

REPORT TO: PLANNING AND TRANSPORT COMMITTEE - 11 JUNE 2007

REPORT ON: STATUTORY UNDERTAKERS REINSTATEMENT PERFORMANCE IN DUNDEE - 2006-2007

REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION

REPORT NO: 267-2007

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 2006-2007 based on inspections and coring of their reinstatements under the New Roads and Street Works Act 1991 (NRSWA); and
 - b 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 and national 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, different parts of which are expected to be implemented on 1 October 2007 and 1 April 2008.

3 FINANCIAL IMPLICATIONS

- 3.1 Statutory Undertakers are responsible for carrying out their own reinstatements. They are charged the prescribed national fee of £24.00 for each visual sample inspection up to the prescribed level of 30% of an estimated annual workload. 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 £48.00 each, during an additional 2 year guarantee period.
- 3.2 There are financial implications arising from the implementation of the Transport (Scotland) Act - Part 2 - Road Works, will 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 carriageway and 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 (3 year guarantee for trenches over 1.5 metres deep);
- 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 5, 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 (97% 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 (30% of an estimated annual workload), 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, completed between March 2006 and March 2007, with the majority in carriageways as against footways.

8.2 The average pass rate from local coring programme, for all Statutory Undertakers, was 92% for 2006/2007 compared with 68% for 2005/2006 which shows an improvement in standards.

- 8.3 To continue to monitor the performance of Statutory Undertakers, and to impress on them the requirement to achieve the target of 100% pass rate, it is intended to continue with local coring programmes during 2007/2008.

9 STATUTORY UNDERTAKERS PERFORMANCE BASED ON NATIONAL (SCOTTISH) CORING PROGRAMME (SEE APPENDICES 3, 4 AND 5 FOR DETAILS)

- 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 All cores were selected randomly from works permanently reinstated between 1 March 2005 and 28 February 2006. The sample size was between 2% of estimated annual workload or minimum 5 cores per utility in each Council area.
- 9.3 Falkirk and Dundee City Councils led this programme for TayForth Area RAUC on behalf of Angus, Clackmannanshire, Fife, Perth & Kinross and Stirling Councils.
- 9.4 The overall pass rate for Dundee was 56% which was below the Scottish average of 60% and well below Dundee's results from the previous national programme of 82%. This shows an apparent drop in standards. However all reinstatements cored for the national programme were from 2005/06 whereas the local coring programme testing reinstatements completed last year showed a marked improvement of 92% pass rate. Therefore Statutory Undertakers appear to have addressed the majority of reinstatement quality problems and are expected to improve on minor layer and compaction failures.
- 9.5 To continue to monitor the performance of Statutory Undertakers on a national basis, it has been agreed by RAUC(S) to carry out another National Coring Programme. This will start in July 2008, coring samples of permanent reinstatements completed between 1 July 2007 and 30 June 2008.

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 (Openreach), 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 Communities, 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 and Roads (Scotland) Act 1984, 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 the Commissioner and the Roads Authorities to issue fixed penalty notices for a limited number of offences (see Appendix 6 for details).

11.3 To implement the provisions of Part 2 of the Act, new Codes of Practice and Regulations were drafted by various working groups, with members representing Transport Scotland (the agency of the Scottish Executive), Roads Authorities and Statutory Undertakers. Dundee City Council were represented by two members of the Planning and Transportation Department on 2 of the 5 working groups and were actively involved in the consultation process. The Co-ordination of Roadworks and Penalties Codes of Practice are expected to come into force from 1 October 2007 and 1 April 2008 respectively.

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 Performance in Dundee 2003/2005 was presented to Planning and Transportation Committee on 16 May 2005.
- 13.7 Report No 227/2006 - Statutory Undertakers Reinstatements in Dundee - 2005/2006 was presented to Planning and Transportation Committee on 8 May 2006.

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APPENDIX 1

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

SUMMARY OF 2006/2007 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	90% (54/60)
Cable & Wireless	No Works	-
Scottish Water	450	97% (131/135)
Scottish & Southern Energy	235	99% (69/70)
Telewest (Virgin Media)	140	95% (40/42)
Thus	No Works	
Scotland Gas Networks	800	99% (237/240)
Average Pass Rate		97% (531/547)

Notes

- 1 Inspection figures in brackets, eg (54/60) represent number of passes divided by the total number of inspections for that undertaker.
- 2 The number of sample inspections carried out annually is 30% ie 10% of the Agreed Units of Inspections (based on estimated annual workload) at each of 3 different stages, eg for BT $3 \times 10\% \times 200 = 60$.

Statutory Undertaker	Annual Sample Inspection Pass Rate (%)					
	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07
Openreach (BT)	90	94	99	93	93	90
Cable & Wireless	-	-	-	-	-	-
Scottish Water	90	94	96	98	93	97
Scottish & Southern Energy	91	98	99	100	96	99
Telewest (Virgin Media)	90	97	100	100	83	95
Thus	100	91	100	-	100	-
Scotland Gas Networks	95	99	99	100	96	99
Average Pass Rate (%)	91	96	98	99	94	97

APPENDIX 2 - LOCAL DUNDEE CORING PROGRAMME 2006/2007

Appendix 2 shows the results of the local Dundee Coring Programme during 2006/2007 with figures from previous 5 years for comparison. All cores were selected randomly from permanent reinstatements in carriageways and footways completed between March 2006 to March 2007.

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	11	9	82%	1	-	-	-	1	9	-	1	-	-	1	9
Cable & Wireless	No Works	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Scottish Water	Randomly Selected	24	24	100%	-	-	-	-	-	-	-	-	-	-	0	-
Scottish & Southern Energy	Randomly Selected	13	10	77%	2	-	-	-	2	15%	-	1	-	-	1	8
Telewest	Randomly Selected	8	6	75%	-	-	-	-	0	-	1	1	-	-	2	25
Thus	No works	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Scotland Gas Networks	Randomly Selected	44	43	98%	-	-	-	-	0	-	-	1	-	-	1	2
TOTAL 2006/2007	Randomly Selected	100	92	92%	3	-	-	-	3	3%	1	4	-	-	5	5%

Totals 2005/2006	Randomly Selected	25	17	68%	3	2	1		8	32%					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	-	9	10	5	3	27	50%
Totals 2002/2003	Randomly Selected	102	45	44%					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 & 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.

Appendices 3, 4 and 5 show the results of the latest National Coring Programme with summary sheets for Dundee and for all local Roads Authorities and all Statutory Undertakers in mainland Scotland respectively, together with totals from the previous 4 National Programmes for comparison. These results were approved at the December 2006 meeting of the Roads Authorities and Utilities Committee (Scotland) (RAUC(S)). All cores were selected randomly from works reinstated between 1 March 2005 and 28 February 2006, with the majority in carriageways as against footways. The sample size was between 2% of estimated annual workload or minimum 5 cores per utility.

APPENDIX 3 - DUNDEE RESULTS FROM NATIONAL CORING PROGRAMME 2006

Statutory Undertaker	Core No	Pass		Fail-Monitor						Fail-Replace					
		No	%	Com-paction	Layers	Materials	Others	TOTAL		Com-paction	Layers	Material	Others	TOTAL	
								No	%					No	%
Openreach (BT)	5	1	20%		1	2		3	60%		1			1	20%
Scottish & Southern Energy	5	2	40%								3			3	60%
Scottish Water	9	4	45%	1	2	1		4	44%		1			1	11%
Telewest (Virgin Media)	5	4	80%								1			1	20%
Thus	5	4	80%							1				1	20%
Scottish Gas Networks	14	9	64%	3	1	1		5	36%						
TOTALS 2006	43	24	56%	4	4	4		12	28%	1	6			7	16%

TOTALS 2004	44	36	82%		4		2	6	13.5%				2	2	4.5%
TOTALS 2002	60	19	32%					0	0	14	8	17	2	41	68%
TOTALS 2000	44	4	9%	1	11			12	27%	8	18	2		28	64%
TOTALS 1998	60	26	43%					18	30%					16	27%

APPENDIX 4 - NATIONAL CORING PROGRAMME 2006 - SCOTLAND SUMMARY BY STATUTORY

Area	Council	Number of Cores	Pass		Fail-Monitor						Fail-Replace					
			No	%	Com-paction	Layers	Materials	Others	TOTAL		Com-paction	Layers	Material	Others	TOTAL	
									No	%					No	%
South West	Argyll & Bute	34	16	47.1%	0	9	1	3	13	38.2%	5	0	0	0	5	14.7%
	City of Glasgow	119	86	72.3%	0	6	0	0	6	5.0%	0	19	0	8	27	22.7%
	Dumfries & Galloway	58	41	70.7%	0	0	0	0	0	0.0%	0	12	1	4	17	29.3%
	East Ayrshire	30	18	60.0%	0	0	0	0	0	0.0%	0	7	0	5	12	40.0%
	East Dunbartonshire	0	0	0.0%	0	0	0	0	0	0.0%	0	0	0	0	0	0.0%
	East Renfrewshire	11	7	63.6%	4	0	0	0	4	36.4%	0	0	0	0	0	0.0%
	Inverclyde	42	34	81.0%	2	1	0	0	3	7.1%	0	5	0	0	5	11.9%
	North Ayrshire	36	29	80.6%	0	4	0	0	4	11.1%	0	2	0	1	3	8.3%
	North Lanarkshire	72	52	72.2%	3	1	0	0	4	5.6%	2	11	0	3	16	22.2%
	Renfrewshire	53	28	52.8%	1	1	0	0	2	3.8%	5	13	4	1	23	43.4%
	South Ayrshire	48	39	81.3%	0	1	0	1	2	4.2%	0	7	0	0	7	14.6%
	South Lanarkshire	84	50	59.5%	0	0	3	0	3	3.6%	3	14	10	4	31	36.9%
	West Dunbartonshire	36	19	52.8%	1	4	0	0	5	13.9%	2	8	0	2	12	33.3%
Total	623	419	67.3%	11	27	4	4	46	7.4%	17	98	15	28	158	25.4%	
North of Scotland	Aberdeen City	19	10	52.6%	1	0	1	0	2	10.5%	0	0	4	3	7	36.8%
	Aberdeenshire	51	38	74.5%	3	0	0	0	3	5.9%	7	3	0	0	10	19.6%
	Highland	45	38	84.4%	0	1	1	0	2	4.4%	2	3	0	0	5	11.1%
	Moray	14	12	85.7%	0	0	0	0	0	0.0%	1	0	1	0	2	14.3%
	Total	129	98	76.0%	4	1	2	0	7	5.4%	10	6	5	3	24	18.6%
TayForth	Angus	45	25	55.6%	0	1	8	1	10	22.2%	0	5	5	0	10	22.2%
	Dundee	43	24	55.8%	4	4	4	0	12	27.9%	1	6	0	0	7	16.3%
	Clackmannanshire	20	12	60.0%	0	0	3	0	3	15.0%	1	4	0	0	5	25.0%
	Fife	50	15	30.0%	0	0	5	0	5	10.0%	13	7	10	0	30	60.0%
	Perth & Kinross	39	24	61.5%	2	2	8	0	12	30.8%	0	3	0	0	3	7.7%
	Stirling	43	26	60.5%	2	2	0	0	4	9.3%	0	13	0	0	13	30.2%
	Falkirk	30	12	40.0%	0	0	6	0	6	20.0%	0	12	0	0	12	40.0%
	Total	270	138	51.1%	8	9	34	1	52	19.3%	15	50	15	0	80	29.6%
South East	Scottish Borders	31	21	67.7%	4	2	1	0	7	22.6%	0	2	1	0	3	9.7%
	East Lothian	19	9	47.4%	3	1	0	0	4	21.1%	2	4	0	0	6	31.6%
	West Lothian	63	25	39.7%	0	1	6	0	7	11.1%	15	10	4	2	31	49.2%
	Mid Lothian	63	22	34.9%	7	4	8	1	20	31.7%	11	8	0	2	21	33.3%
	City of Edinburgh	142	71	50.0%	6	2	16	0	24	16.9%	4	41	1	1	47	33.1%
Total	318	148	46.5%	20	10	31	1	62	19.5%	32	65	6	5	108	34.0%	
Grand Total	1,340	803	59.9%	43	47	71	6	167	12.5%	74	219	41	36	370	27.6%	

Totals for 2004	1,861	1,101	59.2%
Totals for 2002	1,909	858	44.9%

Totals for 2000	1,503	577	38.4%
Totals for 1998	1,544	664	43.0%

APPENDIX 5 - NATIONAL CORING PROGRAMME 2006 - SCOTLAND SUMMARY BY STATUTORY UNDERTAKER

All Undertakers	Core No	Pass		Fail - Monitor				Total		Fail - Replace				Total	
		No	%	Compact-ion	Layers	Material	Others	No	%	Compact-ion	Layers	Material	Other	No	%
British Telecom	214	132	61.7%	9	18	7	3	37	17.3%	7	23	6	9	45	21.0%
Scottish Gas Networks	381	253	66.4%	11	8	29	0	48	12.6%	14	48	9	9	80	21.0%
Scottish Power	138	66	47.8%	13	3	5	0	21	15.2%	5	36	4	6	51	37.0%
Scottish Water	451	245	54.3%	8	12	28	3	51	11.3%	40	87	18	10	155	34.4%
Cable & Wireless	9	7	77.8%	0	1	0	0	1	11.1%	0	1	0	0	1	11.1%
NTL	23	18	78.3%	0	2	0	0	2	8.7%	0	1	2	0	3	13.0%
Royal Mail	0	0	-	0	0	0	0	0	-	0	0	0	0	0	-
Telewest	39	30	76.9%	0	1	0	0	1	2.6%	0	6	0	2	8	20.5%
Thus	42	23	54.8%	0	1	0	0	1	2.4%	5	12	1	0	18	42.9%
T Mobile	3	3	100.0%	0	0	0	0	0	-	0	0	0	0	0	-
United Utilities	0	0	-	0	0	0	0	0	-	0	0	0	0	0	-
APT & Marconi	0	0	-	0	0	0	0	0	-	0	0	0	0	0	-
Scottish & Southern Energy	40	26	65.0%	2	1	2	0	5	12.5%	3	5	1	0	9	22.5%
Totals 2006	1,340	803	59.6%	43	47	71	6	167	12.5%	74	219	41	36	370	27.6%

APPENDIX 5

Transport (Scotland) Act - Sections 34 and 37 introduces the following Fixed Penalties for certain offences expected to come into force by 1 April 2008.

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

Fixed Penalty Offences (applicable to Statutory Undertakers)

Imposition by the Roads Authority

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)

Imposition by the Roads Authority

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.

Section 119A of the New Roads and Street Works Act 1991

The imposition of penalties by the Scottish Road Works Commissioner is applicable to Roads Authorities and Statutory Undertakers who are regularly and continually failing in their duties to co-ordinate and co-operate. It is not intended that a one off failure in duty, would lead of the imposition of a penalty by the Commissioner.