



**TRAFFIC MANAGEMENT ACT 2004  
STREET WORKS AND ROAD WORKS**

**SURREY COUNTY COUNCIL'S LOCAL COMMITTEE  
(MOLE VALLEY)**

**25<sup>TH</sup> SEPTEMBER 2006**

**KEY ISSUE**

To inform the Local Committee of the powers conferred by legislation, on Surrey County Council (SCC) to manage Street Works and Road Works.

**SUMMARY**

The New Roads and Street Works Act 1991 (NRSWA) and the Traffic Management Act 2004 (TMA) indicate responsibilities for Local Transport Authorities, such as SCC. They also set out what sanctions can be applied for co-ordinating Street Works and Road Works across the County. The NRSWA gave powers in relation to Street Works Undertakers, which are companies authorised to execute works associated with apparatus in a street. The TMA extends the powers to apply to Road Works Undertakers including the Surrey Highways Partnership.

**OFFICER RECOMMENDATIONS**

The Committee is asked to note the report.

## 1 INTRODUCTION AND BACKGROUND

- 1.1 The New Roads and Street Works Act 1991 (NRSWA) puts a Duty on the Local Transport Authority (LTA) to co-ordinate all Road Works and Street Works. It also places a duty on the works undertakers to co-operate. The Traffic Management Act 2004 (TMA) goes a step further by applying the Network Management Duty to each LTA and states:

“It is the duty of a local traffic authority to manage their road network with a view to achieving, so far as it may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives:

- a) securing the expeditious movement of traffic on the authority’s road network; and,
  - b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.”
- 1.2 The TMA has increased the sanctions, which SCC can use through the NRSWA. The LTA, whilst having the duty to co-ordinate, can now direct a Utility to work at specific times and in specific locations should there be such a need. Any party in breach of the NRSWA can be taken for prosecution and fines of up to £5,000 can be made.

## 2 ANALYSIS AND COMMENTARY

- 2.1 The NRSWA and associated Codes of Practice detail how works are to be carried out from preliminary notification to final registration of completed works. The TMA has increased the power for the LTA enabling a direction as to when and where, if applicable, works may be carried out (January 2005).
- 2.2 Under NRSWA there are a limited number sanctions that can be applied against poor compliance, typically for incorrect Noticing, unsafe traffic management, failure to co-operate, undue delay and unreasonably prolonged works. Sanctions applied to date against Utilities’ non-performance have been limited to the application of NRSWA Section 74. This provides for a charge to be applied for prolonged occupation of the highway. This also allows challenges to works durations when excessive time is requested or non-productive sites are discovered.
- 2.3 The ‘office’ activities are to receive all notices or applications advising the LTA of proposed works, to co-ordinate these with all other highway related works and produce a Street Works Register. In this function the ‘office’ must pay due regard to any possible conflict of works whilst at the same time check that the details submitted allow an accurate assessment to be made of where and for how long these activities will last. Where conflict or duration of works is considered a problem, a ‘Challenge’ is made directing a change in the proposals. A failure to supply correct information may be treated as a breach of NRSWA.

- 2.4 Officers' take at face value the expected duration of works but may request more information regarding the programming for sensitive locations. Where conflict or duration of works is considered a problem, a 'Challenge' is made directing a change in the proposals. Under the TMA, the LTA may now direct how and when works will be carried out but there is also a route for the Utility to challenge the direction. Additionally, a failure to supply correct information may be treated as a breach of NRSWA.
- 2.5 If works require a Traffic Regulation Order for a road closure then the standard procedure for achieving these is processed by Surrey County Council staff. Processing the application requires meetings between both parties to verify the necessity, duration and management of the road closure.
- 2.6 If a change occurs to the duration of works a new Notice must be sent to the LTA advising of this. The reason why the change is required may be challenged before agreement is reached on the new duration. If unexpected problems occur and measures are taken to amend the programme of works then agreement cannot be withheld unreasonably. However, at any time during the works the LTA does now have the power to direct the works. If the works appear to be discontinuous a direction on duration may be given, but as 2.4 above this direction may also be challenged.
- 2.7 The quality of the final reinstatements has been monitored through a countywide coring investigation programme, which has revealed a poor level of compliance (currently 52%).
- 2.8 A random sample selection of 30% of a Utility's work programme is used to monitor the performance of each Utility. Whenever two consecutive quarter periods reveal an inspection failure rate of greater than 10% in either Signing, Lighting and Guarding or physical acceptability set against intervention limits, an Improvement Notice will be served and a tightly controlled inspection regime instigated. The costs of the Improvement Notice regime will be recharged to the Undertaker of the works.
- 2.9 The TMA has proposed new ways to manage Street Works but on the proviso that Road Works are treated in exactly the same way. Legislation and Regulations were due to be published in 2004 but the Department for Transport (DfT) and Government have not met the deadline and now the earliest implementation date is considered to be 2007.
- 2.10 The DfT have recently published a consultation document outlining Intervention Criteria enabling the assessment of how well the LTA is meeting its Duty under TMA. Responses are due back 28<sup>th</sup> September and it appears each LTA will have to set its own performance indicators. A failure by the LTA to meet the strict requirements of any one of these indicators may cause the Secretary of State (SOS) to issue an Intervention Notice against that LTA. The SOS may also appoint a Traffic Director to 'improve' the LTA. All costs incurred would be recovered from that LTA.

- 2.11 Under the TMA, a LTA may operate a Permit Scheme, following successful submission and approval to the Secretary of State, whereby any activity on the highway must obtain a Permit. The Permit Scheme will also allow for a charge to be made against the applicant depending on the category of road in which the works takes place. At the moment, Surrey County Council has supplied a breakdown of estimated costs to DfT for information only and a decision on whether to proceed will be sought later.
- 2.12 Additional Regulations are expected in 2007. Further developments in managing the Street Works and Road Works in Surrey, in relation to this can be determined after that time.

### 3 CONCLUSIONS

- 3.1 Surrey County Council as Local Transport Authority is actively managing and sampling Street Works on the County's road network in accordance with the regulations and will embrace future change.

**Report by: Geoff Wallace, Local Transportation Manager for Mole Valley**

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<b>BACKGROUND PAPERS:</b>	New Roads and Street Works Act 1991, Associated Codes of Practice, Traffic Management Act 2004, Network Management Duty 2005

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