2, 3 or 4.	2500
2.	Street in road category 2.	2000
3.	Street in road category 3 or 4.	250

The table below summarises the number of incidents and the fines raised from these three types of incident over the last three years.

	2016-2017		2017-2018		2018-2019 (at 31 May 2019)	
	No.	£	No.	£	No.	£
Fixed Penalty Notice	451	36,700	1037	92,600	976	114,100
Defect	1369	328,988	1483	288,911	1244	309,359
Over run charges	186	291,000	142	218,850	114	397,800
Total		656,688		600,361		821,259

(Please note fines are noted in the NRSWA and set/reviewed by government. They

do not relate to the type of notification system utilised and therefore remain the same whether we operate a Permit Scheme or other notification system.)

Works:

- Works are stopped for dangerous activity or circumstances on active sites
- 2-hour defect rectifications are issued for dangerous matters with a site and are classed as High Risk
- 4-hour Low Risk defect rectifications are issued for circumstances that may lead to a dangerous situation if not rectified
- All other defects are notified for rectification and incur a defect charge as noted above.

Meetings:

- Regional meetings are held where all local authorities join together to seek improved utility performance. Currently, Severn Trent Water is working under a Joint Authorities Group (JAG) improvement plan
- Local utility improvement meetings are held regularly with all utilities where we publicise performance of all works promoters and name and shame the worst performers. At the last meeting both Severn Trent Water and Cadent, the gas utility company, were noted as the worst performing utility works promoters in the County
- Utility meetings are held with individual promoters to discuss and pursue measures to improve performance of specific utilities
Performance improvement meetings are currently being pursued with both Severn Trent Water and Cadent. As a result both companies now have an improvement plan in place.

Performance:

The majority of performance issues are noted during live site inspections. As a result last year, we increased inspections for 6 months in this area above the normal provision of 10% to 15%. As noted above, this resulted in numerous fines for poor performance totalling £821,259 last year. Unfortunately, the current level of routine fines is minimal and does little to drive improvement with some defects recharged over many weeks as not corrected. For example, we have a defect running with Severn Trent Water that has had 16 inspections and so the repeat fines total £760. These defects are all monitored and are reported in their overall performance. In addition to the meetings noted above, next month we are meeting with Severn Trent Water to discuss their performance and reinforce our requirement for them to take greater account of the impact of their works on the highway network.

12. On 20th May 2019 this Council modified the Permit Scheme to collect a fee for each permit for works to enable greater resource. We now have additional staff to monitor site works, this resource will be reactive to monitor emergency works, which can cause considerable disruption on the network as they are not planned or notified in advance. The additional resource will also help ensure correct notification with fines issued to encourage compliance and the resource to enable us to pay more attention to the strategic network to reduce congestion along our key routes.

13. To further drive improved performance, at the end of the month we are trialling a supplement to the current out of hours service, with one specifically dedicated to utility issues. Additionally, we are evaluating alternative methods to resolve issues that arise at utility works that will have an impact on the highway network. The utility company retains overall control of their works, however, if they do not respond within 2 hours, we can step in (and recharge the utility) to make safe dangerous situations.

Conclusion

14. Utility companies have a right to work on the highway and remain responsible for all work carried out, which they organise, manage and supervise. We have a duty to co-ordinate all works on the highway, but this is hampered by the extent of emergency (30%) works and the number (300/day) of road space enquiries.

15. We inspect a limited number of sites to check safety and reinstatement quality and that the utility is working as agreed in their Permit, including minimising their impact on the highway network. Remedial works, charges, fines and meetings are then pursued to drive improved performance.

16. Looking to the future, once we have operated a successful Permit Scheme for several years with no amendment we can consider introducing lane rental for utility companies on our strategic town centre streets. This will introduce a daily fee for road space occupation, which will incentivise utility companies to pursue detailed works scheduling and make better emergency arrangements to minimise road space occupation. Congestion on our network will then be further reduced due to shorter works periods. Specifically, lane rental would force utilities to rethink how they plan and undertake their works encouraging completion to be quicker, at night or outside of traffic sensitive times as road space occupation is charged on a daily basis during traffic sensitive times. Working outside of these times would help to reduce congestion especially during peak traffic flows.

Legal, Financial and HR Implications

17. Failure to coordinate and minimise congestion may lead to government intervention as our duties under the Traffic Management Act would not be met

18. The budgeted income for this service for 2019/10 is c£0.9m which is expected to be met in full and takes account of the financial implications within this report. The Council raises fee invoices in partnership with Liberata, and a number of clients utilise the online payments system. The collection and pursuance of outstanding debt rests with the traffic management department and additional capacity is being built into the team to raise invoices promptly, encourage the use of the online system and ensure outstanding debt is effectively collected.

Risk Implications

19. Failure to inspect or coordinate utility works may increase congestion and safety issues.

Privacy and Public Health Impact Assessments

20. Failure to coordinate utility works may increase congestion and reduce air quality. Failure to inspect may increase public safety issues if compliance with safety measure deteriorates.

Equality and Diversity Implications

21. This report relates to the financial account and scrutiny of utility companies works. There are no noted equality and diversity implications noted in this specific regard.

Background Paper

Agenda papers and minutes of Full Council Meeting 14 February 2019

[Council Agenda and Papers 14 February 2019](#)

Contact Points

County Council Contact Points

County Council: 01905 763763

Specific Contact Points for this report

Name: Sally Everest, Network Control Manager

Tel: 01905 843482

Email: SEverest@worcestershire.gov.uk