

HAMPSHIRE COUNTY COUNCIL

Report

Committee:	Environment and Transportation Select Committee
Date of meeting:	29 June 2010
Report Title:	Coordinating and Regulating Utility Works on the Highway
Report From:	Director of Environment

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1. Purpose of Report

- 1.1. To inform Members of the legislation and associated powers that Hampshire County Council can use to manage utility companies which install and maintain apparatus on the public highway.
- 1.2. The paper then examines the benefits and disbenefits of implementing a permit scheme to allow roadworks on county roads.

2. Introduction

- 2.1. In an average year there are approximately 70,000 notifiable roadworks in the county. This does not include the thousands of non-notifiable works such as pothole filling, minor repairs, sign cleaning and utility works that do not involve excavations. The total number of works in Hampshire is split roughly 50/50 between the utility companies and the Authority.
- 2.2. The County Council tries to coordinate all of these works to minimise their disruption to residents and traffic. In order to coordinate, the Council utilises legislation and good working practices, along with regular liaison meetings with contractors. In addition, a register of all notifiable works listing the dates of the works and their location is held.
- 2.3. The vast majority of utility works (approximately 80%) are minor repairs needed to connect customers or prevent customers from becoming disconnected and usually last from a few hours to three days. They are difficult to coordinate as they are needed in a specific location and there is little flexibility in the timing. The remaining works are generally more major and are usually undertaken to improve services or supply services to new areas. By their nature they tend to be more disruptive and therefore greater

effort is employed to coordinate these works. They are also planned several months or even years in advance, allowing greater flexibility on timing, which provides more opportunities to schedule them to times that would minimise their impact.

3. Primary Legislation and the Codes of Practice

- 3.1. The main legislation used to manage and regulate utility works on the highway is the New Roads and Street Works Act (NRSWA) 1991. This legislation provides powers and duties for utility companies to undertake work on the highway, as well as powers and duties for authorities to regulate and coordinate utility works. It applies to all utility works in all roads, footways, footpaths and verges, private or publically maintained. (In the case of a private road the landowner becomes the relevant authority.)
- 3.2. In 2004 a further piece of relevant legislation was introduced, the Traffic Management Act (TMA). This set out duties for authorities to minimise congestion from all sources, including utility and highway works. It expanded on regulatory powers already existing under the NRSWA and provided powers for an authority to operate a permit scheme (see below).
- 3.3. The TMA also introduced the concept of parity, requiring authorities to regulate all works on the highway (including their own) in a similar fashion. This was in recognition that congestion arises from all types of works, not just utility works. Regulation and coordination of works must be based on traffic impact and sound highway engineering reasons. Accordingly, authorities are required to ensure processes are in place so that they do not give preferential priority to their own works.
- 3.4. Under the requirements of the NRSWA and the TMA all works have to be notified to the authority so they can be coordinated. They have to be executed safely and in a timely manner. Utility companies also have to reinstate their excavations to a national standard (usually on a like-for-like basis). Authorities have powers to challenge durations and inspect works. These powers can only be used for the purposes of minimising impact on traffic, ensuring safety and the structure of the highway. They cannot be used for non-highway purposes or for enhancing the structure of the highway. The exact details of how the powers can be used and their limitations are described in a series of nationally agreed Codes of Practice. These Codes are described in more detail in the attached appendix.

4. Penalties and Performance Measurement

- 4.1. In some cases, where a utility company has failed to comply with directions from an Authority, or where they have failed to comply with the Codes of Practice, charges can be levied. A utility company can also be prosecuted for failing to comply with the legislation.

- 4.2. Hampshire regularly inspects sites and measures performance of works on the network to check compliance with legislation and Codes of Practice. As a result of these regimes, Hampshire annually recovers approximately £60,000 for works that overran, £25,000 for problems arising from site safety or reinstatement quality and £130,000 for failing to notify works correctly. In severe cases, usually where works are deemed to be dangerous, Hampshire has successfully prosecuted utility companies. The last time a prosecution was deemed necessary was in 2008. Under the requirements of parity, similar performance measurements are taken for the Authority's own works, but no actual charges or prosecutions are levied.
- 4.3. Despite the significant amounts of money recovered, utility company performance is still generally very high. In the 2009/10 year, on average, utility company signing and guarding and works notifications were 97-98% compliant; some companies were 100% compliant. Only a tiny fraction of works (less than 1%) overran their agreed durations. Unfortunately, testing and inspections have revealed that up to 40% of utility reinstatements may be non-compliant (though this is still better than other Authorities in the South East Region which report non-compliance levels of 50%). These non-compliances are usually caused through use of the wrong or insufficient materials.
- 4.4. Cooperation and close working partnerships are regarded nationally as examples of good working practice. Hampshire enjoys an excellent working relationship with all utility companies and this is reflected in the generally high standards of performance. It is also reflected in the fact that in the 2009/10 year over 300 days of traffic disruption by contractors were saved by rescheduling works to share closures and combine works. Significantly, more traffic disruption is also saved by contractors working at night/extended hours or by adopting 'no dig' techniques. However, as yet this is not measured.

5. Permit Scheme

- 5.1. The TMA introduced powers to allow an Authority, or a group of Authorities, to operate a permit scheme. A permit scheme would replace the existing requirement for a utility company to notify an Authority of its works. Instead, it would need to obtain permission before undertaking works. Retrospective permission would need to be obtained for emergency works.
- 5.2. Permit schemes also allow an Authority to add conditions to works before granting a permit. Similar to the powers used to challenge durations and inspect works, such conditions must be based on traffic, maintaining the highway and road safety. They cannot be applied to enhance the structure of the road or for non-highway purposes.
- 5.3. An Authority's own works must also be included in a permit scheme. The same permissions must still be obtained before works start and the same conditions must also be adhered to.

- 5.4. Advice from the Department for Transport (DfT) indicates that permit schemes should only be operated where the Authority can demonstrate that they will be more effective in minimising traffic disruption than the existing processes. They should also be targeted to roads and areas where they will have most benefit, ie their application is probably not appropriate on quieter residential roads.
- 5.5. The DfT has recognised that, in order to operate a scheme, additional resources will be required to process the permit, apply conditions and check compliance. Accordingly, the Authority may charge for a permit to cover the additional tasks. Maximum levels of charge have been set by the DfT and each Authority must justify the breakdown of its own permit charges.
- 5.6. The requirement for contractors to obtain permission before working, and the ability to set conditions on a permit offer significant benefits in regulating and managing works on the highway. Kent County Council has been operating a permit scheme on its main roads since January 2010 and has reported a reduction in the number of complaints regarding works. It has also managed to save a number of days of traffic disruption by forcing contractors to share closures and work extended hours. However, there are a number of potential disbenefits to running a scheme:
 - (i) Operating a permit scheme for an Authority's own works could result in additional costs in order for contractors to comply with additional conditions. The costs for issuing and compliance checking permits for its own contractors would need to be borne by the Authority, probably through increased charges on capital programme projects (ie the charge for permits for utility company works cannot cover the costs of permitting the Authority's own works).
 - (ii) Additional resources will be needed to operate a scheme. For example, Kent County Council has employed an additional 10 staff to check and authorise permits, check compliance with permit conditions and issue permit invoices.
- 5.7. As the permit charges cannot be avoided by the utility companies it is likely that they will pass on their costs to their customers. They will also make the reason for the additional costs widely known. This could result in increased pressure to prove that a permit scheme is necessary and results in reduced congestion and better managed works.
- 5.8. The initial set-up costs for permit schemes are likely to be significant; Kent County Council's initial set up costs were in the region of £1 million. The Council also spent two years developing its scheme, procuring resources, training staff and obtaining software.
- 5.9. The County Council is closely monitoring the Kent and London permit schemes, and investigating possible benefits to running its own. Initial evidence suggests that congestion arising from works is not generally a

problem in Hampshire and could not therefore be made significantly better by the application of a permit scheme, although the use of conditions via permits could help improve the quality of reinstatements.

6. Conclusion

- 6.1. In a time of significant budget reductions, there is an inevitable concern over the potential cost of introducing a permit scheme. More cost-effective measures, such as collaborative working, running a 'considerate contractor' scheme or perhaps a 'voluntary quality partnership' approach may achieve similar improvements to a permit scheme without the potential budget impact.

Section 100 D - Local Government Act 1972 – background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

1.1. None.

2. Impact on Crime and Disorder:

2.1. Not applicable.

3. Climate Change:

a) How does what is being proposed impact on our carbon footprint / energy consumption?

Not applicable.

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Not applicable.

Appendix

Codes of Practice or Specifications exist for the following activities:

1. Coordination and notification of all works – describes the processes used to notify all works to the Authority and the actions an Authority can take to minimise works durations. It also describes the penalties for failing to notify correctly and for overrunning agreed durations.
2. Inspection of utility works – describes how Authorities can inspect utility works and the penalties for failing to comply with the requirements of the reinstatement specification and the Safety Code. (Currently this is not a mandatory Code, but all utility companies treat it as such. In 2011 a revised Code is likely to be introduced which is mandatory and has more flexibility in the application of inspections.)
3. Reinstatement of utility works – describes the materials that must be used and the quality of reinstatement required.
4. Signing and guarding of utility works – describes what signs are needed and how to control traffic. (In 2011 this is likely to become a mandatory Code for Authority works.)
5. Recording of buried apparatus – describes how all organisations should record their buried equipment. (Currently not a mandatory code and is generally only used as guidance, although all utility companies have robust policies regarding the recording of their own apparatus.)
6. Diverting of utility apparatus – describes the procedures to get utility pipes and cables diverted to accommodate major Authority works.
7. Permit schemes – describes how permit schemes are operated. (A new Code introduced by the TMA.)