



## Statutory Undertaker Memorandum of Understanding

The purpose of this document is to detail Stoke on Trent City Council's expectations in respect of Statutory Undertakers apparatus that is located within or on the adopted highway network, and for Statutory Undertakers to understand their responsibilities in relation to the management of their apparatus contained within Stoke on Trent's highway network. The aim of this Memorandum of Requirements is to ensure that the highway network is maintained to an acceptable standard, and that any disruption is kept to a minimum. All of the detail below is compliant with both the Street Authority and Undertakers responsibilities as detailed in the New Roads & Street Works Act 1991.

### 1. Inspections

1.1. The Highway Authority will carry out inspections of the highway as part of its responsibilities under Section 58 of the Highways Act 1980. Where Undertakers plant or equipment is identified as defective or constitutes a danger, these issues will be reported to the Undertaker via a Section 81 notice as required by the New Roads & Street Works Act 1991.

1.2. Statutory Undertakers should only rely on the above inspections to ascertain the safety of their equipment and should rely on their own procedures to ascertain the functionality of the equipment.

### 2. Section 81 Notices

The City Council's Highway Inspection Manual stipulates that safety defects that are identified by the City Council's Highway Safety Inspectors should be repaired within the following timescales (a copy of the Highway Inspection Manual can be made available upon request):

- Emergency Defects: 2 hour response time
- Urgent Defects: 24 hour response time
- All other Defects: 10 day response time

As the current legislation and guidance documents are unclear, the City Council believes it to be reasonable to expect that Statutory Undertakers to follow these time scales for the repair of safety related defects.

If the Statutory Undertakers fails to comply with these timescales, the City Council will look to carry out the appropriate repair and recover all reasonable costs from the Statutory Undertaker. Exceptions to this will be considered on a case by case basis, and further information is provided in Section 2.2.

## 2.1. Definition of Dangerous and examples:

Apparatus which is deemed to be dangerous by the Highway / Street Authority will be reported to the Undertaker by the process referred to above if it poses and imminent risk of harm to person or property and could include, but not exhaustively:

- Missing Covers
- Exposed Wires
- Water on surface of the highway
- Trip or fall hazards due to defect Undertakers Plant or Equipment exceeding 40mm in the Carriageway, or 20mm in the Footway

In addition it is believe that certain defects should be treated as urgent as they constitute a major inconvenience to the public, examples may include:

- Banging manhole covers, likely to cause noise pollution for local residents

## 2.2. Exceptions

Exceptions to a repair being carried out to a safety related defect in 10 working days may be considered by the Authority (e.g. interim repairs followed up by permanent repairs as allowed by the legislation). However, it is expected that disruptions on the highway will be kept to a minimum. This may require the road/footway to be repaired in an interim manner until such time a permanent repair/reinstatement can be facilitated to enable the road/footway to be fully re-opened and operational. In all cases permanent reinstatements should be carried out within the 6 months as described in the New Roads & Street Works Act 1991.

Exceptions can be agreed by contacting the Traffic & Statutory Compliance Officer on [highway.licensing@stoke.gov.uk](mailto:highway.licensing@stoke.gov.uk) or by calling 01782 231937

Exceptions that will be considered are:

- Requirement to order specific parts
- Requirements for more comprehensive works that require notices being issued
- Requirement for more substantial traffic management such as temporary traffic lights
- Requirements where completion within the required timescale would be likely to cause unacceptable congestion/inconvenience to the travelling public

### 3. Maintenance of Apparatus

Statutory Undertakers have a Statutory Duty to maintain apparatus located within and on the adopted highway network, this will require Statutory Undertakers to have in place a maintenance regime. It is not the role of the City Council to inspect the functionality of Statutory Undertakers apparatus. The Statutory Undertaker will be expected to:

- i. Carry out repairs to the surface of the carriageway and footway that has been damaged as a result of a lack of inspection or repair. The authority will specify the nature of the repair required (this could include full resurfacing); or
- ii. The authority will carry out works and recharge to the Statutory Undertaker.

Items of failure will include:

- Manholes that have not been maintained, that result in pressure building during storm events and the manhole not popping. Thereby, causing significant damage to the carriageway or footway.
- Failure to the carriageway surface as a result of rocking man-holes
- Water dispersing on the highway from utility apparatus
- Depressions in the carriageway that result in “Sink Holes”

### 4. Recovering Reasonable Costs Incurred

Section 82 of the New Roads & Street Act 1991 details liability for damage or loss caused, whereby an undertaker shall compensate the Street Authority as a result of defined events including, but not exhaustively:

- Explosion,
- Ignition
- Discharge
- Or other event occurring to gas, electricity, water, or any other thing required for the purposes of a supply or service afforded by an Undertaker.

The Street Authority may recover any reasonable costs incurred where it suffers financial loss through works undertaken or any expenditure reasonably incurred. The Highway Authority intends to recover such reasonable costs incurred where identified in this document. These costs will include, as a minimum:

- i. Charge for all traffic management equipment such as, barriers, traffic lights etc. This will be charged on a daily basis until the equipment is returned to the City Council.
- ii. Charges associated with staff who need to erect traffic management equipment, and to check this to ensure it is still in place

- iii. Staff time associated with ordering, and arrangement of traffic management equipment
- iv. Cost of all materials used to carry out repairs e.g. manhole covers, tarmac etc
- v. Staff time for any contact made with Statutory Undertakers
- vi. Any back office administration costs incurred e.g. production of invoices, works orders etc