

**REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE –
27 MAY 2002**

**REPORT ON: STATUTORY UNDERTAKERS' PERFORMANCE IN DUNDEE
2001/2002**

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 319-2002

1 PURPOSE OF REPORT

1.1 The purpose of this report is to:

- provide an annual report on the performance of Statutory Undertakers operating in Dundee in 2001/02 based on the New Roads and Street Works Act 1991 (NRSWA);
- update the Committee on the progress of the next National Coring Programme of Statutory Undertakers' reinstatements;
- update the Committee on the recent Scottish Executive's consultation document on reducing disruption from Statutory Undertakers' road works.

2 RECOMMENDATIONS

2.1 It is recommended that the Committee:

- a note the performance of Statutory Undertakers in Dundee, based on NRSWA sample inspection regime (mainly visual), for the year April 2001 to March 2002;
- b note the performance of Statutory Undertakers in Dundee, based on the Dundee Coring Programme, for the year April 2001 to March 2002;
- c note the progress of British Telecom, Scottish & Southern Energy, Scottish Water, Telewest and Transco since the issue of Improvement Notices on 26 June 2001;
- d note the progress of the next National (Scottish) Coring Programme of Statutory Undertakers' reinstatements;
- e note the response of Dundee City Council to the Scottish Executive's consultation document on proposals to reduce disruption from Statutory Undertakers' road works.

3 FINANCIAL IMPLICATIONS

3.1 Statutory Undertakers were charged a prescribed national fee of £14.50 for each sample inspection (£15.50 from 1 March 2002) up to the prescribed level of 6% of an estimated agreed workload at each of five different stages of their works. For investigatory coring purposes, Statutory Undertakers are charged only for the cost of

those cores which fail plus associated staff and administration costs. For failed cores, Statutory Undertakers were then charged for three further inspections at £29 each (£31.00 from 1 March 2002) spread over a new two-year guarantee period. Statutory Undertakers are responsible for carrying out their own remedial works.

- 3.2 The income from Statutory Undertakers for sample and defect inspections over the last five years was as follows:

1997/98	£15,322
1998/99	£17,814
1999/00	£21,718
2000/01	£21,537 *
2001/02	£17,942

* The 2000/01 income excludes £3,496 recharged for staff and administration costs borne by Dundee City Council, who acted as the lead authority for the seven Councils in the Tay-Forth area RAUC (Roads Authorities and Utilities Committee), as part of the 2000 National Coring Programme.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 The contents of this report have no implications on local Agenda 21 matters.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 The contents of this report have no implications on equal opportunity matters.

6 BACKGROUND

- 6.1 For the purpose of this report, the background to various issues is given in the following paragraphs, together with the performance of Statutory Undertakers.

7 STATUTORY UNDERTAKERS PERFORMANCE 2001/02 BASED ON SAMPLE INSPECTION REGIME (MAINLY VISUAL)

- 7.1 The Council undertakes random sample inspections of Statutory Undertakers' reinstatements using procedures detailed in the NRSWA and the associated Codes of Practice. Last year's sample inspection results for each Statutory Undertaker's work in Dundee is summarised in Appendix 1. Other defects, reported by members of the public or found during routine roads authority inspections, are also summarised in Appendix 2 for information.
- 7.2 Based on the random sample inspection regime, all Statutory Undertakers achieved the minimum required standard of performance of 90% during 2001/02. These results are summarised below, together with those from previous years for comparison:

Statutory Undertaker

Annual Sample Pass Rate (%)

	1998/99	1999/00	2000/01	2001/02
Atlantic Telecom (no works)	-	-	-	-
British Telecom	94	87	94	90
Cable & Wireless (no works)	-	100	100	-
Scottish Water (former NoSWA)	97	92	97	90
Scottish & Southern Energy (Hydro Electric)	92	95	94	91
Telewest Broadband	56	89	91	90
Thus (former Scottish Telecom)	90	100	100	100
Transco	95	97	94	95

7.3 Although the minimum standard of performance of 90% was achieved during the last two years by all Statutory Undertakers, it has been found that, the sample inspection regime alone does not accurately reflect the quality of reinstatements for the following reasons:

- Random sample inspections are carried out on a limited proportion of Statutory Undertakers' works, ie 6% annually at each of five different stages from excavation to end of the guarantee period which is usually 2 years after the completion of permanent reinstatement (or 3 years for deep excavations). Roads Authorities can inspect a larger sample of works but the additional inspections will be at their own expense and would require more resources.
- The Roads Authority's function is purely to inspect and monitor Statutory Undertaker's road works as well as co-ordination of all kinds of other works. Statutory Undertakers are entirely responsible for supervision and reinstatement of their own works as well as for co-operation with the Roads Authority regarding the execution of road works.
- The majority of Statutory Undertaker's road works, during excavation, backfill and reinstatement, are not witnessed by the Roads Inspectors, mainly because contractors are on site for relatively short periods and may also work outwith normal Council hours. There are also difficulties experienced by Statutory Undertakers in the co-ordination of their own activities and there are limitations to the notification and random inspection regimes.
- Sample inspections are by nature 'visual'. It is therefore only after coring the blacktop materials that the depth of layers, degree of compaction and type of materials can be accurately measured against the specification. It should be noted that coring is only possible through blacktop materials. For layers below blacktop, trial holes or specialist testing are being considered for this year.

7.4 For the above reasons, Dundee City Council will continue to have their own local coring programme (see paragraph 8) and is participating in the national coring programmes (see paragraph 10).

7.5 Notwithstanding the above, the findings of the random sample inspections (Appendix 1), reveal the following reasons for failure:

Causes of Failure

Number of Failures

	<u>2000/01</u>	<u>2001/02</u>
Signing and Guarding Defects	8	25
Surface Depression	4	7
Wrong Material	8	4
Tolerance of Blacktop Layers	-	4
Trips	2	3
Open Joints	5	2
Surface Cracking	2	1
Backfill Defects	1	1
No Edge Sealant	-	1
Surface Crowning	1	-
Total	31	48

8 STATUTORY UNDERTAKERS' PERFORMANCE 2001/02 BASED ON DUNDEE CORING PROGRAMME

- 8.1 Following the publication of the 2000 National Coring Programme, reported to Committee on 25 June 2001 (Report No 338/2001), Dundee City Council decided to use the powers available to them as Roads Authority under the NRSWA, "to carry out such investigatory works as appear to them to be necessary to ascertain whether an Undertaker has complied with his duties with respect to reinstatements". Appendix 3 shows the results of Dundee Coring Programme during 2001/02.
- 8.2 Core locations were selected either randomly or targeted. Cores selected randomly were within guarantee period of 2 years and the results indicate a 46% pass rate, 16% fail-monitor and 38% fail-replace as an average total. This was a small sample of Statutory Undertakers' workload, which is not totally representative and some reinstatements were completed before the recent effort by Statutory Undertakers to improve quality. However, the results indicate an improvement compared with the results of the last National Coring Programme, although there is still a lot of room for improvement to meet the 90% minimum required standard of performance.
- 8.3 Targeted cores were old reinstatements under investigation to establish whether they had been reinstated to the NRSWA Specification. The average total results indicated 5% pass rate, 16% fail-monitor and 79% fail-replace. The high failure rate was expected as the Roads Authority was targeting reinstatements that showed some signs of surface failures. As a result Statutory Undertakers were required to carry out remedial works and were re-charged the cost of cores plus staff and administration costs.

9 PROGRESS OF STATUTORY UNDERTAKERS SINCE THE ISSUE OF IMPROVEMENT NOTICES

- 9.1 Further to the approval of the Committee on 25 June 2001 (Report No 338-2001), the Director of Planning and Transportation issued an Improvement Notice, under the NRSWA, to all under performing Statutory Undertakers, namely British Telecom, Scottish & Southern Energy (Hydro Electric), North of Scotland Water Authority (now Scottish Water), Telewest and Transco on 26 June 2001. These Notices recorded Dundee City Council's dissatisfaction with the performance of these companies and requested appropriate action to be taken to improve the standard of reinstatements.

- 9.2 Since August 2001, progress meetings have been held quarterly with each Statutory Undertaker to discuss their proposed action plans and to monitor their implementation, which they believe will significantly improve the quality of reinstatements. All Statutory Undertakers introduced, to different degrees, improved quality assurance systems and supervision followed by testing, including some coring and monitoring which indicates that they appear to be taking this matter very seriously and improvements can be expected. Although early signs are encouraging, it is too early to predict the long term performance of Statutory Undertakers' works based on their proposed action plans. This should be possible once the next National Coring Programme is completed by December 2002.

10 NEXT NATIONAL (SCOTTISH) CORING PROGRAMME – DURING 2002

- 10.1 Following the poor reinstatement results, discovered under the 2000 National Coring Programme (reported in last year's Committee Report), the Roads Authorities and Utilities Committee (Scotland) decided to give Statutory Undertakers one and a half years to improve the quality of their reinstatements and repeat the National Coring Programme during 2002. This Programme will core a 2% sample of all permanent reinstatements carried out between 1 September 2001 and 31 March 2002.
- 10.2 This year, Perth and Kinross Council are leading the National Coring Programme for Tay-Forth area RAUC on behalf of Dundee City, Angus, Clackmannanshire, Falkirk, Fife and Stirling Councils. The coring will take place during July and August 2002. The results, after agreement with all Statutory Undertakers during autumn, will then be reported to and approved by RAUC(S) in December 2002, before wider publication and report to Committee in 2003.

11 THE RESPONSE OF DUNDEE CITY COUNCIL TO THE SCOTTISH EXECUTIVE'S CONSULTATION DOCUMENT ON PROPOSALS TO REDUCE DISRUPTION FROM UNDERTAKERS' ROAD WORKS

- 11.1 Earlier this year, Dundee City Council was invited, as part of a nation-wide consultation document, to consider a Scottish Executive document on reducing disruption from Statutory Undertakers' road works. The Executive has identified four options for dealing with this perceived problem:
- a do nothing;
 - b introduce a non-regulatory code of practice;
 - c introduce regulations, under the existing NRSWA legislation, allowing roads authorities to charge Statutory Undertakers where their road works overrun an agreed deadline;
 - d introduce powers allowing roads authorities to charge undertakers from the outset of works, ie the so-called "lane rental" for occupation of the road.
- 11.2 Dundee City Council's response to the Scottish Executive favoured option 'd' lane rental. By charging from the first day of works, Statutory Undertakers would have a greater incentive to occupy the road for the minimum amount of time than if they were charged only for overstaying under option 'c'. Option 'd' is also easier to administer than option 'c', which is considered complex to manage and could result

in increased costs to Councils. However if either of these two options are brought into force it has been acknowledged by the Executive that additional resources will be required from the Councils. It is proposed that the income would be "top sliced" to cover this potential increased supervision cost and that any subsequent surplus revenues would be paid into central executive funds. It is also proposed that Councils will have the option whether or not to take up the powers contained in options "c" and "d" if they so wished. Options "a" and "b" are not considered nationally to be adequate to deal with the perceived problems.

- 11.3 The results of Scottish Executive's deliberations on the consultation document are not expected until next year when the results of a similar scheme to "d", under pilot study in England, will be known. A charging regime for late running Statutory Undertakers' works came into effect in April 2001 in England but it is too early to assess its impact.

12 CONSULTATIONS

- 12.1 The Chief Executive, Director of Finance, Director of Support Services and Director of Corporate Planning, have been consulted and are in agreement with the contents of this report.

13 BACKGROUND PAPERS

- 13.1 Report No 310/2000, 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.

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APPENDIX 1

**SAMPLE INSPECTION RESULTS (MAINLY VISUAL)
SUMMARY OF 2001/2002 PERFORMANCE OF STATUTORY UNDERTAKERS IN
DUNDEE**

Statutory Undertaker	Agreed Units of Inspection	First Quarter Sample Pass Rate	Second Quarter Sample Pass Rate	Third Quarter Sample Pass Rate	Fourth Quarter Sample Pass Rate	Annual Pass Rate
Atlantic Telecom	No Works					
British Telecom	174	90% (9/10)	85% (11/13)	94% (15/16)	92% (12/13)	90% (47/52)
Cable & Wireless	No Works					
Scottish Water	480	90% (26/29)	95% (39/41)	86% (31/36)	89% (34/38)	90% (130/144)
Scottish & Southern Energy	505	89% (34/38)	89% (33/37)	97% (36/37%)	87% (33/38)	91% (136/150)
Telewest Broadband	263	88% (14/16)	82% (14/17)	84% (16/19)	100% (27/27)	90% (71/79)
Thus	100		100% (3/3)	100% (2/2)	100% (8/8)	100% (13/13)
Transco	430	97% (30/31)	91% (31/34)	100% (32/32)	91% (29/32)	95% (122/129)

Notes:-

- a Inspection figures in brackets, eg (9/10) represent number of passes/no of sample inspections.
- b The number of sample inspections carried out annually is 6% of the Agreed Units of Inspections at each of 5 different stages, eg for BT $5 \times 6\% \times 174 = 52$.
- c Thus (former Scottish Telecom) had limited volume of works in Dundee over the last year, hence only 13 inspections were carried out.

APPENDIX 2

**NUMBER OF DEFECTS (2001/02) REPORTED BY MEMBERS OF THE PUBLIC OR
FOUND DURING ROUTINE ROADS AUTHORITY INSPECTIONS**

Statutory Undertaker	First Quarter Defects	Second Quarter Defects	Third Quarter Defects	Fourth Quarter Defects	Total
Atlantic Telecom					0
British Telecom	2	1	2	2	7
Cable & Wireless					0
Scottish Water	5	30	15	26	76
Scottish & Southern Energy	11	7	3	0	21
Telewest Broadband	7	5	0	0	12
Thus	2	0	0	0	2
Transco	1	8	10	7	26

APPENDIX 3

DUNDEE CORING PROGRAMME 2001/02

Statutory Undertaker	Core Description/ Site Selection	Core No	Pass		Fail-Monitor					Fail-Replace						
			No	Rate	Com-paction	Layers	Material s	Other s	TOTAL		Com-paction	Layers	Material	Others	TOTAL	
									No	Rate					No	Rate
Atlantic Telecom	No Works/No Cores															
British Telecom	Randomly Selected	6	3	50%	1				1	17%	2				2	33%
	Targeted Defect	1	1	100%												
Cable & Wireless	No Works/No Cores															
Scottish Water	Randomly Selected	15	7	46%	2	2			4	27%		4			4	27%
	Targeted Defect	3	0	0%		1			1	33%		2			2	67%
Scottish & Southern Energy	Randomly Selected	12	6	50%							1	5			6	50%
	Targeted Defect	6	0	0%							1	5			6	100%
Telewest Broadband	Randomly Selected	6	1	17%	1				1	17%	2	2			4	66%
	Targeted Defect	7	0	0%	1	1			2	29%	1	4			5	71%
Thus	Randomly Selected	3	0	0%		1			1	33%	1		1		2	67%
	Targeted Defect	1	0	0%								1			1	100%
Transco	Randomly Selected	14	9	65%	2				2	14%	3				3	21%
	Targeted Defect	1	0	0%								1			1	100%
TOTALS	Randomly Selected	56	26	46%					9	16%					21	38%
	Targeted Defects	19	1	5%					3	16%					15	79%

Notes :-

Pass = Reinstatement in compliance with NRSWA Specification.

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

Fail-Replace = Outwith NRSWA Specification, requiring replacement of blacktop materials and a further 2 year guarantee period.