



Department
for Transport

Streetworks Inspections

Consultation on new 'Statutory
Guidance for Inspections - Coring'

Moving Britain Ahead

24 March to 1 June 2016

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Contents

Executive summary	5
How to respond	6
Freedom of Information	6
1. Introduction to the changes	8
The status of the Statutory Guidance on Coring	8
2. Consultation questions on the proposed draft Statutory Guidance - Coring	9
Introduction	9
The Purpose of Coring, the collaborative Coring Programme and data sharing	9
Selection of Coring Sites	10
Time Limits for Coring following Permanent Reinstatement	10
Figure 1 - flow chart for the coring process for authorities	10
Questions on more general aspects of street works inspections	11
General Question on the draft statutory guidance	12
What will happen next	13
Annex A: Draft 'Statutory Guidance for Inspection - Coring'	14
CORING PROGRAMME	14
INTRODUCTION	14
THE PURPOSE OF CORING	14
COLLABORATIVE CORING PROGRAMME	15
SHARING DATA	15
ASSOCIATED COSTS	15
A REASONABLE APPROACH	16
REMEDIAL WORKS	16
SELECTION OF CORING SITES	17
TIME LIMIT FOR CORING	17
PROGRAMME NOTIFICATION	17
CORING IMPROVEMENT NOTICES	18
FORMULA FOR THE RECOVERY OF COSTS	18
3. Appendix 1- IMPROVEMENT PLAN	21
Process for improvement	21
Additional Coring	21

IN-PROGRESS IMPROVEMENT PLAN INSPECTIONS & ADDITIONAL CORING	22
Annex B: Consultation principles	24
Annex C: A separate word document for consultation responses	-

Executive summary

Introduction

- 1 The Street Authority (county or unitary councils) has the power under section 72(1) of the 1991 New Roads and Street Works Act to carry out 'Investigatory Works' such as: coring; measurement of texture depth; and material sampling considered necessary to determine whether an undertaker (mostly utility companies) has complied with its duties with respect to reinstating the highway to the required standard.
- 2 Following changes to the law, the statutory aspects of the current Code of Practice for Inspections will become statutory guidance. The Department for Transport is working with the Highway Authorities and Utilities Committee (HAUC) Inspections Working Group (IWG) to prepare this draft statutory guidance. The work is expected to be completed over 2016.
- 3 This consultation, which runs from **24 March to 1 June 2016**, relates to the first element of this work - the proposed new statutory guidance on the 'coring'.

How to respond

The consultation period begins on **24 March 2016** and will run until **1 June 2016**. Please ensure that your response reaches us at the following email address Streetworks-Inspections@dft.gsi.gov.uk before the closing date.

If you would like further copies of this consultation document, it can be found at [web address] or you can contact Ann Morley - details below or can also help if you need alternative formats (Braille, audio CD, etc.):

Please send consultation responses by email to:

Name: Ann Morley
Address: Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Phone number 020 7944 2298

Email address Streetworks-Inspections@dft.gsi.gov.uk

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

If you have any suggestions of others who may wish to be involved in this process please contact us or please forward these documents to them.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for

disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

1. Introduction to the changes

The status of the Statutory Guidance on Coring

- 1.1** Section 73F of the New Roads and Street Works Act 1991, brought into force on 6 April 2015, enabled the Secretary of State to issue statutory guidance in relation to Street Works Inspections. Authorities will have to have regard to this statutory guidance. All those carrying out works in the highway will need to have regard to their duties to co-ordinate and co-operate with the management of the highway as set out in section 59 and 60 of the New Roads and Street Works Act 1991.
- 1.2** It is planned that this statutory guidance will form part of the full statutory guidance for Inspections. However, it should be noted that having regard to the statutory guidance on coring will become a requirement from the date of its introduction. Nothing in the planned statutory guidance changes the requirements to comply with the current Specification for the Reinstatement of Openings in Highways (SROH).
- 1.3** The Department's aim, as set out in this draft statutory guidance, is for the need for coring to be used as a practical tool only. It is to assist the effective maintenance of the highway. It should not be used, or be capable of being seen to have been used, as a means of raising revenue.
- 1.4** The Department, supported by the Highway Authorities and Utilities Committee - Inspection Working Group (HAUC - IWG) will, over 2016, continue to work on transferring the statutory elements of the current Code of Practice for Inspection into statutory guidance. We expect to consult on this later in the year.

2. Consultation questions on the proposed draft Statutory Guidance - Coring

Introduction

- 2.1 Annex A** to this document provides the draft statutory guidance on coring. This section sets out the questions on the guidance on which we seek your comments. **Questions 1 – 4** relate specifically to the draft guidance. The final question, **8 Question**, is a general question. It also relates specifically to the draft guidance and provides a place to raise any of matter in relation to the draft document. **Questions 5 to 7 are general questions related to street works inspections.**
- 2.2 Annex C** provides the questions in a Word document to use as a response form.
- 2.3** The responses to this consultation are likely to be discussed with representatives of the sector, as well as within the Department. Therefore the points you raise may be shared. If you are **not** content for this to happen please let us know. Subject to the outcome of the consultation the statutory guidance on coring will be introduced as soon as practicable.

The Purpose of Coring, the collaborative Coring Programme and data sharing

- 2.4** We intend that authorities and utilities work together to maintain the highway to the best standard possible, and with this in mind we have emphasised the purpose of coring as a tool for ensuring the highway is correctly reinstated (sections A3 to A8.)

Question 1 – The Purpose of Coring, Collaborative Coring Programme, Sharing Data. Do you have any comments on the recommendations made in sections A3 to A8?

Comments:

Selection of Coring Sites

2.5 In A20 we have detailed the methods for selecting sites suitable for coring.

Question 2 – In A20 we describe the methods for selecting sites to be cored. Do you have any comments on this section?

Comments:

Time Limits for Coring following Permanent Reinstatement

2.6 In A22 we have added requirements relating to the time limits for coring. We consider that the changes are reasonable and will assist the process.

Question 3: Do you have any comments on A22? Please provide evidence to support your views.

Comments:

Figure 1 - flow chart for the coring process for authorities

2.7 A flow chart on the coring process has been provided to assist practitioners. The flow chart is at Figure 1 in Annex A at A24. We would welcome your view as to whether or not you find it helpful and clear. We would also like to know if any changes / additions are required.

Question 4 – Do you consider the ‘Flow Chart for the Coring Process for Authorities’ at Figure 1 of Annex A clear at A24? We would welcome your views as to whether or not you find it helpful. We would also like to know if any additions / changes are required.

Comments:

Questions on more general aspects of street works inspections

- 2.8** In A9 we discuss associated costs for coring. The IWG has proposed the cost for the administration element associated with a non-compliant core test should be fixed. Such a fee would be non-statutory, and will therefore not appear in the statutory guidance on coring. However the effect of a fixed fee would be to bring consistency to an element of the fee structure across English authorities.
- 2.9** The HAUC IWG has previously agreed fees for Third Party Inspections (£68.00) and Defect Inspections (£47.50). This same principal has been applied to fixing administrative costs. The fixed administration cost would be supplemented by the laboratory and traffic management costs. It is proposed that this would be procured locally and remain variable.

Question 5 - The suggested fee for authority costs for non-compliant cores (section 5) is £47.50. Do you have any comments on the proposed fee?

Comments:

Would you wish to propose an alternative fee? If so, please give your reasons / evidence for a different fee than that proposed.

Comments:

Question 6 – In A13 (A Reasonable Approach) we set out the need for an evidence based approach to the need for coring. Do you have any views on this approach?

Comments:

Question 7 - In the part on Improvement Notices (Coring)) we describe the process for 'Improvement Plans' (see also A28 & A29). Do you have any comments in relation to the process for issuing of improvement notices and their discussion at regional HAUC meetings?

Comments:

General Question on the draft statutory guidance

Question 8 - Do you have any further matters on this statutory guidance that you wish to raise? Please provide evidence to support your views and a reference to the part of the guidance on which you are commenting.

Comments:

- 2.10** Please provide your comments by **1 June 2016** to the Department's 'Inspections' email box at Streetworks-Inspections@dft.gsi.gov.uk. We plan to consider responses over the summer and to publish the final guidance as soon as practical.
- 2.11** The HAUC - IWG are working with us to finalise the transition of the statutory content of the Inspections Code of Practice into statutory guidance. We plan to consult on this later in the year.

What will happen next?

A summary of responses, including the next steps, will be published within three months of the consultation closing on [web address]. Paper copies will be available on request.

If you have questions about this consultation please contact:

Name: Ann Morley
Address: Department for Transport
Great Minster House
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Annex A: Draft 'Statutory Guidance for Inspection - Coring'

CORING PROGRAMME

Notes:

- The Highways Authorities and Utilities Committee (HAUC) UK published a 'Good Practice Guide to Implementing a Structured Coring Programme in 2012. This statutory guidance supersedes that advice note for England.
- Where 'Act' is used in this Statutory Guidance it refers to the New Roads and Street Works Act 1991.

INTRODUCTION

- A.1 Various areas of primary legislation provide statutory undertakers with powers to install and maintain their apparatus in the highway in order to provide essential services. At the same time, section 71 of The New Roads and Street Works Act 1991 Act (the Act) imposes a duty on them to reinstate the road on completion of their works to meet standards as set out in the statutory code of practice - the Specification for the Reinstatement of Openings in Highways (the SROH) current at the time the works were carried out.
- A.2 This statutory guidance is now being published by the Secretary of State under section 73F of the Act in order to ensure that inspections and investigatory works (specifically coring), are carried out consistently and reasonably with the aim of driving improvements in the quality of reinstatements. At a future date, it will be incorporated into new statutory guidance for inspections.

THE PURPOSE OF CORING

- A.3 The purpose of the coring process is:
- to check that undertakers' reinstatements comply with the SROH
 - to drive improvement in reinstatement compliance, and
 - to protect the integrity of the local highway authority asset

COLLABORATIVE CORING PROGRAMME

- A.4 It is recommended that wherever possible a collaborative approach should be taken to coring between authorities and undertakers.
- A.5 This would allow agreement on the proposed selected sites, enable performance management to be assessed directly by both parties, a cost sharing exercise may be reached and selection of coring test centres agreed.
- A.6 It is hoped that this approach will encourage undertakers to improve performance to reduce the number of cores required to satisfy compliance and give confidence to the highway authorities that testing is being carried out to the relevant specification. It should also facilitate a more efficient remuneration process on any costs incurred.

SHARING DATA

- A.7 To drive improvement, it is strongly recommended that undertakers and authorities who carry out coring share their results with each other using the inspections function within the Technical Specification for the Electronic Transfer of Notifications (EToN). Undertakers and authorities should record both passes and failures including all the data output found during their investigations. Each inspection should be accompanied by the coring report along with a date stamped photograph of the location. Where possible, the attachment function within EToN should be used for this.
- A.8 The cost of investigatory works is indirectly paid for by the general public and as such, all parties should seek to share all data to gain the maximum benefit and reduce costs wherever possible.

ASSOCIATED COSTS

- A.9 Costs for non-compliant cores may be recovered in line with the provisions of section 96 of NRSWA and the Street Works (Recovery of Costs) (England) Regulations 2002. The recovery of costs must be no higher than the direct costs and overheads incurred by the authority.
- A.10 Different costs should be applied to reflect the analysis undertaken. Section 12 sets out the formula that should be used for the recovery of costs. It is recommended that a breakdown of how the charge has been calculated is provided with every invoice.
- A.11 The process for calculating the cost should be shared with undertakers, and a breakdown relating to specific invoices may be requested when required. Recovery of costs must not be used to raise revenue and must be cost neutral.
- A.12 Any dispute over recovery of costs should be carried out in line with the dispute resolution procedure outlined in the Code of Practice for the Co-ordination of Street Works.

A REASONABLE APPROACH

- A.13 An evidence-based approach to coring may be based on risk by undertaker, i.e. a higher proportion of an undertaker's reinstatements are cored where there is a history of poor compliance. The proportion would be reduced where the incidence of failure drops. It is recommended that, for an individual undertaker, the percentage of their reinstatements that are cored, within the authority area, for sampling purposes, should not exceed 6%. This does not affect the authority's power to core sites for any other reason under s72.
- A.14 Irrespective of the number of equivalent units of inspection for a reinstatement, it is recommended that no more than 1 core per unit of inspection is taken in the first instance.
- A.15 If the results from these cores are compliant, there will be no need to take additional cores. If the results from some or all of the cores taken on the individual reinstatement are non-compliant, the undertaker should be given the opportunity to accept the results or agree to further coring if they suspect that it may be a localised area that is non-compliant.
- A.16 There is no benefit in taking more cores than recommended even when the results from the sample cores give a strong indication of non-compliance. It should be noted that for every core taken, a new reinstatement is created with potential for further deterioration of the highway as well as spoiling the appearance of the surface.
- A.17 It should be noted that section 73(3) of the Act provides that:
'where the authority carries out investigatory works in pursuance of section 72(1) and the investigation does not disclose any failure by the undertaker to comply with his duties under this Part with respect to reinstatement, then, to the extent that the original reinstatement has been disturbed by the investigatory works, the responsibility of the undertaker for the reinstatement shall cease'.
- A.18 Where an undertaker's results indicate a non-compliant reinstatement, remedial works should be completed within the timescales as per the non-dangerous, non-compliant reinstatement procedure in the Code of Practice for Inspections or as agreed with the authority. Provided that remedial works are carried out within these timescales the authority should not charge for any inspections associated with the remedial works.

REMEDIAL WORKS

- A.19 When determining whether a reinstatement requires any remedial action following a non-compliant core, the quality of the reinstatement shall be assessed relative to the condition of the adjacent surfaces, other considerations are:
- the long-term durability of the highway asset;
 - the additional congestion that may be caused by the remedial work;
 - the environmental impact;

- public perception.

SELECTION OF CORING SITES

A.20 In order to effectively manage the overall cost of coring, coring sites should be taken from visually compliant 'category B' sample inspections (undertaken within the six months following permanent reinstatement). Where this does not provide a sufficient sample size then coring sites should be selected randomly. Although this may not be possible using management systems, the authority should select works as randomly as practicable.

A.21 The following should be considered when selecting sites to be cored:

- they should be selected from reinstatements in carriageways and footways;
- for each undertaker, the proportion of cores taken from the footway or carriageway should reflect the units of reinstatement;
- where sampling is to take place in composite or rigid construction pavements, a core should also be taken from the adjacent undisturbed pavement for comparative analysis in line with the associated SROH requirements
- the sites selected for coring should be clearly identified by the works reference number and site details.

TIME LIMIT FOR CORING

A.22 Coring should only be undertaken following completion of a permanent reinstatement and within the guarantee period. This is generally set at 2 years, but is 3 years for deep excavations from the date of reinstatement.

A.23 Coring, in accordance with this guidance, will ensure that performance trends are monitored and appropriate interventions are taken.

A.24 It is recommended that coring is carried out within the quarter following the identification of the sites this will assist in identifying non-compliant practices and/or behaviours at an early stage, enabling remedial works to be carried out.

PROGRAMME NOTIFICATION

A.25 It is recommended that the authority submits the proposed programme to the undertaker at least one month prior to commencement of the coring of the site. This is to give the undertaker the opportunity to raise any issues with the selected sites.

A.26 Where undertakers propose their own coring programme, it is recommended that the undertaker informs the authority in advance, serving notices/permits as appropriate. It is recommended that authorities avoid coring the same site locations.

A.27 Coring of reinstatements outside the guarantee period should only be carried out where there is a clear indication of a problem or where there is good reason to suspect poor quality. If failure outside the guarantee period can be detected through visual inspection and the undertaker accepts the failure, coring will not be necessary. In the case of disagreement, coring may be necessary to determine if there has been a failure under section 71 of the Act.

CORING IMPROVEMENT NOTICES

A.28 Where a coring programme reveals a non-compliance level of greater than 10% with the version of the SROH current at the time of the works, the authority may issue an improvement notice within 4 weeks of communicating the results of the coring programme to the works promoter. Please see Appendix 1 - Improvement Plan.

A.29 Improvement notices may be copied to HAUC England and discussed where appropriate at Regional HAUC. Further information and advice on the process that may be followed for improvement plans will be provided by HAUC England. Such plans are part of the duties found in s59 & 60 of the Act.

FORMULA FOR THE RECOVERY OF COSTS

A.30 As a measure of transparency an authority should use the following table to calculate the costs incurred as a result of extracting, testing and analysing non-compliant core samples.

A.31 The items listed in the table below do not preclude an authority from undertaking other tests as may be required to check compliance with the SROH. Any additional costs should be clearly identified and included on the individual core invoice as per A.10.

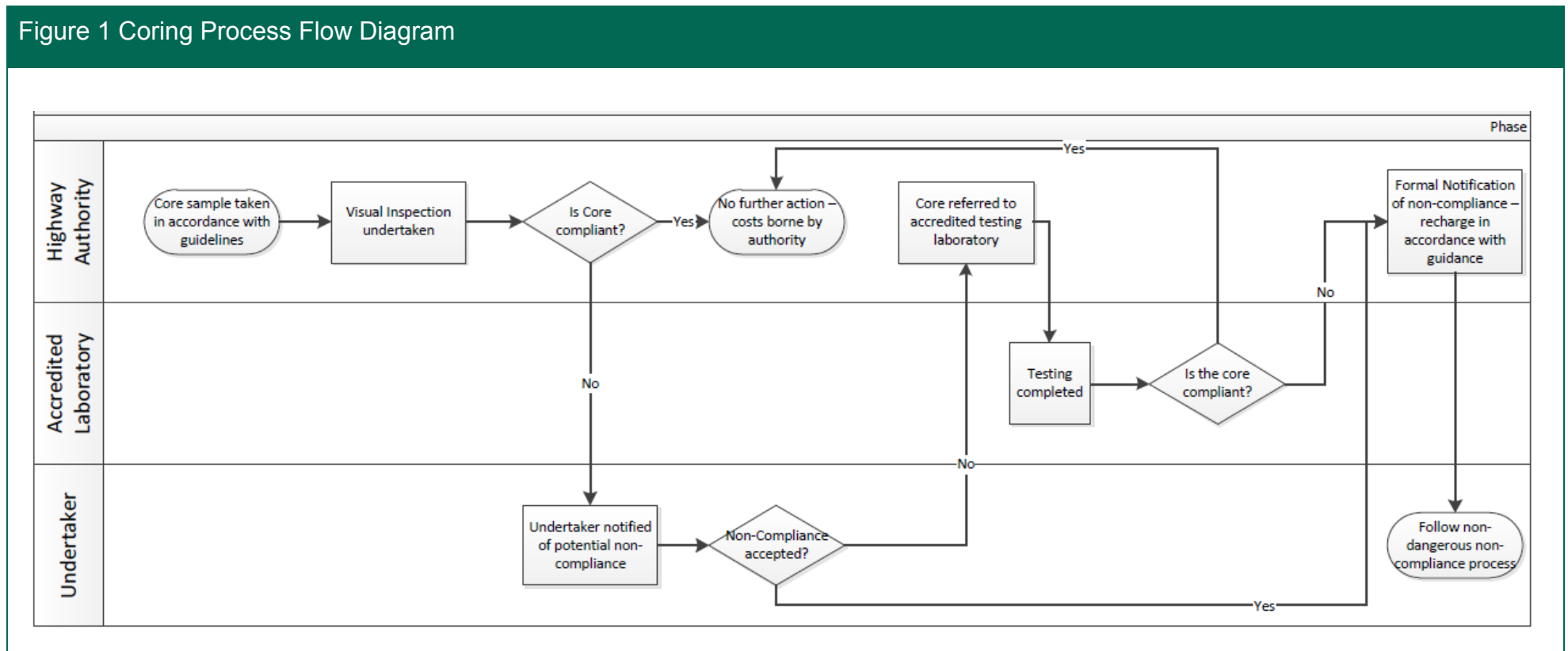
Item	Description	Unit	Rate	Number	Cost
1	Authority administration cost	each	£ -	0	£ -
2*	Core cutting BS EN 12697-27:2001 sampling from laid and compacted material by coring; including reinstatement of core hole. Material identification by accredited in house procedure. Dimensional compliance test to BS EN12697-36:2003 determination of the thickness of Bituminous Pavements. Visual Air Void judgement	each	£ -	0	£ -
3	Core extraction of parent surface, construction classification determination, including reinstatement	each	£ -	0	£ -
4	Air Void determination per layer to EN12567-8: 2003	each	£ -	0	£ -
5	Bulk density to BS EN12697-6:2012 procedure C: sealed specimen	each	£ -	0	£ -
6	Maximum density to BS EN12697-5:2009 procedure A: volumetric using water	each	£ -	0	£ -
7**	TM requiring specialist contractor	day	£ -	0	£ -

N.B.

- Items 1-7 and costs are those associated with air void compliance and do not preclude an authority from undertaking other tests as may be required to check compliance with the SROH. Any further tests and associated costs should be identified and included on the individual core invoice.
- 2* To include TM costs associated with Short Duration Works and locations that require basic TM set ups which include Passive TM as covered in the table on page 54 Safety at Street Works and Road Works A Code of Practice.
- 7** TM by specialist that may be required for locations requiring Positive TM as covered in the table on page 54/55 Safety at Street Works and Road Works A Code of Practice.

CORING PROCESS FLOW DIAGRAM

Figure 1 Coring Process Flow Diagram



3. Appendix 1- IMPROVEMENT PLAN

Process for improvement

1. It is recommended that within 5 working days of receiving the improvement notice the undertaker:

- Verifies and analyses the non-compliant data to establish appropriate improvement objectives;
- Prepares an outline improvement plan on how they intend to achieve these objectives and forward this to the authority; and
- Arranges a meeting with the authority, for a date within 10 working days of the undertaker receiving the Improvement Notice, to agree and finalise the improvement plan.

2. It is recommended that during the improvement plan meeting the following is agreed:

- Identify areas of concern;
- Set specific improvement objectives;
- Propose how the undertaker intends to achieve the improvement objectives; and
- Propose how the authority and undertaker will measure the progress of the undertaker towards achieving the improvement objectives.

3. It is recommended that the improvement plan takes the following form:

- In-progress improvement plan inspections (see A.29) – to monitor layer/lift thickness and the compaction of bound and un-bound materials; and/or (dependent on the plan objectives);

Additional Coring

4. It is suggested that additional coring are only likely to be required where air-void non-compliance has been identified. It may be undertaken by either the undertaker

or the authority. They will need to be undertaken in a timely manner so any actions required can be urgently rectified, this will be particularly relevant for larger projects where the works are still in progress.

5. It is recommended that the improvement plan includes the following items:

- Regular meeting dates to discuss progress;
- Provision and frequency of appropriate performance monitoring information used throughout the improvement plan period so that progress can be measured;
- Consideration to appropriate changes that may be required to the improvement plan; and

6. Detailed arrangements regarding the recovery of the costs or expenses incurred by the authority under the improvement plan

7. It is recommended that the minimum duration of the improvement plan is 3 months. At the end of this period, if the objectives of the Plan have been met, the decision to terminate the improvement plan will be made at the next progress meeting.

8. Not less than five working days before the agreed date of the regular progress meetings, set out in the improvement plan, the results of the improvement plan monitoring carried out by the authority in the previous month will be provided to the undertaker.

9. Following implementation of the improvement plan, if it becomes clear after 3 months that no practical improvement is being achieved, other measures may need to be considered. These measures may include:

- An escalation of the improvement plan monitoring to achieve a step change in performance;
- Involvement at a more senior level of management within the undertaker and/or authority organisation; and/or

IN-PROGRESS IMPROVEMENT PLAN INSPECTIONS & ADDITIONAL CORING

10. The total volume of in-progress improvement plan inspections and/or additional coring, will be dependent on the level of compliance, this is likely to be based on the following performance escalator:

Failure rate of coring programme	It is recommended that the percentage of additional reinstatements checked does not exceed
10%	2-6%
11-20%	20%
21-30%	30%
31-40%	40%
41-50%	50%
51-60%	60%
61-70%	70%
71-80%	80%
81-90%	90%
91-100%	100%

It is recommended that the authority monitors compliance with work undertaken following the implementation of the improvement plan.

Annex B: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

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