

UTILITIES WORKING IN THE HIGHWAY REPORT BY AREA HIGHWAY MANAGER – ESSEX COUNTY COUNCIL

The power of Utilities to work in the public highway

An individual or company can only work in the highway if:

- They hold a Section 50 Street Works Licence
- Are a Statutory Undertaker

A Section 50 Street Works Licence can be granted to a private individual or company to allow them to place their apparatus within the highway and thereafter carry out acts of maintenance upon it and their works shall be declared to all other parties who may be working in or have apparatus in the vicinity.

Work identified

The Statutory Undertaker is required to serve notice on the Highway Authority when works are identified as being required. The details of the notice and the works, including the location and duration are logged to the Street Works Register with a unique works reference number; a database which is shared with all those working in the Highways of Essex. This database connects with the Statutory Undertakers database of works; two-way communication between them ensures that all information and comments are kept up to date. Any comments made about the notice (e.g. that the commencement date is unsuitable) are then recorded on each database and action or changes are made as appropriate.

Types of notifications

Emergency – where risk/danger to persons/property is present

Notice: up to 2 hours after the works have commenced

Duration of works: until the location is made safe and poses no further danger

Minor

Notice: 3 days advance notice of the works commencing

Duration of works: up to 3 days

Validity period: ± 2 days*

Standard

Notice: 10 days advance notice of the works commencing

Duration of works: 4-10 days

Validity period: ± 5 days*

Major

Notice: 3 months advance, then a subsequent 10 days advance notice of the works commencing

Duration: 10 days +

Validity period: ± 5 days*

* If the individual or company fails to commence the works within the validity period then the notice is cancelled. Should the work still need to go ahead, the process of giving notice will need to be re-applied.

The Works

Street Works carried out in the Highway are governed by:

- The New Roads and Street Works Act 1991
- Traffic Management Act 2004

The following Codes of Practices, issued by the Department for Transport (DfT) and the Highways and Utilities Community (HAUC), also apply:

- Coordination of Street Works
- Safety at Street Works and Road Works
- Practical Guide to Street Works
- Specification for reinstatement of openings in Highways

If the works go on longer than anticipated

The Statutory Undertaker will be expected to contact the Highway Authority and seek agreement for an extension in the duration of the works.

If the works continue beyond the end date and no agreement has been made with the Highway Authority, then a Section 74 Charge will be issued. This charge will also be served if equipment is left on site (e.g. barrier or signs). After an 'over stay' charge has been issued; the site is monitored daily and a charge applied daily (i.e. £100 – 250+), dependent on the classification of road, until such time as the site is cleared.

Completion

At completion of the works, a Completion Notice is given. All works within the Highway carry a guarantee by those who have carried out the works, where any repairs to defects will be carried out at their expense:

<1.5m in length: 2 year guarantee

>1.5m in length: 3 year guarantee

Inspections

The New Roads and Street Works Act 1991 and the subsequent Traffic Management Act 2004 dictate that a sample of 10% of notices for each individual Statutory Undertaker be taken, based on an average of the 3 years previous works. Officers also respond to third party enquiries that involve utility works.

The Street Works Register randomly selects samples of previous works for the Highway Authority to inspect. The inspections, which are funded by the Statutory Undertaker, are categorised as follows:

Category A: Inspection whilst works are in progress

Category B: Inspection within 6 months of permanent or interim reinstatement has been completed

Category C: Inspection carried out within 3 months preceding the end of the guarantee period

The results of the inspections are logged onto the database against the unique works reference for the job and a notice is served to the Statutory Undertaker:

- Pass
- High Risk Failure (i.e. it poses risk/danger to persons/property)
 - The works must be remediated within 2 hours
 - The inspector shall stay on site until the works are completed

- In some cases the Highway Authority may instruct their own Contractors to carry out the works within the timescale
- Low (e.g. reinstatement works not satisfactory)
 - The works must be remediated within 10 days
 - A follow up inspection shall be carried out

All failed inspections are funded by the Statutory Undertaker, including any follow up inspections which may be required.

Defective Apparatus

Statutory Undertakers have a duty under the New Roads and Street Works Act 1991 to maintain their apparatus (e.g. covers and cabinets). A Section 81 Notice may be served should any be found defective. It may:

- state that the Statutory Undertaker must attend within a specific timeframe to remediate the apparatus,
- inform them that the Highway Authority's own Contractors will attend to carry out the remedial works,
- or request that the Statutory Undertaker confirms with the Highway Authority of any actions they are going to take.

Coordination of works

In addition to the Area Offices who monitor the notices received, a quarterly coordination meeting is held where representatives of the Statutory Undertakers and the Area Offices attend and declare all major works for the forthcoming year. This is a forum whereby clashes in works can be discussed and an opportunity to review the records of defects.

Improvement Notice

Should a Statutory Undertaker fall above a certain percentage of class of defect, they will be issued with an Improvement Notice. They will be called to County Hall and asked to discuss their routine failings. They will be expected to produce a 3 month plan which will demonstrate that they can make improvements and their progress will be monitored. Should the Statutory Undertaker continue to produce failure notices, further action will be taken.

The Highway Authority can also state which Sub-Contractors cannot be used within certain areas or districts, due to historical poor performance.