

		AGENDA ITEM 4
		EDE/23/10
Committee:	Economic Development and Environment Policy & Scrutiny Committee	
Date:	21 October 2010	
SCRUTINY REVIEW ON THE RELATIONSHIP WITH STATUTORY UNDERTAKERS IN THE WAY WORKS ARE UNDERTAKEN IN THE HIGHWAY (Minute 20/April 2010)		
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At the Committee's meeting in April 2010 the following approach was agreed for this review:

- First meeting/ October 2010: The Committee will receive an up to date overview from Highways Officers on the way that work may be undertaken in the highway by the utility companies, and begin to consider how the Council may improve its service. At this meeting Members' will also be asked to identify questions that they may wish to ask witnesses at subsequent meetings.
- Second Meeting/ November 2010: Representatives from the Utility Companies will be invited to present their perspective on carrying out works in the highway, and to share their views upon the way that their relationship with the County Council is evolving in Essex in the light of any new approaches being developed.
- Third Meeting: Representatives from some road user groups such as the Emergency Services and bus companies will be invited to share their perspectives on works being undertaken in the highway, such as the information available and management of works.

A draft scoping document that was agreed by the Committee in September 2009 (Minute 44) is attached at Appendix A to this report. At that stage it was acknowledged that there was activity taking place in response to changes in legislation including a pilot scheme and internal audit, and therefore the review would be deferred until the outcomes of that activity could be taken into account by the Committee.

A small Task and Finish Group, comprising Councillors Barker and Mackrory, has met to discuss the overall approach to the review, which will be undertaken by the full Committee.

A background briefing paper on New Roads and Street Works prepared by Highways Officers on behalf of the Cabinet Member for Highways and Transportation is attached at Appendix B to this report. There are a lot of background papers, including legislation and Codes of Practice, which underpin the way that works are undertaken in highway. For Members' ease of reference copies of those supporting documents referred to in the briefing paper have been temporarily placed in the Members' Quiet Room.

Action required by the Committee:

The Committee is requested to consider the evidence presented to the meeting, and to identify any particular questions that Members may wish to pose to witnesses as part of this review.

Policy and Scrutiny Scoping Document

Committee	Economic Development and Environment Policy and Scrutiny Committee	
Topic	Relationship with Statutory Undertakers in the way works are undertaken in the highway.	Ref: EDE-SCR-16
Objective	<p>To undertake an in depth scrutiny –</p> <ul style="list-style-type: none"> • To understand the relationship between the Highways Authority and statutory undertakers with regard to highways work and their respective roles, responsibilities and legislative powers. • To assess the level of consultation, co-ordination and co-operation that exists and monitoring when statutory undertakers are carrying out works in the highway. • To investigate the level of compliance of the statutory undertakers with current legislation and the arrangements, which are in place in Essex. • To identify improvements that could be made to the co-ordination and carrying out of works by statutory undertakers and the Council and to reduce inconvenience to the public, minimise disruption and maximise the benefit of works. 	
Reasons for undertaking review	<p>When the Committee undertook a review on Highways Fault Reporting, Members were mindful of works undertaken in the highway by utility companies that impact upon the condition of Essex highways. It was agreed that a scrutiny review on highways work undertaken by the utility companies under the New Roads and Street Works Act 1991 should be considered for inclusion in the Committee's Forward Look.</p>	
Method	<p>The Committee needs to consider if it wants to undertake the review or to delegate it in whole or in part to a Task and Finish Group.</p>	

Membership	Full Committee
Issues to be addressed	<ul style="list-style-type: none"> • Relevant Legislation ie the specific powers that Statutory Undertakers have, and specific powers that the Local Authority has, and the limitations to the Authority's influence over Statutory Undertakers. • The process that has to be followed for a statutory undertaker to carry out works (ie the whole process from application to consideration/ consultation, to the commencement of works, to supervision/monitoring, to completion to inspection/ follow up etc.) • The extent of consultation and liaison between the Authority and statutory undertakers (frequency, methods etc) and what the Authority does to ensure that works done by the Authority and statutory undertakers are co-ordinated. • The difference between major and minor works, in terms of how these applications are dealt with and what constitutes an 'emergency' in terms of emergency works? • Good and bad examples of works carried out by statutory undertakers and to view recent and current street –works (including good and bad examples) • How performance in this area is measured by the Authority, and the results of such monitoring and recent statistics in terms of enforcement action. • The views of the statutory undertakers on the relationship. • Comparisons with the approach of other Local Authorities, and best practice guidance, and identifying lessons to be learned. • Consideration on pilot schemes that have been undertaken in the light of recent new legislation eg Permit Schemes, and guidance from Government bodies. • Public Communications •
Sources of Evidence and witnesses	<p>Council's Highways and Transportation Department</p> <p>A mixture of statutory undertakers – Water companies, British Telecom, EON</p> <p>Other Local Authorities, Government bodies</p>

	<p>Bus company – view from a road user perspective</p> <p>Site visits including visits to various current and recent street-works carried out by statutory undertakers.</p> <p>Members of the Public (around issue of public communication)</p>
Work Programme	<p>Study to be developed over the course of a year (realistic in terms of Committee's work programme overall, and ability to plan/ organise each stage of the review. Members will need time to consider each aspect of the topic in more depth including internal processes, monitoring, public communications, outcomes of on pilot schemes.</p> <p>A six month pilot scheme began in May 2009 to improve income recovery and ensure that the County Council's own operations are compliant with new legislation, which will be followed by an internal Audit review. Furthermore Kent County Council is in the process of developing a new permit scheme that could be used to inform the review. Therefore it is suggested that the review should be undertaken only when the information from the pilot schemes is available.</p>
Indicators of Success	<p>Raised awareness of the way that works are undertaken in the highway.</p>
Meeting the CfPS Objectives <ul style="list-style-type: none"> • <i>Critical Friend Challenge to Executive</i> • <i>Reflect Public voice and concerns</i> • <i>Own the scrutiny process</i> • <i>Impact on service delivery</i> 	<p>The Committee will act as a critical friend to the Executive by examining the way the Council oversees the way that works are undertaken in the highway.</p> <p>The Committee will be fulfilling its role as a champion in the Council's scrutiny process.</p> <p>The action taken by the Committee to monitor performance will reflect upon both current service delivery, and future improvements.</p>

Diversity and Equality	If any Diversity and Equality issues are identified during the course of review, they will be taken into consideration as appropriate		
Date agreed by Committee			
Future Action			
Governance Officer	Christine Sharland	Committee Officer	Ian Myers
Service Lead Officer(s)	Liz Saville, ITS & Congestion Manager		

Economic Development and Environment Policy and Scrutiny Committee

**Briefing Paper on
New Roads and Street Works (NRSWA)**

**Prepared by Liz Saville, ITS and Congestion Manager, Highways and
Transportation**

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Supporting Documents

- **Street Works Procedures Manual – Working Draft issued 19/06/09**
- **New Roads and Street Works Act 1991 Chapter 22.**
- **New Roads and Street Works Act 1991 – Diversionary Works.**
- **Traffic Management Act 2004 Chapter 18.**
- **Code of Practice Specification for the Reinstatement of Openings in Highways.**
- **Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters.**
- **Code of Practice for Recording of Underground Apparatus in Streets.**
- **Code of Practice for Inspections.**
- **Various Statutory Instruments.**

1. Why Street Works are an Issue

Making the best use of our current road network is important for both economic vitality and society in general. Roads facilitate the transport of people and goods, and provide access to homes and businesses. 10% of congestion is caused by road works, 25% by accidents and unplanned incidents, whilst the remaining 65% is a capacity issue.

Under the surface of the highway lies the infrastructure for the communications and services that underpin a modern society. The provision of additional road space, especially in our towns and cities, is often impractical and undesirable. In most cases the local road network will be a finite resource with legitimate competing pressures from those that use it. This needs to be managed effectively.

Road users may have differing expectations. Reliable journey times are important to the majority of users, although this may be less important for leisure travel. Added to this are the needs of the Local Traffic Authorities and the utilities to occupy the road in order to maintain and upgrade their equipment for the benefit of their customers. For everyone the ability to undertake their activities in safety remains a priority.

Clearly potential conflicts need to be carefully handled and a co-ordinated, proactive approach is necessary to manage the network. Local authorities play an important role in this.

2. Need to Manage the Network

The highway authorities have a responsibility to:

- Co-ordinate road works to minimise disruption, thus maximising the availability of the network to the public.
- Manage the quality of the asset, ensuring that openings in the carriageway are correct and to standard

This responsibility applies equally to works by the Highway Authority as to works by the Utilities.

They already have a range of powers and duties under which they maintain and improve the network, and manage its use and the activities taking place on it. These include the Highways Act 1980 ("the 1980 Act") principally covering the structure of the network; the New Roads and Street Works Act 1991 ("the 1991 Act") covering utility street works; and the Road Traffic Regulation Act 1984 regulating the activities of road users.

The Traffic Management Act 2004 ('the TMA Act') adds to these powers. It also adds the network management duty, which requires local traffic authorities to do all that is reasonably practicable to manage the network effectively to keep traffic moving.

Although the Network Management duty is framed by reference to a "local traffic authority", it extends to the authority exercising its powers as highway authority and street authority under the 1980 Act and 1991 Act, and indeed in carrying out activities under other legislation where it impacts on the operation of the road network.

3. How do we Manage Street Works

Legislation allows two alternatives for dealing with openings in the carriageway:

3.1. Notices

Utilities and indeed our own ECC contractors have to send notices telling ECC that they want to work in the highway. These notices apply at various stages of the proposed works and are submitted using the Electronic Transfer of Notices protocol (EToN) in Essex, via Atlas. ETON is a national standard used by the Utility Companies and highway authorities to send and receive Notices. The Electronic Transfer of Notices allows almost immediate movement of information between utilities, street authorities and other authorities with the data provided in a standard format which is fully interchangeable between electronic street works registers.

Types of Notice

- Advance notice (section 54)
- Notice of starting date (section 55)
- Immediate works notice (sections 55 or 57)
- Actual Start (Sections 74 (5B) and 74 (5C))
- Revised Duration Estimate (extension requests)
- Works Clear (Section 74 (5C))
- Works Closed (Section 74 (5C))

In this case a Utility tells the authority, via notice, when and where it will be working. As can be seen from the above an average of 7 different notices can be issued/received for each piece of work on the highway.

3.2. Permits

An authority can apply to the Secretary of State to operate a permit scheme for all or some of its roads in one of the following ways;

1. Permit required for all roads with each application scrutinised individually;
2. Permit required for all roads and dealing with permit applications on minor roads on an exception basis.
3. Permit required on main roads (category 0-2 and traffic sensitive roads) but using the revised NRSWA noticing regime on all other roads.

In this case the Utility applies to the authority for permission to work in the highway. The authority may then grant that permission with various criteria for the works.

Currently ECC use the notice process

Emergency Works

A Utility may undertake emergency works without submitting a prior notice to the authority. However an Immediate Notice must be given within two hours of the works starting. If the works take place 'out of hours' (between 16:30 and 08:00 the following day), the undertaker must serve notice at the latest by 10:00 on the following day.

An immediate works notice is:

- (a) For emergency works (i.e. a danger to life or property) - a notice under section 57 of NRSWA or
- (b) In the case of urgent works (i.e. loss of service) - a notice indicating start of works under section 55 of NRSWA.

Traffic Sensitive Streets

Under the TMA Essex has the ability to designate streets as Traffic Sensitive within certain parameters laid down for:

- Traffic Volumes
- Salting Routes
- Bus Routes and
- Junctions within a set distance of Traffic Sensitive Streets

Once streets are designated as Traffic Sensitive it affects how and when works may be carried out by the Utilities and will also apply to our own works.

4. Current Legal Framework for Noticing

The legislation covers when, how and where the Utility will work and the Traffic Management arrangements that must be in place. It also allows authorities to intervene and to fine Utilities if the "rules" are broken.

The legislation is complex and has evolved over a number of years.

The Primary pieces of legislation which create the requirement for and set the framework of the service are:

- New Roads and Street Works Act (1991)

- Traffic Management Act (2004)
- Highways Act (1980)
- The Road Traffic Regulation Act 1984

4.1 Current Enabling Legislation

- The Street Works (Fixed Penalty) (England) Regulations 2007;
 - The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007;
 - The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2008;
- Traffic Management Permit Scheme (England) Regulations 2007;
- The Street Works (Inspection Fees) (England) (Amendment) Regulations 2008;
- The Street Works Register (Registration fees) Regulation 1999;

4.2 Current Codes of Practice and Supporting Guidance

- Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters (March 2008. 3rd Edition)
- Code of Practice for Inspections (September 2002. 2nd Edition Pink Book)
- Specification for the Reinstatement of Openings in Highways (June 2002. 2nd Edition Yellow Book)
- Code of Practice for Permits (March 2008)
- Technical Specification for the Electronic Transfer of Notifications (previously Appendix E of the Code of Practice for coordination above) (March 2008)
- Safety at Street Works and Road Works (February 2002. Red Book)
- BS7666:2002 Spatial data-sets for geographical referencing
- Chapter 8 Traffic Signs Manual (Road-works & Temporary Situations)
- UKAS National Highways Sector Scheme for Quality Management in Highways Works – Sector 12 & 12B (traffic management for high speed, dual carriageway & motorways)

- Measures Necessary Where Apparatus is affected by Major Works (Diversionary Works) A code of practice. (Green Book)
- Code of Practice for Recording of Underground Apparatus in Streets

See also Annex 2

5. The NRSWA Service in Essex

A Structure Chart showing how the NRSWA Service fits within the Network Management Structure is attached at Annex 3.

The NRSWA is managed by the Traffic Manager through the Network Management Group. The team is lead by a NRSWA Manager, supported by 4 Co-ordinators (1 in each geographic highway area), each with a team of 3 inspectors and administrative support.

Additional support is provided by Mouchel through the Client Support contract.

5.1 Day to Day Operation of the NRSWA Service.

There are 3 key elements to the NRSWA function:

1. Management of systems/process
2. Co-ordination of street works
3. Inspection of street works

5.1.1 Management of Street Works Databases.

Mouchel currently manages part of the NRSWA service for Essex County Council, as set out in the client support contract. These duties include follow-up inspections, management of the coring programme, manual noticing, general administration, and provision of reports, management, maintaining the local street gazetteer, providing database support, training, section 74 negotiations, invoice reconciliation and debt monitoring and control..

5.1.2. Co-Ordination of Street Works

Each team (Co-ordinator and 3 inspectors) undertake the following tasks:

- Checking all incoming street works notifications for obvious inaccuracies e.g. street not in highway authority area , and contact works promoter to correct;
- Checking all incoming street works notifications for possible co-ordination issues or possible changes to construction methods, and contact works promoter to discuss;

- Holding regular quarterly co-ordination meetings with all works promoters in their area;
- Challenging incoming street works notifications where it is considered that the duration of the works is not appropriate;
- Issuing directions, where appropriate, for carrying out work at less disruptive times;
- Challenging revised duration estimates on street works notifications, if appropriate;
- Checking that completion of works on site data is as notified;
- Requiring that all temporary traffic control, especially temporary traffic signals, is only used where and when necessary. Temporary traffic signals should either be vehicular activated or, at appropriate times, be operated manually;
- Requiring information signing at work sites to advise the public in advance of the commencement of work;
- Providing information on a local web site of works that are anticipated to cause disruption to traffic.

5.1.3. Inspection of Street Works

Essex operates an Inspection regime which is fully compliant with the current legislation, The Inspections Code of Practice, revised in 2002 is the current document. This is a key role in terms of asset protection and we work closely with utilities in an effort to improve the quality of work and, in particular, the quality of reinstatement.

A national report has concluded that utility works have a detrimental affect on the design life of any highway and therefore we are ever vigilant in an effort to minimise the effect of those works. We have introduced a monitoring process in terms of quality of works and numbers of defects found. These are reported to regional HAUC and the local Essex HAUC.

5.1.3.1 *Sample and Defect Inspection Management*

Undertakers, including the holders of street works licences, have responsibility, under section 65 of NRSWA, for signing, lighting and guarding and, under section 71, for reinstating the street to the prescribed requirements on completion of their works.

Street authorities have the power under section 72 to inspect, investigate and report on undertakers' works and reinstatements and powers under sections 65 and 72 to take such steps as appear necessary to remove dangers these may cause to users of the street.

The Act makes undertakers wholly responsible for the management of their street works. Street authorities are responsible for monitoring the performance of the undertakers and wholly responsible for co-ordination.

Four types of inspection may be carried out in three categories (A-C based on at what stage the works are);

- Random sample inspections
- Routine inspections
- Investigatory inspections (including third party reports) and
- inspections for Section 50 licensed works.

Each of these inspections may in turn generate further 'defect' inspection regimes.

Undertakers must guarantee the performance of the reinstatement to the relevant standards, for the relevant guarantee period. If, at any time during a guarantee period, the reinstatement fails the relevant performance requirements of the specification, either through a defect inspection or the Undertaker's own inspection regime, the Undertaker shall carry out remedial action to restore the reinstatement to a compliant condition.

The County Council may charge the Utility for the cost of undertaking these inspections. All charges in relation to the amount of sample inspections are taken from the notifications sent to the local authorities register and are calculated from *Statutory Instrument 1992 No. 1688 The Street Works (Inspection Fees) Regulations 1992* and subsequent amendments (currently 2008 No. 589) and The Street Works (Inspections Fees) (England) (Amendment) Regulations 2009

5.3.1.2 Section 74

Section 74 of NRSWA allows Essex County Council to levy a charge on a utility company when their works overrun an agreed duration (known as the 'reasonable period' – the duration agreed on acceptance of a notice). It is a key tool to ensure that a balance is met between occupation of the highway and the time an undertaker has to complete their works. It also means that Co-ordinators have accurate information on the occupation of a site and to ensure they can coordinate works in the area.

The charge is variable dependent on the type of street reinstatement category.

Potential overruns can be identified through

- site inspections,
- notices not closed down on time ("estimated end date" list) or
- remedial notices.

Any equipment left on site after the reasonable period has expired will attract a daily overrun charge. The inspector should record results of each inspection, and liaise with the Co-ordinator on a regular basis.

The process for managing inspections is attached as Annex 1.

6. Finance

6.1 Costs:

Currently the salaries and other costs of staff working on New Roads & Street-works Service are collated.

Each month, as part of the finance cycle, ESH finance recharges the staff salaries plus 47% to cover overheads to the NRSWA Policy line in the accounts.

Costs other than salaries e.g. the Service Level Agreement, with our provider Mouchel are collated direct on the NRSWA Policy line in the accounts.

6.2 Income:

The cost of the current service is off set by the income derived from the Statutory Undertakers for;

- Sample inspections, (invoiced quarterly in arrears). Currently set at 30% of the average of the previous three years' inspection units for that utility. In accordance with Statutory Instrument 1992 No.1688 The Street Works (Inspection Fees) Regulations 1992 and subsequent amendments (currently 2008 No. 589).
- Section 74 over runs (invoiced bi-monthly in arrears) Authorities are able to issue fines under Section 74 (S74) of the new roads and street works act, for works that have over-run the prescribed period, or where there has been a failure to give notice.
- Failed reinstatements. (invoiced monthly in arrears). Where reinstatements do not comply with the *Specification for the Reinstatement of Openings in Highways* Essex County Council will invoice their costs in accordance with those permitted under the NRSWA (*Street Works (Recovery of Costs) (England) regulations 2002*).*

The data for the invoicing process comes from input to the Street Works IT System by the Utilities and ECC NRSWA Inspection staff. The system is administered by Consultants Mouchel, via the Service Level Agreement, who send agreed monthly reports to ECC so that invoices can be raised.

Each month income from the above sources is collated and recorded on the NRSWA Policy Income line.

The ESH Finance reports are monitored as part of the corporate financial cycle to ensure that costs are kept within budget and income is maximised.

Income predictions are based on the assumption that 20% of the S74 potential income generated from the system will be recoverable, that 80% of the potential income from Failed Reinstatements will be recoverable and that 100% of the sample inspection income will be recoverable.

In financial year 08/09 costs were greater than income and ECC had to subsidise the Service.

In 09/10 income matched cost and the service was cost neutral to ECC.

In 10/11 it is estimated that income will exceed cost by £100,000. This has been due to the improvements made to the service over the past eighteen months.

It should be noted however as the improvements to the service impact on the Utilities and they improve their standards of noticing and reinstatement income penalty fines will fall, whilst inspection charges will remain.

7. Working Relationships with Utilities

Successful co-ordination requires accurate and timely information and good communication between street authorities and undertakers. This communication takes place via representative groups and technical bodies:

7.1 National Bodies:

The Joint Authorities Group (JAG)

The Joint Authorities Group (UK) is a national body that represents the organisations responsible for the roads and streets of the United Kingdom. JAG (UK) focuses on the daily operation, the coordination of works for asset or utility network management and other temporary activities taking place on the highway. Key objectives include:

- Safeguarding the quality and effectiveness of highways as the major transport network
- Developing a consistent and appropriate implementation of regulations, fairly balancing the legitimate needs of road users and works promoters of all types
- Identifying and promoting good practice in all aspects of traffic and works coordination
- Supporting the practitioners within its member organisations in their personal professional development through the provision of guidance and timely, appropriate communication on important issues
- Representing the interests and expert contributions of the membership in the wider public arena, including to government, the Highway Authorities and Utilities Committees, National Traffic Managers Forum and other related bodies

- Maintaining an attitude of willing cooperation and pursuit of efficiency of operation of works, while remaining mindful of regulatory responsibilities.
- Web site: www.jaguk.org

More locally there are meetings involving just the street works managers of the region. Essex is part of Anglian Jag.

National Joint Utilities Group (NJUG)

NJUG is recognised as the utility arm of the Highways Authorities Utilities Committee (HAUC UK). This group works together with the street and road authorities (thorough JAG), providing the respective governments of the UK with professional technical advice and expertise in respect of primary and secondary legislation, together with the detailed associated codes of practice and guidelines related to Street Works. Key pursuits are:

- To promote best practice among members
- To foster the industry's image in Government and Parliament and to positively influence the development of legislation and regulations affecting the industry
- To provide a forum for discussion on utility street works issues
- Contributing towards the continual improvement and consistency of standards, use of new technology and sustainable methods of working.
- Website: www.njug.org.uk

The Highway Authorities and Utilities Committee (HAUC(UK))

HAUC was established in 1986 by the constituent bodies of the local Highway Authorities and the Utilities to assist the Secretary of State in arriving at proposals for new street works legislation. HAUC(UK) played a significant role in the drawing up of the New Roads and Street Works Act 1991, its subsidiary legislation and associated Codes of Practice. The main aims of HAUC (UK) are:

- To advise the Secretary of State on issues relating to street works legislation
- To provide guidance to practitioners
- To provide a forum for matters of mutual interest in relation to street works
- Website: www.hauc-uk.org.uk

At a regional level, groups are set up under the aegis of regional HAUCs. Principal issues will be policy determination within national HAUC guidelines; monitoring the effectiveness of local co-ordination arrangements and providing policy guidance on a local basis. They should also facilitate local dispute resolution procedures. If the parties wish, performance reviews could also be carried out at these meetings. They also provide working parties for the

development of guidance notes and codes of practise. Essex County Council is part of AHAUC.

The Local Government Technical Advisors Group (TAG)

TAG generally comprises directors or departmental heads responsible for the provision of technical services within many Local Governments throughout the UK, including architecture, town planning, engineering, environmental health, leisure and housing. TAG's main aim is to provide technical advisory services to local and central government and its agencies and to provide a professional network for the development and dissemination of best practice.

Website: www.tagonline.co.uk/

CSS/"ADEPT"

CSS was formerly known as The County Surveyors' Society and is now known as "ADEPT". It has members drawn from Strategic Transportation and Waste Disposal authorities throughout the United Kingdom including Shire Counties and Unitary Authorities in England and Wales and the DOE in Northern Ireland, plus an affiliation with the Scottish Unitary Authorities. Its aims are the representation of members' interests, by responding to European and Central Government initiatives and consultations, by promoting initiatives aimed at influencing government policy and the development and dissemination of best practices.

UK Roads Liaison Board (UKRLB)

The UK Roads Liaison Group was set up in 2001 and brings together national and local government from across the UK to consider roads infrastructure engineering and operations matters. Its sub-groups are the Bridges, Lighting, Roads and Traffic Management boards. These groups operate independently but feed all work back through the central UKRLG group. Key points of focus include:

- Bringing together national and local government from across the UK to consider matters relating to carriageway and footway engineering, street lighting, bridges and highway structures engineering and traffic management
- Website: www.ukroadsliaisongroup.org

7.2 Within Essex:

The Quarterly Co-ordination Meeting

This is programmed annually and the dates included in the AHAUC planner (together with the coordination meetings of all authorities in the AHAUC region).

Essex HAUC Meetings

These are held with the main utilities in operation in Essex, approximately every 3 months. These are specifically focussed on performance management. The Chairman of Essex HAUC is Eddie Owens

8. Communication with the Public

Elgin

Essex subscribes to Elgin which is a national website that shows all road works, both planned and active and is available for the public.

Key road works are also published on the Essex Traffic Control Centre website.

Utilities and ECC will place boards on site in advance of road works and distribute leaflets/letters to affected properties to advise of planned works.

9. Permit Schemes:

Permit schemes have now been approved by the Secretary of State for Kent and Northamptonshire. These schemes allow authorities to charge Utilities for a permit to work, but not to derive a profit.

The Eastern region has been investigating the possibility of a common regional permit scheme. Essex is part of that group and is undertaking a feasibility study to assess the costs and likely benefits that such a scheme would provide over and above a noticing regime.

Annex 1

New ECC Inspection Procedure

Non-Dangerous Re-instatement Defects

- When an inspection is carried out, the **whole** of the works should be inspected and **all** defects logged on the inspection report. This will sometimes result in more than one set of inspection charges if the defects incorporate more than one inspection unit.
- When a defect is identified the defect will be managed throughout the lifecycle of that defect by the original inspector i.e. 1 defect = 1 inspector.
- When a defect is found this will be entered onto EToN and Pegasus with a clear and concise description by **no later** than the close of play the following day after the inspection was carried out.
- When a defect is issued a response is required from the utility within 10 working days of the date the inspection was **ENTERED** onto EToN. The definition of 'response' shall be a comment via EToN stating the defect is accepted **OR** a telephone call to the relevant Inspector requesting a site meeting **ALONG** with a comment on EToN. If the phone call is unanswered then a message should be left on the answer phone and this should be stated on the EToN comment. It will then become the responsibility of the ECC Inspector to contact the utility. Please note that a comment stating 'we have received your defect inspection and will advise you of our findings shortly' will **NOT** be accepted as a response if it is not followed up with an acceptance comment or site meeting request within the timescale.
- If no comments are received within the 10 day window then a 'defect follow up completion' (D3) inspection will be carried out. This will be entered onto EToN and Pegasus and is a chargeable inspection which we would not expect to be disputed on an invoice.
- If an acceptance comment is received 20 working days will be given to rectify the defect starting from and including the date of the comment.
- When the remedial notice (where applicable) is received a 'defect follow up' (D2) inspection will be carried out. Please note that 'defect follow up' (D2) inspections may be carried out at any time during the duration of the remedial **NOTICE**. However there may be instances where we will insist that an inspector is present when the remedial works are being carried out due to the nature of the defect (an example of this may be because of a core sample failure). If this is the case then a comment to this effect will be entered onto the original inspection report and arrangements should be made with the inspector on times/dates of the remedial works.

There are potentially three outcomes to the 'defect follow up' (D2) inspection;

1. When the inspector arrives on site, the remedial works have not started and there are no crew on site then the result of this will be abortive. This will be entered onto EToN and Pegasus and is a chargeable inspection which we would not expect to be disputed on an invoice. Please note that follow up inspections may be carried out at any time during the duration of the remedial **NOTICE**.

2. When the inspector arrives on site and the works are in progress or about to commence. The result of this will be pass or fail. This will be entered onto EToN and Pegasus and is a chargeable inspection which we would not expect to be disputed on an invoice.

3. The Inspector arrives on site and the works have already been completed. The 'defect follow up' (D2) is changed to a 'defect follow up completion' (D3) with a result of pass/fail. This will be entered onto EToN and Pegasus and is a chargeable inspection which we would not expect to be disputed on an invoice.

- When a site meeting is requested it will be at an agreed date and time but normally within 10 days of the request.

- If, at the site meeting (D1) it is agreed there is no defect then a site visit inspection report will be issued via EToN as passed and will carry no charge. There will be a site visit form which will be signed by both parties. This will be scanned and attached to Pegasus.

- If, at the site meeting the defect is agreed then 20 working days will be given to rectify the defect unless a longer duration is agreed. The site visit form will be completed with all agreed defects and signed by both parties. This will be scanned and attached to Pegasus. Please note that it is recommended that the entire works are walked by both parties and all defects noted and agreed on the site visit form.

- If at the site meeting no agreement is reached then it will be escalated for a decision to the Street Works Manager. It will be the responsibility of ECC Inspectors to make the Street Works Manager aware of the dispute. Whilst a defect is in dispute no further inspections shall be carried out until the issue is resolved.

- If no remedial notice is received then a D3 inspection will be carried out on the 20th working day from the acceptance comment or the agreed date at the joint site meeting. If the remedial works have been carried out, an inspection report will be sent via EToN and entered onto Pegasus with either a passed or failed result. This is a chargeable inspection which we would not expect to be disputed on an invoice. A comment will be sent via EToN for an explanation as to why no remedial notice was issued. If no remedial works have been carried out or the inspection result is failed the process will begin again.

Annex 2

Outline of the main legislative provisions.

New Roads & Street Works Act 1991 (NRSWA)

Section	Description
50	Street Works Licences. Essex County Council may grant a licence permitting a person to place or retain apparatus in the public highway and thereafter inspect, maintain and repair as necessary
51	<p>Prohibition of unauthorised street works. It is an offence for a person other than the street authority—</p> <p>(a) to place apparatus in a street, or</p> <p>(b) to break up or open a street, or a sewer, drain or tunnel under it, or to tunnel or bore under a street, for the purpose of placing, inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, or of changing the position of apparatus or removing it, otherwise than in pursuance of a statutory right or a street works license.</p> <p>If he fails to comply with the direction, the authority may remove the apparatus or, as the case may be, carry out the necessary works and recover from him the costs reasonably incurred by them in doing so.</p>
53	The Street Works Register. This section states that a street authority shall keep a register of all works and be available for inspection
54/55	Advance Notice of Certain Works. ALL works are subject to noticing periods as specified in the Code of Practice
56/56A	Timing of Works. The Highway Authority can direct the timing of works if it is agreed that the disruption would be minimised as a result of such changes. The additional powers provided in the Traffic Management Act 2004 enable a highway authority to stipulate timings AND dates. However, in practice, this can be difficult to enforce, particularly if a Statutory Undertaker disagrees with the instruction. Arbitration is onerous and can be very time consuming

57	Immediate Works Notice. Immediate works notices may be given as soon as reasonably practicable and, in any event, within two hours of the works starting. If the authority to whom an undertaker is obliged to give such notice does not have arrangements for receiving and responding to notices 'out of hours' (any period between 16:30 and 08:00 the following day), the undertaker shall have complied with his obligation if he serves a notice by 10.00 on the following day.
58	Restrictions following Road-works. When a Highway Authority or Utility company undertakes major resurfacing/road-works they can, by notice, restrict access to the street for periods ranging from 6 months to 5 years.
59	Duty to Co-ordinate Works. All Highway Authorities must to their best endeavours attempt to co-ordinate all works on the public highway
60	Duty of Undertakers to co-operate. An undertaker must also use their best endeavours to co-operate with the Highway Authority and other undertakers to ensure disruption is kept to a minimum and co-ordination takes place. Information is held on the performance of Statutory Undertakers and, if necessary, Improvement Notices will be served to those under-performing
65	Safety at Street works. All works carried out on the public highway must be done so in a safe manner. Issues relating to signing, lighting and guarding are subject to the requirements of this section of the Act
66	Avoidance of unnecessary delay. Any undertaker must carry out their works as soon as practicably possible to ensure there is no unnecessary delay and the highway is clear. Highway Authorities can prosecute if they consider works to be taking too long, although this must be justified
67	Qualification/Accreditation. All undertakers must ensure at least one fully trained operative is present on any work site
68	Facilities to be afforded to street authority. An undertaker executing street works shall afford the street authority reasonable facilities for ascertaining whether he is complying with his duties under this Part.
69	Works likely to affect other apparatus in the street. Where street works are likely to affect another person's apparatus in the street, the undertaker executing the works shall take all reasonably

	<p>practicable steps to –</p> <p>(a) to give the person to whom the apparatus belongs reasonable facilities for monitoring the execution of the works, and</p> <p>(b) to comply with any requirement made by him which is reasonably necessary for the protection of the apparatus or for securing access to it.</p>
70	Duty to reinstate. All undertakers must inform the Highway Authority by the end of the next working day of their reinstatement, whether permanent or interim. It must be noted that if an interim is made, this must be made permanent within SIX MONTHS on which it was made interim
71	Standard of Reinstatement. All reinstatements must be undertaken in accordance with the Specification for the Reinstatement of Openings in the Highway. Where the undertaker fails to carry out a satisfactory reinstatement, the defect procedure within the Act should be applied
72	Investigation Works. This section gives the highway authority the permission to undertake investigation works in relation to a reinstatement. This will usually take the form of a coring programme set out by the authority and they are normally expected to invite any undertakers to the coring process
74	Overstay Charging. All works have a start and end date, Statutory undertakers must comply with these or they can be subject to overstay charges
79	Records of location of apparatus. An undertaker shall, except in such cases as may be prescribed, record the location of every item of apparatus belonging to him as soon as reasonably practicable.
81	Duty to maintain apparatus. All statutory undertakers have a duty to maintain their apparatus. Such apparatus includes rocking/dangerous manhole covers, faulty cabinets

Traffic Management Act 2004 (TMA)

(Only those sections relevant to the management of works in a non-Permit Authority)

Section	Description
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<i>Part 2</i>	<i>Network Management by local traffic authorities.</i> This imposes a duty on all local traffic authorities (LTAs) to secure the expeditious movement of traffic on their road networks, and to facilitate the expeditious movement of traffic on other authorities' networks. Authorities are required to make arrangements, as they consider appropriate for planning and carrying out the action to be taken in performing the duty.
<i>Part 4</i>	<i>Street Works.</i> This includes the provision for stronger powers for local highway authorities to direct when works are carried out or where new apparatus is placed. It provides for a noticing system for street works, fixed penalty notices and overrun charging schemes

Road Traffic Regulations Act 1984, (RTRA 1984)

Under the RTRA the following types of road closures are permissible if it becomes apparent that the minimum requirement for vehicle access (2.5 metres) cannot be achieved.

Section	Description
14(1)	Lasts for up to 18 months and can be multiple visits. Or up to 6 months for footway, bridleway, cycle track
14(2)	Works last for 5 days only
14(2)	(emergency) Lasts for 21 days Can be extended for further 21 day
15	For works exceeding the 18-month time limit
16	Closures for the provision of special events

Network Management Structure

