

Long-Term Damage from Utility Works

Briefing Note - Councillor Andrew Carter
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Item 7 Annex A

Background

The New Roads and Street Works Act (NRSWA) makes Statutory Undertakers responsible for reinstatement of their trenches and a national specification sets out the methods and materials that should be employed in doing so. Trenches have a guarantee period of 2 or 3 years. After this period the Highway Authority becomes responsible for any defects which may arise unless they can prove that the trench was incorrectly reinstated.

The New Roads and Street Works Act 1991 Section 78 allows for the Secretary of State to make provisions for requiring the statutory undertakers to contribute to the costs of making good long term damage.

To date this section of the Act has never been enabled. It is the only section of the Act which has so far yet to be implemented.

The Traffic Management Act 2004 made further provision in Section 55 and 57 whereby a highway authority may require an undertaker to carry out full or half road width resurfacing following their works.

These Sections of the TMA have not yet been enabled.

At the commencement of the NRSWA a national body comprising Statutory Undertakers and Highway Authorities was established to assist the Secretary of State in the production of the various secondary legislation, regulations and codes of practice that accompany the Act. This body is known as the Highway Authorities and Utilities committee (HAUC UK).

The Highways side of HAUC UK has regularly supported research to prove that additional maintenance costs are incurred, and lobbied for the introduction of a charge structure for long-term damage.

Studies have been carried out over a number of years which indicate that trenching from utility company operations can have a detrimental effect on both the surface condition and the underlying structure of the highway

This damage effectively shortens the service life of the highway and leads to increased highway maintenance costs which are then funded by the highway authority.

Current Situation

The Transport and Research Laboratory (TRL) commissioned by the County Surveyors Society and Transport for London have recently published a report "A Charge Structure for Trenching in the Highway"

This report concludes that highway authorities have to undertake additional maintenance because of the premature deterioration caused by utility trenching.

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In the UK the service life of carriageways is reduced by 17% and footways 10% as a result of utility trenches.

The total additional maintenance costs were estimated at £70.1m which represents 7.7% of the capital expenditure by English highway authorities.

The use of a charge rate mechanism (NRSWA S78) rather than full or half width resurfacing by an Undertaker (TMA S55/57) is considered by the highway authorities to be the preferred option.

The charge rate proposed in the report would vary dependant on the road hierarchy and its existing condition derived from the national pavement management test results. The carriageway charges vary from £45.48/m² for a major carriageway in excellent condition to £3.59/m² for a minor carriageway in poor condition. Similarly the footway charges varied from £23.89/m² for a high amenity footway in excellent condition to £1.49/m² for a standard footway in poor condition.

Whilst it seems commonly accepted in the industry that some long term damage is caused by utility trenching there is disagreement over the level of damage caused. Utility companies have understandably tried to discredit the research undertaken.

The principle of 'polluter pays' is promoted by the current government but there seemed to be a reluctance to proceed with any charging mechanism when the report was prepared last year. The reasons offered were that the industry had been subject to a high level of legislative change and that in the current financial climate it was not desirable to introduce further costs onto utility companies which may be passed onto their customers.