

REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE - 8 MAY 2006

REPORT ON: STATUTORY UNDERTAKERS REINSTATEMENTS IN DUNDEE - 2005-2006

REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION

REPORT NO: 227-2006

1 PURPOSE OF REPORT

1.1 The purpose of this report is to:

- a provide a report on the performance of Statutory Undertakers operating in Dundee during 2005-2006 based on inspections and coring of their reinstatements under the New Roads and Street Works Act 1991 (NRSWA);
- b update the Committee on the progress of the 2006 national coring programme of Statutory Undertakers reinstatements; and
- c update the Committee on the status of the Transport (Scotland) Act 2005, Part 2 - Road Works.

2 RECOMMENDATION

- 2.1 It is recommended that the Committee note the performance of Statutory Undertakers reinstatements in Dundee based on the visual sample inspection regime and the local coring results for the last year.
- 2.2 It is recommended that the Committee note the status of the Transport (Scotland) Act 2005, Part 2 - Road Works, which is expected to be implemented on 1 January 2007.

3 FINANCIAL IMPLICATIONS

- 3.1 Statutory Undertakers are responsible for carrying out their own reinstatements. They are charged the prescribed national fee of £21.00 for each visual sample inspection up to the prescribed level of 10% of an estimated annual workload, at 3 different stages of their works. For coring purposes, Statutory Undertakers are charged only for the actual cost of failed cores as well as a standard administration fee of £42.00 for each failed core. For failed cores they are also charged up to 3 further inspections, at £42.00 each, during an additional 2 year guarantee period.
- 3.2 There may be financial implications following the implementation of the Transport (Scotland) Act - Part 2 - Road Works, which may be reported to Committee at a later date.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 The quality of Statutory Undertakers reinstatements have a direct effect on the well being of the public travelling on Dundee's road network, whether on foot or by vehicle.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 The quality of the footway network in the city is a vital component to a barrier free environment for the mobility impaired.

6 BACKGROUND

- 6.1 There are 3 types of inspections, carried out by the Roads Authority, that are randomly selected from a sample of Statutory Undertakers road works via:

- Visual Sample Inspections - at 3 different stages ie during the works, after reinstatement and before the end of the 2 year guarantee period;
- Local Coring Programme - a physical core is taken through the bituminous layers (blacktop only) and the core can then be measured and assessed; and
- National Coring Programme - a biannual programme, by all Roads Authorities in Scotland, co-ordinated by the Roads Authorities and Utilities Committee (Scotland) - RAUC(S).

From the 3 separate methods, engineering staff identify problems and determine what they think is happening locally and compare it with previous results and national practices.

- 6.2 Full results are shown in Appendices 1 and 2, however, the findings are summarised in Sections 7 to 10 below.

7 STATUTORY UNDERTAKERS PERFORMANCE BASED ON VISUAL SAMPLE INSPECTION REGIME (SEE APPENDIX 1 FOR DETAILS)

- 7.1 As in previous years, although the minimum required standard of performance of 90%, based on the random sample inspection regime, was generally achieved by Statutory Undertakers (94% average), it has been found that this regime alone does not accurately reflect the quality of reinstatements. Some of the reasons for this are that the sample inspections are visual, the majority of works are not witnessed by the Roads Authority due to the sample size being limited (10% of an estimated annual workload at 3 different stages of their works), Statutory Undertakers' contractors may only be on site for relatively short periods and sometimes work outwith normal office hours.

- 7.2 It is therefore only after coring the bituminous materials that the depth of layers, degree of compaction and type of materials used can be accurately assessed against the NRSWA Reinstatement Specification. Dundee City Council has therefore continued its own local coring programme and is also continuing to participate in the biannual National Coring Programme detailed below. However, it should be noted that coring does not reveal what is below the bituminous layers.

8 STATUTORY UNDERTAKERS PERFORMANCE BASED ON LOCAL CORING PROGRAMME (SEE APPENDIX 2 FOR DETAILS)

- 8.1 All cores were selected randomly from permanent reinstatements, less than 6 months old at the time of coring, in carriageways only.

- 8.2 The average pass rate from local coring programme, for all Statutory Undertakers, were 68% for 2005 compared with 83% for 2004/2005 which shows an apparent drop in standards. However, all the 32% core failures in 2005 were of fail-monitor category (ie are being monitored for their performance) compared to previous years when the majority of failures had to be excavated and reinstated.
- 8.3 To continue to monitor the performance of Statutory Undertakers, and to impress on them the requirement to achieve the minimum target of 90% pass rate, it is intended to continue with local coring programmes and increase the number of cores during 2006/2007.

9 PROGRESS OF 2006 NATIONAL (SCOTTISH) CORING PROGRAMME

- 9.1 Following the last four bi-annual National Coring Programmes (reported previously to Committee), the RAUC(S) decided to repeat this programme until the level of performance is such that it provides the industry with confidence in the quality of reinstatements.
- 9.2 The National Programme will core up to 2% random sample of all permanent reinstatements completed between 1 March 2004 and 28 February 2005 in each Council area.
- 9.3 Falkirk Council is leading this year's programme for TayForth Area RAUC on behalf of Angus, Clackmannanshire, Fife, Dundee City, Perth & Kinross and Stirling Councils.
- 9.4 The coring will take place during May and June 2006. The results, after agreement with all Statutory Undertakers during July and August 2006, will be reported to and then approved by RAUC(S) in December 2006, before wider publication and report to Committee in spring 2007.

10 PROGRESS OF STATUTORY UNDERTAKERS SINCE THE ISSUE OF IMPROVEMENT NOTICES

- 10.1 Since the issue of Improvement Notices by Dundee City Council on 25 June 2001, Statutory Undertakers have shown some improvements in the quality of reinstatements in Dundee. The Roads Authority has therefore reduced the frequency of separate progress meetings with British Telecom, Scottish and Southern Energy, Scottish Water, Telewest and Scotland Gas Networks but continue to monitor them as vigorously as possible and meet them individually on specific issues as and when required.
- 10.2 Quarterly Co-ordination meetings ie Dundee RAUC, will continue to be held with all Statutory Undertakers (together with representatives from other sections of Planning and Transportation Department, Leisure and Arts, City Centre Management, BEAR(S) and Tayside Police) to discuss their planned works, to co-ordinate these with the Council's own planned works and to monitor their performance

11 TRANSPORT (SCOTLAND) ACT 2005

- 11.1 Committee will recall their approval on 23 February 2004 of the report "The Regulation of Utility Companies Roadwork's: A Consultation" which included Dundee City Councils response to the consultation on the Transport (Scotland) Bill.

11.2 The Transport (Scotland) Act 2005 received Royal Assent on 5 August 2005.

The Act has four parts:

- Part 1 - Regional Transport (related to Regional Transport Partnerships);
- Part 2 - Road Works (see below);
- Part 3 - Miscellaneous (related to public transport); and
- Part 4 - General (related to secondary legislation).

Part 2 of the Act "Road Works" amends sections of Part IV of the New Roads and Street Works Act 1991, aiming to improve the quality and co-ordination of road works across Scotland by:

- establishing a Scottish Road Works Commissioner to monitor the quality of road works carried out on all roads (including trunk roads) by Roads Authorities and Statutory Undertakers, driving and promoting improvements and imposing penalties for persistent poor performance of Statutory Undertakers as well as Roads Authorities;
- improving the co-ordination of road works by making the Scottish Road Works Register (SRWR) a statutory requirement, placing enhanced duties on both Statutory Undertakers and Roads Authorities to co-operate, co-ordinate, plan their works and notify/register works information in the SRWR;
- introducing stricter requirements for reinstating roads and new provisions on resurfacing roads; and
- providing for an increase in the levels of civil penalties for some offences and giving new powers to roads authorities to issue fixed penalty notices for a limited number of offences (see Appendix 4 for details).

Appendix 3 gives a summary comparison of Dundee City Council's response to the 2004 consultation with Part 2 of the Transport (Scotland) Act 2005.

11.3 To implement the provisions of Part 2 of the Act, New Codes of Practice and Regulations are being drafted by various working groups, with members representing Transport Scotland (the agency of the Scottish Executive), Roads Authorities and Statutory Undertakers. Dundee City Council are represented by two members of the Planning and Transportation Department on 2 of the 5 working groups. These Codes of Practice and Regulations will soon go out for consultation and their implementation is expected on 1 January 2007.

12 CONSULTATIONS

12.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance) and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

13 BACKGROUND PAPERS

- 13.1 Report No 301/2000 - Statutory Undertakers Performance in Dundee 1999/2000 was presented to Planning and Transportation Committee on 22 May 2000.
- 13.2 Report No 338/2001 - Statutory Undertakers Performance in Dundee 2000/2001 was presented to Planning and Transportation Committee on 25 June 2001.
- 13.3 Report No 319/2002 - Statutory Undertakers Performance in Dundee 2001/2002 was presented to Planning and Transportation Committee on 27 May 2002.
- 13.4 Report No 509/2003 - Statutory Undertakers Performance in Dundee 2002/2003 was presented to Planning and Transportation Committee on 25 August 2003.
- 13.5 Report No 137/2004 - The Regulation of Utility Companies Roadworks: A Consultation was presented to Planning and Transportation Committee on 23 February 2004.
- 13.6 Report No 279/2005 - Statutory Undertakers Reinstatement Programme in Dundee 2003/2005 was presented to Planning and Transportation Committee on 16 May 2005.

Mike Galloway
Director of Planning & Transportation

Iain Sherriff
Head of Transportation

IFS/AL/FV/KM

27 April 2006

Dundee City Council
Tayside House
Dundee

APPENDIX 1

SAMPLE INSPECTION RESULTS (VISUAL) OF STATUTORY UNDERTAKERS REINSTATEMENTS IN DUNDEE

SUMMARY OF 2005/2006 ANNUAL PASS RATES

Appendix 1 shows the results of the visual random sample inspections of each Statutory Undertaker's works in Dundee, together with annual figures from previous years for comparison.

Statutory Undertaker	2005/2006	
	Agreed Units of Inspections	Pass Rate
Openreach (BT)	200	93% (56/60)
Cable & Wireless	No Works	-
Scottish Water	450	93% (139/150)
Scottish & Southern Energy	224	96% (64/67)
Telewest	141	83% (35/42)
Thus	See Note 3	100% (1/1)
Scotland Gas Networks	847	96% (245/254)

Notes

- 1 Inspection figures in brackets, eg (56/60) represent number of passes divided by the total number of sample inspections for that undertaker.
- 2 The number of sample inspections carried out annually is 10% of the Agreed Units of Inspections (based on estimated annual workload) at each of 3 different stages, eg for BT 3 X 10% X 200 = 60.
- 3 Thus had limited volume of works in Dundee, hence only one inspection was carried out during 2003/2004.

Statutory Undertaker	Annual Sample Inspection Pass Rate (%)						
	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06
Openreach (BT)	87	94	90	94	99	93	93
Cable & Wireless	100	100	-	-	-	-	-
Scottish Water	92	97	90	94	96	98	93
Scottish & Southern Energy	95	94	91	98	99	100	96
Telewest	89	91	90	97	100	100	83
Thus	100	100	100	91	100	-	100
Scotland Gas Networks	97	94	95	99	99	100	96
Average Pass Rate (%)	94	96	91	96	98	99	94

APPENDIX 2 - LOCAL DUNDEE CORING PROGRAMME 2005

Appendix 2 shows the results of the local Dundee Coring Programme during 2005 with figures from previous 5 years for comparison. All cores were selected randomly from permanent reinstatements in carriageways completed between 1 April 2004 to 30 September 2005.

Statutory Undertaker	Core Description	Core No	Pass		Fail-Monitor						Fail-Replace					
			No	%	Com-paction	Layers	Materials	Others	TOTAL		Com-paction	Layers	Material	Others	TOTAL	
									No	%					No	%
Openreach (BT)	Randomly Selected	3	3	100%	-	-	-	-	0	0	-	-	-	-	0	0
Cable & Wireless	No Works	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Scottish Water	Randomly Selected	7	3	43%	1	1	2	-	4	57%	-	-	-	-	0	0
Scottish & Southern Energy	Randomly Selected	3	2	67%	1	-	-	-	1	33%	-	-	-	-	0	0
Telewest	Randomly Selected	-	-	-	-	-	-	-	0	0	-	-	-	-	0	0
Thus	No works	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Scotland Gas Network	Randomly Selected	12	9	75%	1	1	1	-	3	25%	-	-	-	-	0	0
TOTAL 2005	Randomly Selected	25	17	68%	3	2	1	-	8	32%	-	-	-	-	0	0%

Totals 2004/2005	Randomly Selected	29	24	83%	1		1		2	7%		3			3	10%
Totals 2003/2004	Randomly Selected	54	27	50%					0	0	9	10	5	3	27	50%
Totals 2002/2003	Randomly Selected	102	45	44%					0	0	6	13	37	1	57	56%
Totals 2001/2002	Randomly Selected	56	26	46%	6	3			9	16%	9	11	1		21	38%
Totals 2000/2001	Random and Targeted	97	24	25%	3	17			20	21%	8	45			53	54%

Notes

Pass = Reinstatement in compliance with NRSWA Reinstatement Specification.

Fail-Monitor = Defects of minor nature, requiring further 2-year monitoring.

Fail-Replace = Outwith NRSWA Reinstatement Specification, requiring replacement of bituminous layers and a further 2 year guarantee period.

APPENDIX 3

SUMMARY	
<p style="text-align: center;"><u>Dundee City Council Response to the Consultation (2004)</u></p> <ul style="list-style-type: none"> • new primary legislation • Network Manager within each Roads Authority • certain offences dealt with by fixed penalty notices • powers to Roads Authority to direct works, their timing and under certain circumstances to dictate the route • current electronic notification system to be extended to become a permit system and a GIS co-ordination tool be developed • Roads Authority to have powers to carry out full or half width reinstatements at the cost of undertakers and to increase the limit of undertakers re-opening a road after substantial works for road purposes have been carried out 	<p style="text-align: center;"><u>Transport (Scotland) Act 2005</u></p> <ul style="list-style-type: none"> • amends New Roads and Street Works Act 1991 • appointment of an independent Scottish Road Works Commissioner (June/July 2006) • certain offences dealt with by fixed penalty notices • powers to Roads Authority to direct, refuse, decide timing and under certain circumstances to dictate the route • current electronic notification system to include GIS co-ordination tool and to become a statutory requirement • Roads Authority to have powers to carry out full or half width reinstatements with financial contributions from undertakers and to increase the limit of undertakers re-opening a road after substantial works for road purposes have been carried out.

APPENDIX 4

Transport (Scotland) Act - Sections 34 and 37 introduces the following Fixed Penalties for certain offences:

Schedule 6A to the New Roads and Street Works Act 1991

Fixed Penalty Offences (applicable to Statutory Undertakers)

Offence	Brief Description
An offence under Section 113(5)	Failure to comply with duties under Section 113 (advance notice of certain works etc).
An offence under Section 114(5)	Beginning to execute works in contravention of Section 114 (notice of starting date).
An offence under Section 116(4)	Failure to give notice in accordance with Section 116 (notice of emergency works).
An offence under Section 129(6) consisting of a failure to comply with sub-section (3) or (4)	Failure to comply with requirements to give notice of completion of reinstatement.

Schedule 8A to the Roads (Scotland) Act 1984

Fixed Penalty Offences (applicable to persons other than Statutory Undertakers)

Offence	Brief Description
An offence under Section 58(1)	Deposit of building materials in or erection of scaffolding over road without or other than in accordance with permission.
An offence under Section 85(3) as read with (4)	Deposit of builder's skip on road without permission of roads authority. Failure of owner of skip or other person to ensure conditions of permission are complied with.