



Department
for Transport

Code of practice for street works inspections

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1. Introduction

This code of practice reflects the various changes made to the provisions of NRSWA and subsequent legislation to enable the inspection and performance management of all street activities. The most recent changes to section 75 NRSWA, and the making of new regulations under that section, tighten the framework within which roads and streets are excavated and reinstated, giving authorities the power to inspect and manage performance of an undertaker with the aim of minimising disruption.

This code was prepared by a Highways Authority and Utility Committee (HAUC) England working group, comprising representatives of the Department for Transport (DfT), the utility industries and highway authorities, and was subject to informal consultation with practitioners before presenting it to the DfT. The DfT thanks everyone who has been involved in the production of this guidance and for the time and work that has been put into it.

This 3rd edition is issued under section 73F of NRSWA as statutory guidance by the DfT for use in England. It comes into force as statutory guidance with effect from 1st April 2023 and authorities must have regard to it.

It supersedes the 2nd edition of the code that was published in September 2002 and any other previous versions.

1.1 Legislative background

The [New Roads and Street Works Act 1991 \(NRSWA\)](#) and the [Traffic Management Act 2004 \(TMA\)](#), supported by relevant regulations and codes of practice, provide a legislative framework for street works carried out by statutory undertakers (including utility companies) and works for road purposes carried out by highway authorities.

Under section 72 of NRSWA, the authority is empowered to carry out investigatory works to check whether an undertaker has complied with the duties placed on it in respect of site safety and the reinstatement of the street.

Section 58(2) of the Traffic Management Act 2004 substituted a new section 75 of NRSWA, widening the scope of the Secretary of State's regulation making power. New

section 75 was commenced by The Traffic Management Act 2004 (Commencement No. 11) (England) Order 2022.

New section 75 of NRSWA provides that the Secretary of State may make provision by regulations requiring an undertaker to pay to the street authority the prescribed fee in respect of

- (a) all inspections carried out by the authority of his street works; or
- (b) such inspections of those works as may be prescribed.

Section 75(3) also empowers the Secretary of State by regulations to make different provision according to an undertaker's previous performance and to prescribe how, and over what period, an undertaker's performance will be assessed.

The aim of this code is to balance the statutory rights of undertakers to carry out works with the rights of road users to expect the minimum disruption from works. It also promotes compliance with the safety at street works (the [safety code](#)) and the specification for the reinstatement in openings in highways codes of practice (the [SROH](#)).

NRSWA gives statutory undertakers, including the holders of street works licences issued under section 50 of NRSWA, responsibility for

- safety measures on site under section 65
- reinstating the street on completion of their works in compliance with the prescribed requirements under section 71

It gives authorities

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

This code provides guidance about the statutory elements of inspections and recommends procedures that should be followed relating to inspections, investigations, performance management, fee arrangements and reporting.

NRSWA makes undertakers responsible for the management of their street works' activities. Authorities are responsible for monitoring performance and for the co-ordination of works. Authorities are empowered to charge undertakers for a number of sample inspections that they will carry out to monitor an undertaker's performance.

From April 2023, a new, performance-based inspections regime is in place to assess, monitor and, where necessary, improve an undertaker's performance and reduce levels of non-compliance. Performance-based inspections mean that poor performers are inspected more often than those who have high levels of compliance with the safety code and the SROH.

1.2 General principles

Throughout this code, except where it is important to specifically use the legally correct name, standardisation of “authority” and “undertaker” has been used as follows:

The term “authority” covers the following definitions of authority since they are, usually, the same organisation

- highway authority
- street authority
- transport authority
- permit authority
- noticing authority (refers to an authority that uses the notices provided for in NRSWA. Almost every authority now operates a permit scheme)
- bridge authority
- strategic highway company (refers to National Highways)

The term “undertaker” means the organisation promoting the works and includes

- statutory undertaker
- works promoter
- utility company
- highways authority carrying out road works
- other organisations such as London Underground or Network Rail

These terms are also covered in the glossary in appendix A.

The key words, "must", "must not", "required", "shall", "shall not", "should", "should not", "recommended", "may", and "optional" used in this document are to be interpreted as follows

- legislative requirements are defined in this code by the terms “must” or “must not”, “shall” or “shall not”
- the terms “should” or “should not” and “recommended” or “not recommended”, whilst not clear legislative requirements, nevertheless can have legal repercussions and therefore are expected practice. Deviation from this ought to be justified
- the terms “may” or “optional” refer to accepted good practice.

Any reference to [the SROH](#) is applicable the version of the SROH in operation at the time of the registration of the reinstatement.

The authority may carry out ad-hoc investigatory works such as a coring program to determine whether an undertaker has complied with their duties with respect to reinstatement of the highway. If the reinstatement does not comply with the SROH, the undertaker will bear the cost of the investigatory works. These provisions are described in chapter 2.9 6.

Before carrying out street works within a particular geographical area, undertakers should have arrangements in place for that area to ensure that any remedial actions required are able to be carried out within the prescribed time period. This is particularly important in

relation to the procedures for rectifying non-compliant safety measures and non-compliant reinstatements, covered in chapters 3 and 4. Information boards on each live site, and a contact number of someone who is available 24 hours per day and 7 days per week to which urgent messages about non-compliant safety measures and non-compliant reinstatements can be passed, are required. The contact point needs to be able to give a prompt response and, to achieve this, may have to be independent of normal service numbers to ensure out of hours contact is provided.

Equally, authorities should provide a contact number/details that they can be contacted on in accordance with the procedures contained in this code. The change of staff between daytime and night-time, and vice versa, is an occasion when communications can break down. Authorities need to ensure that they can be contacted seamlessly over such shift changes. As the authority has overall responsibility for the safety of highway users, they should ensure that problems reported to them are dealt with. It is not sufficient to pass the message on to an undertaker without taking reasonable steps to ensure that the remedial action is carried out. Therefore, if a message is passed to an undertaker at the end of one shift, it is important to ensure that the next shift is informed that they must look for the call back or notification through Street Manager, stating that the remedial work has been done. If such a call is not received, then the authority may elect to take direct action.

An information board must be displayed at every street and road works site except mobile works, short duration works and minor works that do not involve excavation. Failure to do so may be considered a category A (cat A) non-compliance. Information boards must also be used to display the permit reference number. Failure to display a permit reference number is considered a breach of [permit conditions](#) as per NCT11a and is not non-compliance under inspections regulations.

The Street Works (Inspections Fees) (England) [Regulations](#) 2022 (the 2022 regulations) prescribe the fee for chargeable inspections, as well as the system for performance-based inspections. The financial arrangements are covered in chapter 7.

Recommendations and the process for dealing with the management of performance and actions for improving the performance of poorly performing undertakers are detailed in chapter 8.

2. Inspections

2.1 Purpose of inspections

Undertakers are expected to regularly inspect all their own works at all stages, including during the reinstatement guarantee period, and are encouraged to share the results during general performance meetings. Reinstatements are guaranteed for two years or three years for deep excavations as set out in the SROH. Where this monitoring shows that standards are not being met, it is the responsibility of the undertaker to instigate measures, such as further testing or additional supervision of works, to ensure that operatives comply with the safety code and the SROH. Inspections undertaken by the authority are designed to monitor the undertaker's work and not the supervision of it.

2.2 Types of inspections

2.2.1 Sample inspections

This is the procedure by which an authority can regularly establish the overall performance of each undertaker operating in its area. It involves inspecting a structured, random sample of works at various stages during the works and reinstatement guarantee period.

The required method of calculating the size of this sample is set out in the 2022 regulations and is described in this chapter 2. It enables the authority to monitor levels of compliance with the prescribed standards in the safety code and SROH.

The authority should also check that the undertaker is complying with its duty under section 67 of NRSWA in relation to the qualifications of supervisors and operatives. Undertakers must assist them in doing so (under section 68 NRSWA).

Under section 75 of NRSWA, undertakers are required to pay the prescribed fee for sample inspections carried out by the authority. The sample inspection fee is described in chapter 7.

2.2.3 Investigatory works

Under section 72 NRSWA, authorities can undertake investigatory works (such as coring, measurement of texture depth, material sampling) to check whether a reinstatement complies with the SROH.

If a non-compliant reinstatement is confirmed, the undertaker shall bear the cost of the investigatory works undertaken (as described in chapter 7) in addition to any costs which may arise from the appropriate procedure described in chapter 3.

2.2.4 Routine inspections

This is the procedure that may be used by authorities to monitor the performance of undertakers over and above the sample inspection regime. Please refer to chapter 2

Where non-compliant reinstatements or non-compliant safety measures are found during a routine inspection, the appropriate procedure described in chapters 3 and 4 may be followed.

Routine inspection reports should include pass and fail results.

2.2.5 Non-compliant reinstatement inspection

This is the procedure for dealing with reinstatements that do not comply with the SROH. The non-compliant reinstatement inspection procedure is described in chapter 3.

2.2.6 Non-compliant safety measures inspection

This is the procedure for dealing with works that do not comply with the safety code. The procedure for dealing with non-compliant safety measures is described in chapter 4.

Where live site and reinstatement inspections are found to be non-compliant with either the safety code or the SROH, further inspections may be carried out at certain stages of the remedial works life cycle. Charges may be applicable in line with chapter 7 of this document.

2.2.7 Inspection of section 50 works

This is a safety or compliance inspection by the authority of works undertaken by a person licensed under section 50 of NRSWA, as determined by the licence.

2.2.8 Self-auditing

Statutory and licensed undertakers are encouraged to monitor their own performance in respect of compliance with the safety code and the SROH.

HAUC best practice encourages statutory and licensed undertakers to adopt the same performance standards and measures. They should develop a self-audit inspection regime that will, in addition to the formal sample inspection process outlined in this code, allow for a detailed analysis of results. This analysis, if used in training and mentoring of operatives and supervisors, will enable the statutory and licensed undertakers to be proactive in the continuous improvement of their working practices. In turn, this should positively affect the formal sample inspection results undertaken by the authority.

2.2.9 Joint inspections

Wherever possible and practical, joint inspections may be undertaken collaboratively between the undertaker and the authority to ensure a consistency of approach and application of the inspection process and procedures. This may be particularly useful to do where the results of self-auditing inspections are significantly different to the outcomes of sample inspections carried out by authorities.

2.2.10 Recording results

All results should be recorded on Street Manager (the DfT's digital service for planning and managing works) so the data can be analysed and readily shared to enhance future learning and performance.

Individual company audit checks may include items not relating to statutory inspection categories. It is, therefore, important that shared information relates to statutory operational compliance relating to NRSWA, the safety code and the SROH, and within the specific authority and geographical area.

Whilst results of self-auditing inspections may be considered as part of discussions in relation to a statutory and licensed undertakers' overall performance, they should not be included in formal sample inspection performance results. This should be solely based on the results of sample inspections which have been carried out by the authority.

2.3 Sample inspections

2.3.1 Sample inspection procedure

The sample inspection procedure enables an authority to monitor an undertaker's performance against the safety code, the SROH, NRSWA and the TMA. The sample inspection size and allocation of quarterly inspections is a flexible mechanism on a correlating scale of ascending and descending volumes against undertakers' performance. An undertaker is incentivised to ensure good quality, compliance and performance with a reduced sample size. Non-compliant performance will result in an increase in the number of sample inspections carried out and for which an undertaker will be charged.

There are three stages of sample inspections at which significant information on an undertakers' performance can be obtained. These are categorised in the 2022 regulations as follows

Inspection category	Timing of inspection	Inspections against the relevant codes of practice
A	Undertaken whilst works are in progress	Live site inspection assessing compliance with the relevant code Codes of Practice; Safety at Streetworks and SROH/
B	Undertaken within the six months following interim or permanent reinstatement date	Inspection assessing compliance with the SROH
C	Undertaken within the three months preceding the end of the guarantee period	Inspection assessing compliance with the SROH Guarantee period is 2 years, or 3 years for deep excavations

2.4 Unit of inspection

The calculation of the sample size for each undertaker, and the identification of particular works to be inspected, are based upon the duration of the works, in working days. Works carried out in their entirety on non-working days, that is weekends and any public holidays, will accrue a single inspection unit. Where works are carried out on working and non-working days, the non-working days worked will not contribute to the total duration. A unit of inspection is defined in the 2022 regulations as;

- works of 15 working days or less duration = 1 inspection unit
- works of 16 to 30 working days duration = 2 units of inspection
- works of a duration greater than 30 working days = 3 units of inspection

Only street works that include a reinstatement registrable under section 71 NRSWA on a publicly maintainable highway will attract an inspection unit.

Subsequent phases of works that are not exempt will contribute to the overall inspection units of the permit. The three examples below demonstrate how the inspection units of a permit are calculated through the permit lifecycle in days.

	Phase 1 (days)	Phase 2 (days)	Total duration (days)	Inspection units Total
Permit A	10	2	12	1
Permit B	14	2	16	2
Permit C	27	10	37	3

Phase 1 - initial phase of works involving asset activity and any works up to and including interim reinstatement

Phase 2 - Interim to permanent reinstatement

Street Manager will update the inspection units of a permit upon receipt of each applicable phase works stop.

For any subsequent phases which occur in the next financial year, Street Manager will update the overall inspections of units of the permit, and this will reflect in the next annual average calculation of inspection units.

In the case of collaborative works with shared trenches, provided that one undertaker accepts responsibility for the works, the calculation of units of inspection will be based on the cumulative duration of all works on the primary undertaker's permit. This should not be seen as a deterrent to collaborative works since the benefits of these type of works are significant and can reduce the total time the highway is occupied.

2.5 Annual sample size

For the year beginning on 1st April 2023, except in the case of a new undertaker to which regulation 8 of the 2022 regulations applies, the number of reckonable units of inspection is the average of the number of units of inspection for an undertaker per year, calculated over the **two-year** period which began on 1st April 2021 and ended on 31st March 2023. This is because the data in Street Manager is used to calculate the annual sample size and the first full year of data in Street Manager is for 2021/2022.

For years beginning on or after 1st April 2024, except in the case of a new undertaker, the number of reckonable units of inspection in a year is the average of the number of units of inspection for an undertaker per year calculated over the **three** preceding years.

Street Manager will generate the annual inspection unit report detailing the average sample size calculation which can be downloaded and available at the start of a financial year for both the authority and the undertaker.

In the case of a new undertaker that has not previously executed any street works in an authority's area, the number of reckonable units of inspection for each of the first three years is the **estimated** number of units of inspection for the undertaker for that year. For the purposes of making the estimate, a new undertaker must, prior to carrying out any

works, provide the authority with an estimate of the number of units of inspection they expect to generate in that year.

If a new undertaker fails to provide the authority with an estimate, the authority may carry out as many inspections as it considers reasonably appropriate and may charge a fee of £50.00 for each such inspection, until such time as the undertaker provides the street authority with an estimate. Once they have provided an estimate, the first three years referred to above are deemed to commence on the date on which the estimate is received by the authority.

Remedial works to correct defects (see chapter 3) are not included in the calculation of sample inspections.

2.6 Performance-based inspections

From 1st April 2023, a new, performance-based inspections regime is in force. The regime aims to

- ensure an authority and an undertaker has early warning and sight of where failure rates are increasing beyond acceptable levels
- improve compliance and performance, delivering benefits to utilities, authorities in terms of maintaining its highway asset, and road users
- ensure authorities focus their inspection resource in the poorest performers
- reward and incentivise compliance, with more inspections and charges for those with poor performance and fewer for those that have made or continue to invest in compliance

Before 1 April 2023, the DfT will assign an undertaker a starting band based on their performance and the number of agreed defects or inspection failures that have been registered using data from Street Manager. This is referred to in the 2022 regulations as the 'applicable percentage'.

If an undertaker has a failure rate lower than 15%, then a 30% sample rate will be applied for inspections carried out during the 1st quarter (April-July) of the financial year.

If an undertaker has a failure rate of 15% or higher, then a 50% sample rate will be applied for inspections carried out during the 1st quarter (April-July) of the financial year.

The failure rate is defined in the 2022 regulations as the percentage of an undertaker's chargeable inspections of works which, in the year which began on 1st April 2022, failed to comply with the standard set out in whichever of the safety code or the SROH was applicable to the inspection category.

An inspection is deemed to have failed to comply with the standard where the undertaker and the authority have **agreed** that the standard was not met.

Statutory undertakers should endeavour for their defect rates to be as low possible.

The table below provides an example of a calculation of combined failure rate for a single undertaker and the starting band for the first quarter 2023-2024 within an authority area.

Inspection Category	Inspections completed	Failed inspections minus withdrawn	Failure rate
A	85	10	11.8%
B	85	58	68.2%
C	80	2	2.5%
Final figures	250	70	28%
		Starting sample rate	50%

For subsequent quarters (for example, July-September, October-December), the applicable percentage or sample rate is the undertaker's applicable percentage for the previous quarter adjusted on the following basis

- if an undertaker's combined failure rate is lower than 9.99%, the sample rate will decrease by 5 percentage points
- if the combined failure rate is between 10% and 14.99%, the sample rate will stay the same
- if the combined failure rate is 15% or above, the sample rate will increase by 5 percentage points

Each inspection category (A-C) must have a sample rate and the authority must inspect at least 5% of works from each category. The authority has the flexibility to decide how and where it focuses the remaining percentage of its inspections. If, for example, an undertaker is failing more category B inspections, then the authority could focus on those.

The quarterly changes in bands will be calculated and shown in Street Manager and is set out in Street Manager's [business rules](#).

Undertakers that, therefore, maintain good performance and compliance will see the number of inspections fall. The applicable percentage or sample rate must never be less than 20% each quarter. A sample size of less than 20% is unlikely to provide adequate volumes for a fair reflection of performance and each undertaker should have some level of inspections.

Undertakers with a combined sample failure rate of between 10% and 14.99% will see no adjustment of their sample size from one performance quarter to the next as they will remain in the same band.

An undertaker with a combined sample failure rate of 15% or more for the previous quarter will see their sample rate increase by 5 percentage points the following quarter. If they failed to take action to improve compliance, the sample rate can increase quarter on quarter, up to a 100% applicable percentage rate. The DfT would expect the undertaker to take action to improve compliance well before reaching those levels.

For undertakers that fail more than 15%, it is recommended that the authority reviews the data and consults with the undertaker in the first month of the following quarter. The authority can use this review period to inform its inspection programme. It will also support collaboration between the authority and the undertaker in agreeing action plans to improve performance.

New undertakers will be assigned an initial quarterly performance band of 30% of the estimated annual sample size. They will move into the performance banding once they have been able to demonstrate performance over the next full quarter of the financial year.

For each inspection category, the authority must complete the minimum sample of 5% inspections. It cannot charge for any inspections that are not carried out so, if charges are paid at the start of the financial year, the authority must ensure that it carried out the minimum level of inspections set out in the 2022 regulations.

2.7 Selection of samples

All sample inspections in categories B and C will be generated by Street Manager and selection rules will be documented in the Street Manager business rules.

Sample inspections in category A cannot be selected and programmed in the same way because of the practical difficulties of coordinating the movements of inspectors with activities on live sites. Consequently, authorities will be responsible for selecting sites to visit, ensuring the selection is as random as is practicable, including works in all streets and all permit types as appropriate.

Authorities should use their best endeavours to evenly distribute category A inspections across each month of the quarter.

It is important that the authority manages its resources to the best of its ability to complete as much of the quarterly sample allocation as possible to provide a real time capture of an undertaker's performance.

2.8 Third party inspections

A third-party inspection may be carried out to verify an alleged non-compliant reinstatement, or non-compliant safety measures, reported by the police or member of the public.

The authority's inspector will complete an inspection report for every non-compliant reinstatement or safety measure. The inspection report should be sent to the undertaker through Street Manager, in accordance with chapters 3 and 4.

Third-party inspections arranged by the HA do not attract a charge, as this isn't provided for in legislation. Where a non-compliance is identified, the authority should follow the procedures in chapter 3 or 4.

2.9 Investigatory works

The authority has powers under section 72(1) of NRSWA to carry out investigatory works (for example, coring, measurement of texture depth, material sampling) considered necessary to determine whether an undertaker has complied with its duties with respect to reinstatement and the SROH. It is not sufficient to simply carry out an additional visual inspection.

Investigatory works apply only to reinstatements. They do not apply to safety measures.

The authority's inspector will complete an inspection report within Street Manager for all investigatory works carried out.

If investigatory works confirm a non-compliant reinstatement, the authority should follow the procedure in chapter 3 and recover the reasonable costs they have incurred in doing so. Costs are not payable by the undertaker where the investigatory works confirm the reinstatement is compliant. See also chapter 6 of this code.

2.10 Routine inspections

Routine inspections enable authorities to monitor undertakers' performance and/or compliance over and above the statutory sample inspection procedure as described in chapter 2.

The authority inspector will complete an inspection report for a non-compliant reinstatement and/or a non-compliant safety measure. The authority is encouraged, where possible, to complete an inspection report for compliant inspections. The inspection report should be made available to the undertaker through Street Manager.

The results of such inspections must not be included with those of sample inspections when calculating the undertaker's performance as set out in chapter 8 of this guidance.

If non-compliance is identified, the authority should follow the procedure as detailed in chapter 3 or 4.

2.11 Authority inspections of its own works

Whilst not a legal requirement, an authority should inspect its own road works to check for the authority's or contractor's performance and compliance with the safety code. Authorities can record this performance and use it as part of regular quality and performance reviews.

3. Non-compliant reinstatements

Sections 70 and 71 of NRSWA set out circumstances in which failure to comply with the legislative requirements concerning reinstatements is an offence. Section 72 sets out the powers for authorities in relation to checking compliance. The following procedures are designed as a practical way of rectifying non-compliances when they arise, and authorities and undertakers are reminded of their respective duties under NRSWA. However, the procedures described below do not prevent the possibility of prosecution or the power for authorities to remove danger.

Please note, information on dealing with Section 81 NRSWA defective apparatus can be found in chapter 12 of the [Co-ordination code of practice](#).

3.1 Identification of non-compliant reinstatements

Non-compliant reinstatements are identified by authorities in a number of ways including

- sample inspections
- investigatory works
- routine inspections

3.2 Undertaker's monitoring

Where an undertaker carries out an inspection programme, they are encouraged to share the results with the authority via Street Manager when available and via other means until that time.

Where an undertaker's monitoring results indicate a need for remedial works, the timescales for rectification detailed in this guidance below should be followed, and the authority should not issue non-compliant reinstatement notifications on the basis of an undertaker's results.

3.3 Types of non-compliant reinstatements

Reinstatements that do not comply with the SROH are divided into two categories, each of which requires a specific action

High Risk - reinstatements that do not comply with the SROH and which the authority consider are to be causing danger to users of the highway. Remedial works are likely to be required to repair the defective reinstatement.

Or

Low Risk - reinstatements that do not comply with the SROH but may require remedial action and are not to be considered a danger to users of the highway.

3.4 Non-compliant reinstatement inspections

When a non-compliant reinstatement is identified, the authority may carry out further inspections as follows

- Stage one inspection: a joint site meeting, involving both the authority and the undertaker, to determine the nature of the failure and what remedial action/works should be taken
- Stage two inspection: an inspection by the authority of the remedial works in progress
- Stage three inspections: an inspection by the authority when all the remedial works have been completed

Authorities may recover a single charge of £120 to cover the costs involved in these three stages of inspections, whether or not the inspection has been agreed. This payment would cover any and all of the stages listed above. It is not necessary to complete all three to stages for the charge to apply

The authority may carry out staged inspections as detailed in the bullet points above. The authority does not need to rigidly adhere to the three stages of defect inspections and can, instead, conduct inspections that reflect the circumstances.

Any further inspections deemed necessary to assess the status of the non-compliance until compliance is achieved can be carried out for a maximum of 2 cycles (refer to chapter 3.7 of this code). The DfT would expect undertakers to ensure any defects that are identified are repaired at the earliest opportunity and during the first round. £120 can be charged for each cycle of inspections to check that the defect has been repaired.

The inspection report should be sent to the undertaker through Street Manager. Only failed inspections supported by a submitted works' inspection report, will be subject to the single £120 charge.

3.5 High risk, non-compliant reinstatement procedure

In the case of dangerous non-compliant reinstatements, the overriding aim of the procedure is to remove the danger as soon as possible.

The authority should inform the undertaker immediately by Street Manager (and should also call the undertaker). The authority should send an inspection report with the outcome of “failed (high risk)” via Street Manager within 2 hours or by 10am on the next day.

The undertaker should take immediate action to mobilise and make safe the danger in one of the four ways

- by making the reinstatement safe (compliant with the safety code) using the appropriate safety equipment and or measures
- by carrying out a permanent reinstatement
- by carrying out an interim reinstatement
- by carrying out other remedial works/action as required and agreed with the authority

The charge for non-compliant reinstatement inspection costs, as set out in chapter 7 shall be payable to the authority only if the stage one joint inspection result has confirmed the defect, or it is agreed that the reinstatement was non-compliant following a notification to the undertaker as per chapter 7. The authority may take necessary remedial action to make safe a high-risk non-compliance if;

there is no one on site and the authority does not know the identity of the undertaker or

- the undertaker cannot be contacted
or
- the undertaker cannot make safe the non-compliant reinstatement within 2 hours
or
- no response is received from the undertaker within 2 hours via a Street Manager notification

If the authority takes remedial action under section 72 of NRSWA, they may recover their reasonable costs from the undertaker.

If the authority takes action, it should inform the undertaker within 2 hours or by 10am the next day via Street Manager. As per section 72(4), if the authority takes action without first giving notice, the authority must give notice to the undertaker as soon as reasonably practicable, stating their reasons for taking immediate action.

When the non-compliant reinstatement is temporarily made safe (in accordance with the safety code), the procedure in this chapter 4 for non-dangerous non-compliant reinstatements is then followed.

Chapter 8 sets out procedures to be followed where the undertaker persistently fails to respond to dangerous non-compliant reinstatements.

3.6 Non-compliant reinstatements, not causing danger

The authority should send the relevant inspection report with the inspection outcome of “failed (low risk)” via Street Manager and should attach a photograph of the non-compliant reinstatement, to the undertaker responsible by the end of the next working day.

Following receipt of the inspection report, the undertaker should be given 10 working days to respond to the authority's assessment of the reinstatement and

- agree and accept the report
- request a stage one joint inspection with the authority
- or provide evidence to dispute the authority's findings

See also the advice in this chapter for the timeline for repairing defects.

After 10 working days, if the authority has had no response from the undertaker, the non-compliant reinstatement is treated in Street Manager as agreed for the purpose of calculating the next quarter's sample inspection rate. Undertakers are still able to challenge an inspection report after the 10 working days, but it is strongly recommended that undertakers respond within 10 working days so that the next quarter's sample rate is as accurate as possible.

Failure to respond at all to an inspection report is covered under the escalation process in chapter 8.

Where the non-compliant reinstatement has been accepted, the undertaker must send the relevant permit applications where appropriate.

Under section 72(3) of NRSWA, the authority may by notice require an undertaker who has failed to comply with his duties under Part 3 with respect to reinstatement to carry out the necessary remedial works within such period "of not less than 7 working days" as may be specified in the notice. If the undertaker fails to comply with the notice, the authority may carry out the necessary works and recover from the undertaker the costs reasonably incurred by them in doing so.

Alternatively, the authority can agree with the undertaker that the undertaker will complete the remedial works within 20 working days of receipt of the inspection report, or within an extended period if this is mutually agreed.

The authority should undertake a stage two non-compliant reinstatement inspection while the remedial works are in progress.

The undertaker should notify the authority when the remedial work is completed by sending the appropriate notification in Street Manager (works stop or completion of non-notifiable phase). Following notification, the authority should carry out a stage three non-compliant reinstatement inspection.

3.7 Troubleshooting and resolution

During the stage one inspection, if both parties agree that the non-compliance is not valid, the authority should use the "withdraw inspection" facility in Street Manager and create a new inspection with the revised outcome.

Where there is no mutual agreement at the stage one inspection, the matter should be referred for escalation as described in chapter 8 in the first instance. Reference should also be made to any relevant advice issued by the HAUC inspections working group.

If, by the twenty-first working day after the inspection report has been sent (see 3.6 above), the undertaker has not notified the completion of the remedial work or agreed with the authority a longer period for the remedial work to be completed, the authority may carry out and send a stage three inspection, with the outcome as “failed”, with no remedials completed.

If, upon an inspection by the authority, the reinstatement is found to have been remediated, but the appropriate permit applications that are required have not been received, the authority should send a stage three inspection report with the inspection outcome of “passed”. The authority may issue a fixed penalty notice (FPN) for working without a required permit.

If, upon an inspection under chapter 2, the remedial work is found to be unsatisfactory, the authority should send a stage three inspection report with the inspection outcome of “failed (non-dangerous)”.

If, upon an inspection under chapter 2, the remedial work has not been completed, the process starts again as per chapter 3. However, the authority should only start the process again, that is, the second allowable cycle, if the non-complaint reinstatement has not been rectified within the two cycles of this process. The authority should begin the escalation procedure at level one as described in chapter 8.

If, upon an inspection under chapter 2, the remedial work is found to be unsatisfactory, the authority should start the process again as per chapter 3. However, the authority should only start the process again once. If the non-complaint reinstatement has not been rectified within the two cycles of this process, the authority should begin the escalation procedure at level one as described in chapter 8.

Where a non-compliant inspection report has been sent, but it is later found that the reinstatement is not the responsibility of that undertaker, the undertaker that has received the report should send a works comment via Street Manager to deny responsibility to the authority within 10 working days of receipt of the inspection report. Failure to do so should be managed through the escalation process as outlined in chapter 8.3.

Where the non-compliant inspection report has been agreed, but it is later found that the report has been sent against the incorrect works' reference, the undertaker should send a works comment via Street Manager and, if possible, inform the authority of the correct works reference (via Street Manager) within 10 working days of receipt of the inspection report.

If, upon inspection under chapter 2, the remedial works were not in progress but have been completed satisfactorily, the authority should send a stage three inspection report with the inspection outcome of passed or failed.

Where the undertaker fails to rectify the non-compliant reinstatement within the timescales described above, if required, the authority may undertake the remedial work and recover their reasonable costs from the undertaker. If the authority takes action, they should inform the undertaker by the end of the next working day via Street Manager.

3.8 Escalation process

Where the undertaker fails to respond or fails to comply with the procedures outlined in this code, it is recommended that the authority follows the escalation process below. This is also set out in more detail in chapter 8 of this code on performance.

3.8.1 Level one escalation

The authority should contact the undertaker's local management representative and arrange a meeting to discuss why the improvement objectives have not been met or progress is not being made.

Both parties should agree a timeline for meeting either the existing or updated improvement objectives and milestones as required.

The undertaker should send any timeline and agreed actions to deliver the existing or updated improvement plan to the authority within 5 working days of the escalation meeting.

3.8.2 Level two escalation

If no response is received within 5 working days from the local management representative, the authority will escalate the matter to the undertaker's nominated level two representative (for example, a senior manager or a director responsible for operations).

The level two representative should agree to meet the timeline and objectives listed in the improvement plan within six months (two clear quarters that can be monitored via Street Manager) or another period as agreed.

3.8.3 Level three escalation

Where the agreed actions listed in the improvement plan have not been completed after 6 months (2 clear quarters that can be monitored via Street Manager) or other period as agreed, the authority should follow the dispute resolution procedure, as detailed in chapter 13 of the code of practice for the co-ordination of street and road works.

4. Safety measures

Authorities, undertakers and those working on their behalf must comply with the safety requirements in section 65(1) of NRSWA and the safety code for street and roadworks. Failure to comply with the code is evidence of failure to comply with section 65(1) requirements, which is an offence (see section 65(4)).

The following procedures are designed as a practical way of rectifying such failures when they arise. They do not, however, affect liability to prosecution or the authority's power to remove danger.

4.1 Non-compliant safety measures

Non-compliance with the safety code is divided into two types, each of which requires a specific action

High risk non-compliance failure to comply with mandatory provisions of the safety code to such an extent that, in the view of the authority, the works need to be made safe without delay to ensure that they are safe for both the operatives and the public.

Examples are

- missing advance warning signs
- missing barriers
- missing safety zones
- exposed excavations

or

Low risk non-compliance diversion or variation from the safety code to such an extent that, in the view of the authority, this should be highlighted as part of the inspection and the safety equipment and its use site should be reviewed and, if necessary, adjusted to remove any potential non-compliance and brought up to the required standard appropriate for the site-specific risks. Examples are

- barriers down (not exposing excavation)

- signs down
- broken / incorrect traffic management (not breaching safety code requirements)

4.2 Procedure for dealing with high-risk non-compliance

In the case of high-risk non-compliance, the overriding aim is to address the non-compliance as soon as possible.

The authority should inform the undertaker immediately via Street Manager (and should also call the undertaker), regardless of whether undertaker is on site. The authority should send an inspection report detailing the extent of the non-compliance with the outcome of “failed (high risk)” via Street Manager within 2 hours or by 10am on the next day.

The authority may make minor adjustment to the existing safety equipment to mitigate the non-compliance. This would be at no cost to the undertaker.

Examples of minor adjustments:

- standing up signs that are in place but have fallen/been knocked over.
- standing small sections of barrier, where up to 4 sections have fallen/been knocked over
- connecting barriers together – up to 6 where they have not been connected or have become disconnected.
- moving a footway board to cover an excavation where it has become dislodged.

The undertaker should take immediate action to mobilise and make the works compliant with the safety code. The undertaker should inform the authority via Street Manager (and a telephone call if required) of their actions within 2 hours of being notified.

The authority may take action to make the works compliant with the safety code if

- the undertaker is not present, and the authority cannot ascertain the identity of the undertaker responsible
- they are unable to contact the undertaker responsible
- the undertaker cannot attend within 2 hours
- an alternative course of action has been agreed
- no response is received from the undertaker within 2 hours of the telephone call

If the authority can evidence that necessary action has been taken, including mobilisation, they may recover their reasonable costs from the undertaker.

If the authority takes action, they should inform the undertaker via Street Manager by the end of the next working day of the actions taken and if further action is required.

4.3 Procedure for dealing with low-risk non-compliance

In the case of low-risk non-compliance, the overriding aim is to address the non-compliance as soon as possible. In any case, this should be within 4 hours or as agreed between the authority and the undertaker.

The authority should immediately inform the undertaker via Street Manager of the non-compliance. They should also send an inspection report detailing the extent of the non-compliance with the inspection outcome of “failed (low risk)”, via Street Manager by the end of the next day. The authority may make minor adjustments to the existing safety equipment to mitigate the non-compliance. This would be at no cost to the undertaker. If the undertaker’s representative is on site, the authority should inform them of the non-compliance.

The undertaker should take immediate action to mobilise and make the works compliant with the safety code. The undertaker should inform the authority's representative on site via Street Manager (and a telephone call if required) of their actions within 4 hours of being notified.

The authority may take action to make the works compliant with the safety code if

- the undertaker is not present, and the authority cannot ascertain the identity of the undertaker responsible
- they are unable to contact the undertaker responsible
- the undertaker cannot attend within 4 hours
- an alternative course of action has been agreed
- no response is received from the undertaker within 4 hours of the telephone call/Street Manager notification

If the authority takes action, including mobilisation, they may recover their reasonable costs from the undertaker.

If the authority takes action, they should inform the undertaker via Street Manager by the end of the next working day of the actions taken and if further action is required.

5. Additional types of inspections

5.1 Occupancy inspections

Authorities have a duty under section 16 of the Traffic Management Act 2004 (TMA) (their network management duty) to manage their road network with a view to achieving, as far as may be reasonably practicable having regard to their own obligations, policies and objectives, the following objectives (a) securing the expeditious movement of traffic on their road network, and (b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority]. Powers to support this duty within NRSWA allow for two charging schemes

- section 74 – charge for occupation of the highway where works unreasonably prolonged – commonly known as overrunning works
- section 74A – charge determined by reference to the duration of works – commonly known as lane rental

Guidance on these schemes can be found in chapter 10 of the code of practice for the co-ordination of street and road works and in the DfT's [bidding guidance](#) for lane rental schemes.

This chapter sets out how occupancy inspection transactions can be used to monitor network activity.

Occupancy inspections are non-chargeable and are typically carried out by an authority to evidence whether works are overrunning under section 74 of NRSWA. They can also ascertain if works are avoiding/incurred charges where a lane rental scheme is in operation under s74A of NRSWA.

Overrunning works' inspections are usually carried out following receipt of a works stop notice (see the co-ordination code of practice) to confirm if works are still in progress and the highway has been returned to full use. Lane rental inspections can be undertaken at any time throughout the entire duration of works.

Occupancy inspections can be recorded for the majority of publicly maintainable streets and for most works, including separate work phases and remedial works. There are

exemptions that apply to these charging schemes, and these are detailed respectively within the applicable regulations

- the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) England Regulations 2009 as amended
- the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012.

The procedures outlined in this chapter are for reporting

- if sites are cleared after the proposed or actual permit end date and the highway has been returned fully to public use
- if sites are incurring lane rental charges throughout the duration of the works

Being returned fully to public use includes the following

- an undertaker has completed the interim or permanent reinstatement
- an undertaker has removed all signing, lighting, and guarding
- an undertaker has removed all remaining spoil, unused materials, and other plant

Street Manager should be used to record occupancy inspections. They are recorded as a 'live site' inspection type and there are five possible occupancy inspection outcomes

- works stopped
- works stopped – apparatus remaining
- works in progress – no carriageway incursion
- works in progress
- unable to complete inspection

Where an authority finds that the undertaker has returned the highway fully to public use, the occupancy inspection outcome shall be recorded as 'works stopped'.

When an authority observes that the works are in progress, the occupancy inspection outcome should reflect the location of the traffic management and be marked as either 'works in progress – no carriageway incursion' - or 'works in progress'. The overrunning works warning process in Street Manager must be followed where the works are found to be in progress but have passed the proposed or actual end date on the works permit.

Where the site has been fully reinstated, but there are no more than five items of signing, lighting or guarding remaining on site, the authority shall notify the undertaker by recording an inspection outcome of 'works stopped – apparatus remaining'. The overrunning works warning process in Street Manager must also be followed where a 'works stopped – apparatus remaining' outcome is recorded.

If the authority considers it necessary, it may carry out further occupancy inspections as it deems necessary beyond the proposed or actual permit end date until such time that the works have been completed and all traffic management has been cleared from the highway.

5.2 Permit condition inspections

Regulation 10 of the Traffic Management Permit Scheme (England) Regulations 2007 as amended and the statutory [guidance](#) for permit scheme national conditions (July 2022) allow authorities to attach conditions to permits.

This non-chargeable inspection may be carried out by the authority to ensure compliance by an undertaker with conditions attached to the permit. The inspection takes place within the agreed permit dates and will usually be carried out in addition to any other live site inspection (for example, a category A inspection).

The permit conditions inspection outcome will not form part of or contribute to the authority's sample inspection monitoring of performance reporting (as detailed in chapter 5 of this code).

Permit condition inspections are recorded within Street Manager as a live site inspection type and there are three possible outcomes

- passed
- non-compliant (with conditions)
- unable to complete inspection

5.2.1 Breach of a permit condition

When the authority becomes aware of a failure to comply with any permit condition, the undertaker must be told and must then take actions required to meet the permit conditions.

The authority should log the non-compliance by recording a non-compliant permit condition inspection on Street Manager. They may also wish to call the undertaker.

After the undertaker has agreed to complete actions required to meet the permit condition, the authority may choose to conduct a follow-up permit condition inspection to check that the remedial actions have been carried out.

The authority should send a permit condition inspection confirming the outcome to the undertaker.

It is strongly recommended that the undertaker responds to all non-compliant inspection outcome notifications via Street Manager as soon as possible. Effective communication between the undertaker and the authority is of benefit to both parties and the road user and is therefore considered to be good practice by HAUC England.

5.2.2 Permit non-compliance identified by undertakers

When monitoring their own works, undertakers are expected to share the results with the authority. If instances of non-compliance with permit conditions are identified, then the undertaker should inform the authority informally via Street Manager. The undertaker will confirm the actions they will be taking to comply and when these actions will be completed.

5.2.3 Permit offences

If, on inspection, it is established that an undertaker is working without a required permit, then the authority shall record the inspection result as non-compliant.

5.2.4 Dispute resolution

The dispute resolution procedure detailed in chapter 8 may be followed to resolve issues related to permit non-compliance.

6. Investigatory works (coring)

6.1 The purpose of coring

Various areas of primary legislation give statutory undertakers, such as gas, electricity, water and telecommunications companies, powers to install and maintain their apparatus in the highway. Section 71 of NRSWA 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 current at the time the works were carried out (the [Specification for the Reinstatement of Openings in Highways \(the SROH\)](#)).

To ensure this reinstatement takes place, section 72 of NRSWA empowers highway authorities to carry out investigatory works to ensure that the utility company has restored the street to the required standard. Part of the investigatory works is delivered by what is known as a 'coring' programme. This is where a 100mm diameter core is removed from a reinstatement and tested for compliance with current standards.

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 a highway authority's asset

6.2 Collaborative coring programme

It is strongly recommended that, wherever possible, a collaborative approach between authorities and undertakers is pursued with regard to coring.

This would allow agreement on the proposed selected sites to be reached, it would enable performance management to be assessed directly by both parties, a cost sharing agreement may be reached between undertakers and a selection of coring test centres agreed.

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 authorities that testing is being carried out to the relevant specification. It should also facilitate a more efficient remuneration process of any costs incurred.

6.3 Sharing data

To drive improvement, it is strongly recommended that undertakers and authorities who carry out coring share all results within 8 weeks using Street Manager. Undertakers and authorities should record both passes and failures including all the data output found during the investigations. Each inspection should be accompanied by a coring report, along with a date stamped photograph of the location.

The cost of investigatory works is indirectly paid for by the general public. Both parties should therefore seek to share all data to gain the maximum benefit and to reduce costs wherever possible.

6.4 Associated costs

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 either the direct costs or the overheads incurred by the authority.

Different costs should be applied to reflect the analysis undertaken. The principles described below 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.

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 - it must be cost neutral.

Any dispute over recovery of costs should be carried out in line with the dispute resolution procedure outlined section 96(3) NRSWA.

6.5 A reasonable approach

An evidence-based approach to coring is recommended taking into account the performance of each undertaker. This would mean that a high proportion of an undertaker's reinstatements would be cored where there was a history of poor compliance. This proportion would be correspondingly reduced where the incidence of failure dropped. It is recommended that, for an individual undertaker, the percentage of their reinstatements that are cored for sampling purposes within an authority area should not exceed 6% of the eligible category 'B' reinstatements. This does not affect the authority's power to core sites for any other reason under section 72.

It is recommended that no more than 1 core per unit of inspection is taken in the first instance. If the cores are compliant, there will be no need to take additional cores. If some or all of the cores taken from individual reinstatements are non-compliant, the undertaker should be given the opportunity to accept the results or to agree to further coring if they suspect that the results reflect localised areas of non-compliance.

Where the initial core in a reinstatement greater than 6m² indicates an air void non-compliance, reference should be made to SROH Section 10 (Compaction Requirements) to determine the in-situ air void ratio of the reinstatement.

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.

It should be noted that section 73(3) of NRSWA 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.
- Where an undertaker's results indicate a non-compliant reinstatement, remedial works should be completed within the timescales, using the non-dangerous and non-compliant reinstatement procedures set out in this code. It is the undertaker's responsibility to permit the remedial works. Provided that remedial works are carried out within these timescales, the authority should not charge for any section 72 inspections associated with the remedial works.

6.6 Remedial works

In 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 remedial work
- the environmental impact
- public perception

6.7 Selection of coring sites

In order to effectively manage the overall cost of coring, cores 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 aim to select works as randomly as practicable.

The following should be considered when selecting sites for coring

- they should be selected from reinstatements in either carriageways or footways
- for each undertaker, the proportion of cores taken from footways or carriageways should reflect the proportion of units of reinstatement in footways and carriageways respectively
- 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
- sites selected for coring should be clearly identified by the works reference number and site details

6.8 Time limit for coring

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

Coring in accordance with this guidance will help to ensure that performance trends are monitored and appropriate interventions take place.

It is recommended that, once sites for coring have been identified, coring is carried out before the end of the quarter following that in which site identification took place. This will assist in identifying areas of non-compliance at an early stage.

6.9 Programme notification

It is recommended that the authority submits the proposed coring schedule to the undertaker at least one month before coring starts. This gives the undertaker the opportunity to raise any issues concerning the selected sites.

Where an undertaker proposes their own coring schedule, it is recommended that they submit the schedule to the authority at least one month before coring starts. The undertaker will serve notices/permits as appropriate. It is recommended that authorities avoid coring the same site locations.

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 NRSWA.

6.10 Coring improvement notices

Under section 59 and section 60 of NRSWA, authorities have a general duty to co-ordinate works and undertakers have a general duty to use their best endeavours to co-operate with such actions. As part of that process, HAUC England has agreed that, where a coring programme reveals that more than 10% of a utility's cores do not comply 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. Improvement notices may be copied to and, where appropriate, discussed at the relevant regional HAUC.

6.11 Principles for recovery of costs

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

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.

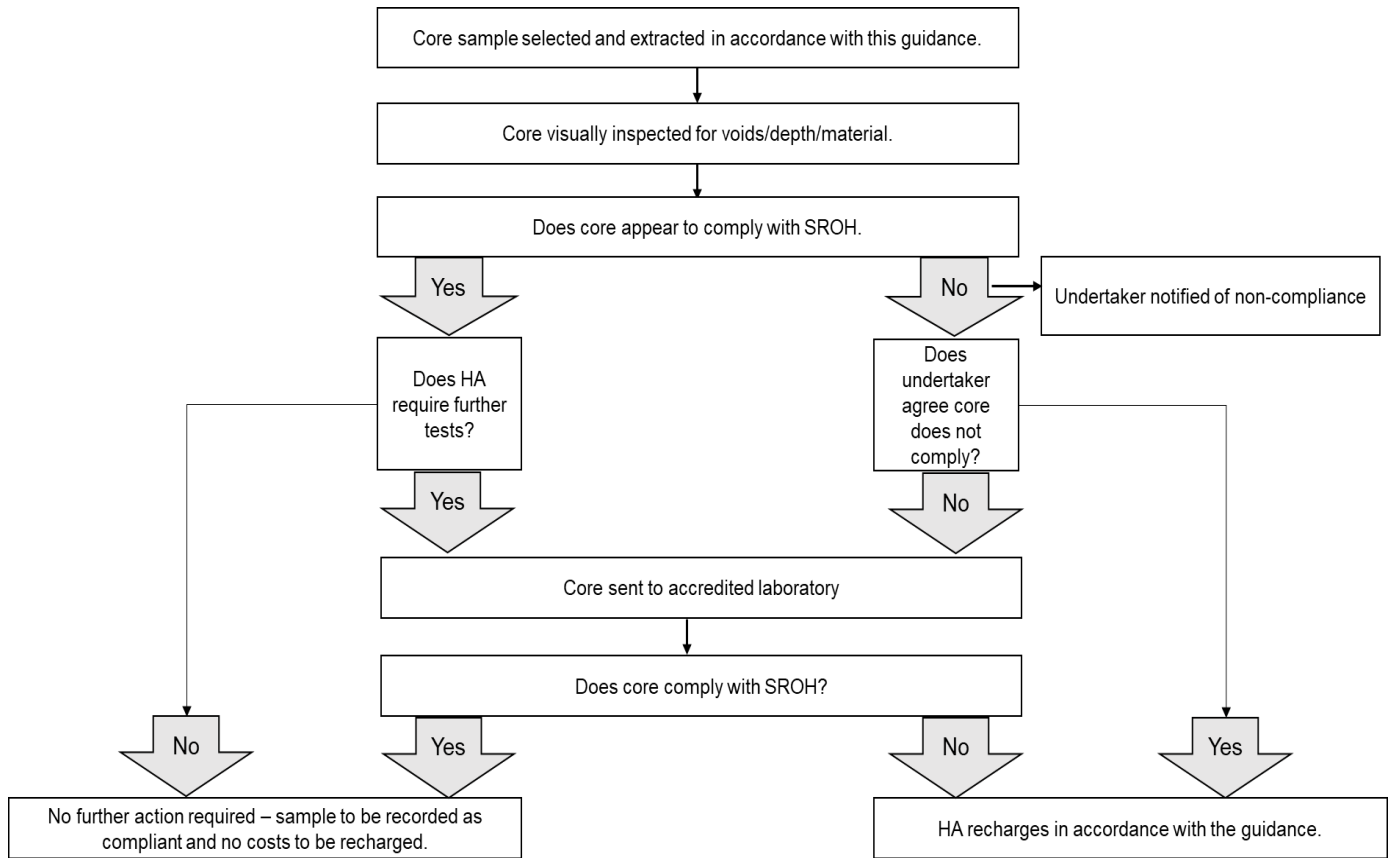
Item	Description	Unit	Rate (£)	Number	Cost (£)
1	Authority administration cost	each			
2	Core cutting BS EN 12697-27:2001 sampling from laid and compacted material by coring; including reinstatement of core hole. Material identification by accredited in house procedure. Dimensional compliance test to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

Table 1 Table showing example of how to calculate costs incurred from coring

Note

- Items 1-7 are associated with the compliance requirements for reinstatements, but this does not preclude an authority from undertaking other tests as may be required to check compliance. Any further tests and associated costs should be identified and included on the individual core invoice
- Item 2 to include traffic management (TM) costs associated with short duration works and locations that require basic TM set ups which include passive TM
- Item 7 is required for locations covered in the safety code

6.12 Coring process flow diagram (highway authority coring)



6.13 Coring improvement plans

HAUC UK and HAUC England have agreed the following should be used as improvement plans for use with coring.

It is recommended that, within 5 working days of receiving the improvement notice, the undertaker

- verifies and analyses the non-compliance data to establish appropriate improvement objectives
- prepares an outline improvement plan on how they intend to achieve these objectives and forwards this to the authority
- arranges a meeting with the authority to take place within 10 working days of receiving the improvement notice to agree and finalise the improvement plan

It is recommended that, during the improvement plan meeting, the following actions are taken

- identify areas of concern
- set specific improvement objectives
- propose how the undertaker intends to achieve the improvement objectives
- propose how the authority and undertaker will measure the progress of the undertaker towards achieving the improvement objectives

It is recommended that the improvement plan takes the following form

- in-progress improvement plan inspections – to monitor layer/lift thickness and the compaction of bound and un-bound materials; and/or (dependent on the plan objectives)
- additional coring - it is suggested that additional coring is only likely to be required where air-void non-compliance has been identified. It may be undertaken by either the undertaker or the authority. Coring will need to be undertaken in a timely manner so that any actions required can be urgently rectified. This will be particularly relevant for larger projects where works are still in progress

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 of appropriate changes that may be required to the improvement plan

Arrangements regarding any recovery of the costs or expenses incurred by the authority in relation to the improvement plan, which it is recommended will be of a minimum duration of 3 months, is detailed in HAUC guidance. At the end of this period, if the objectives of the plan have been met, a decision to terminate it can be made at the next progress meeting.

Not less than 5 working days before the agreed dates of the regular progress meetings set out in the improvement plan, the results of improvement plan monitoring carried out by the authority in the previous month should be provided to the undertaker.

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 may include

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

6.14 In-progress improvement plan

The total volume of in-progress improvement plan inspections and/or additional coring will be dependent on the level of compliance. This can 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 the following
Up to 10%	6%
>10 - 20%	20%
>20 - 30%	30%
>30 - 40%	40%
>40 -50%	50%
>50 - 60%	60%
>60 - 70%	70%
>70 - 80%	80%

Table 2 Table showing failure rate of coring programme and resulting additional percentage

Failure rate of coring programme	It is recommended that the percentage of additional reinstatements checked does not exceed the following
Up to 10%	6%
>10 - 20%	20%
>20 - 30%	30%
>30 - 40%	40%
>40 -50%	50%
>50 - 60%	60%
>60 - 70%	70%
>70 - 80%	80%

>80 - 90%	90%
>90 - 100%	100%

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

7. Inspection fees

7.1 Sample inspection fees

A fee for each chargeable sample inspection is payable to the authority. This fee is prescribed in the 2022 inspection fees regulations at £50 per chargeable inspection of works.

Within each authority, the annual estimated total of fees (the annual charge) for each undertaker should be agreed with the relevant undertaker within the first quarter of the financial year.

The annual charge to undertakers will be calculated on the basis of the number of inspection units set out in chapter 2, that is the previous two years for 2023/2024 and then the previous three years from 2024/2025 onwards. It should then be divided into four equal amounts, be billed and paid quarterly in arrears or as agreed between the relevant parties.

As noted in chapter 2, for the start of performance-based inspections regime on 1st April 2023, undertakers will be put in a starting band for the first quarter of 2023/2024. Those with a failure rate in the previous 12 months of less 15% will be put into a starting band of a 30% sample rate. Those with a failure rate of more than 15% will be put into a starting band of 50%.

Authorities may only charge for the number of inspections carried out. If the number of inspections actually carried out in any one financial year is less than the estimated number, a refund must be made to the undertaker if the payments have been made in advance.

The authority may inspect a larger sample of works, but any additional inspections should be recorded as routine inspections in Street Manager and do not attract a charge.

7.2 Investigatory works

Where investigatory works identify a non-compliant reinstatement, the authority may recover their reasonable costs from the undertaker.

Different costs should be applied to reflect the analysis undertaken and it is recommended that a breakdown of how the charge has been calculated is provided with every invoice.

Recovery of costs should not be used to raise revenue and must be cost neutral.

Any dispute over recovery of costs should be carried out in line with the dispute resolution procedure outlined in chapter 13 of the code of practice for the co-ordination of street and road works.

When investigatory works confirm that the reinstatement is compliant, the authority must bear the cost of the investigatory works.

7.3 Routine inspection

Routine inspections are non-chargeable.

7.4 Non-compliant reinstatement inspection charge

The authority may only charge for those inspections carried out in line with the non-compliant reinstatement procedures in chapter 3.

If a stage one inspection (joint site meeting) takes place and the non-compliant reinstatement is accepted, a non-compliant reinstatement inspection charge is payable and is considered part of the single inspection charge.

If a stage one inspection (joint site meeting) takes place and it is agreed that the reinstatement is compliant or that it is not the responsibility of the undertaker, no inspection charge is payable.

If the authority carries out a stage two inspection (while the remedial work is in progress), a non-compliant reinstatement inspection charge is payable and is considered part of the single inspection charge.

If the authority carries out a stage three inspection (of the completed remedial works), a non-compliant reinstatement inspection charge is payable and considered part of the single inspection charge.

The non-compliant reinstatement single inspection charge is £120 for stage one/two/three inspections.

Invoices for non-compliant reinstatement inspections should be submitted by the authority to the undertaker and paid monthly in arrears.

The single inspection charge allows for a further set of stage one/two/three inspections to be carried out and an additional single inspection charge to be applied, where remedial works have not been rectified at the first attempt. After this second cycle, no further inspection charges will be applicable. The escalation process would then apply. The DfT would expect that the defect is rectified at the first attempt.

7.5 Costs of remedial actions

If the authority takes action under section 72 of NRSWA, they may recover the reasonable costs from the undertaker responsible.

A breakdown of how the costs have has been calculated should be provided with every invoice.

Recovery of costs should not be used to raise revenue and must be cost neutral.

Any dispute over recovery of costs should be carried out in line with the dispute resolution procedure outlined in chapter 13 of the code of practice for the co-ordination of street and road works.

8. Performance

The authority has ultimate responsibility for the safety of all users of the highway, and for the maintenance of the public road network. Under NRSWA, an undertaker is responsible for the street works it carries out.

However, an authority may have to make good any non-compliant reinstatements or non-compliant safety measures, without first notifying the undertaker, if an undertaker persistently fails to respond to non-compliant reinstatements or non-compliant safety measures, or the authority otherwise feels obliged by their duty of care to take action in the interests of the safety of highway users. The authority can, in these cases, charge their reasonable costs for doing so.

The principles behind the performance-based inspections regime are set out in chapter 2 of this code.

8.1 Performance reports

In order to promote continual improvement in the quality of work and performance, quarterly inspection performance reports should be sent to undertakers. Data is available from Street Manager. This allows timely analysis and discussion of each undertaker's operational performance and will ensure that undertakers receive adequate feedback at both local and national level.

Undertakers should, in turn, use these reports to review the quality of work and performance of their contractors, especially under a performance-based inspections regime.

The DfT recommends that undertakers use quality and performance as one of the KPIs (key performance indicators) in their contracts as some undertakers have shown this is more effective at achieving compliance than, for example, paying contractors only according to how quickly they complete a job.

Authorities should also produce an annual inspections performance report and send that to the regional HAUC for review at their regular meetings.

8.2 Performance management escalation routes

One of the principles behind the performance-based inspections regime is that poor performing undertakers will be inspected more often than those who comply and will pay for more inspections. There will therefore be additional cost for poor performing undertakers who should take the necessary actions to improve quality and performance to acceptable limits.

In the event that undertakers do not repair defects as part of the remedial phase of works, the authority should agree with the undertaker an improvement plan which should include objectives, actions to deal with poor performance and a timeline for delivering it. The improvement plan should be used as part of the escalation process as set out below.

If the undertaker fails to show progress against meeting the objectives of the improvement plan 3 months from when the plan is agreed (or one full quarter that can be monitored via Street Manager), the authority and the undertaker should follow the escalation process described below.

8.2.1 Level one escalation

The authority should contact the undertaker's local management representative and arrange a meeting to discuss why the improvement objectives have not been met or progress is not being made.

Both parties should agree a timeline for meeting either the existing or updated improvement objectives and milestones as required.

The undertaker should send any the timeline and agreed actions to deliver the existing or updated improvement plan to the authority within 5 working days of the escalation meeting.

8.2.2 Level two escalation

If no response is received within 5 working days from the local management representative, the authority will escalate the matter to the undertaker's nominated level two representative (for example, a senior manager or a director responsible for operations).

The level two representative should agree to meet the timeline and objectives listed in the improvement plan within six months (two clear quarters that can be monitored via Street Manager) or other period as agreed.

8.2.3 Level three escalation

Where the agreed actions listed in the improvement plan have not been completed after 6 months (2 clear quarters that can be monitored via Street Manager) or other period as

agreed, the authority should follow the dispute resolution procedure, as detailed in chapter 13 of the code of practice for the co-ordination of street and road works.

Note, some authorities take performance into account, for example, when offering discounts on permit fees or lane rental charges. Continued poor performance may result in undertakers not being able to access these.

8.3 Recommended improvement plan content

Below are some recommendations that should be used to support an improvement plan

- specific items to be measured and reported on
- the percentage/number of work/items to be visited and reported on by the undertaker and/or the authority
- the percentage/number of existing defects that need to be rectified or repaired
- expected levels of performance/quality and how the undertaker plans to meet them, within specific timeframes/milestones
- methodology of how the items listed in the plan will be monitored, measured and reported on by the undertaker and/or the authority.
- regularity of meetings with the authority to discuss progress and share performance results or progress

8.4 Undertakers new to the area

New undertakers should ensure they are familiar with the requirements in the SROH and the safety code, that they make their contractors aware of the requirements, and that they take early action to deal with non-compliance before issues are embedded and more difficult to tackle.

The authority may have serious cause for concern if a new undertaker initially fails to

- reply to their call out number
- respond to reports of non-compliant reinstatements or non-compliant safety measures
- protect sites in line with the safety code

The authority should immediately seek, from the undertaker, an action plan to address such failures. It is recommended that an improvement plan is put in place.

The authority should escalate any “failure to respond” concerns in line with the dispute process set out in chapter 13 of the code of practice for the co-ordination of street and road works.

8.5 Disputes

Guidance on dealing with disputes can be found in chapter 13 of the co-ordination code of practice.

Appendix A – glossary

Term	Definition
Agent	A person duly authorised by the authority or undertaker to act on their behalf in relation to the matter in question. Unless otherwise stated, the terms 'authority' and 'undertaker' in this guidance include agents acting for them
Authority	A highway authority as defined in sections 1 and 329 of the Highways Act 1980. Will also be the permit authority and the street authority for the public road networks
Bank Holiday	As defined in section 98(3) of NRSWA, "bank holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated"
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street)
Carriageway	As defined in section 329 of the Highways Act 1980, "carriageway means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have right of way for the passage of vehicles
Contractor	A person or organisation duly authorised by the undertaker (or the authority) to carry out works and services on its behalf
Costs	The costs or expenses of taking action shall be taken to include the relevant administrative expenses of that authority, body or person including an appropriate sum in respect of general staff costs and overheads as defined in section 96 of NRSWA. See also The Street Works (Recovery of Costs) (England) Regulations 2002 which prescribe the basis on which such amounts are to be calculated.
Day	A working day, unless explicitly stated otherwise

DfT	Department for Transport
Excavation	“Breaking up” as defined above
Fees	The fees prescribed by the regulations under section 75 of NRSWA
Footway	As defined in section 329 of the Highways Act 1980, “footway means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only”
HAUC England	The Highway Authorities and Utilities Committee for England
Highway	As defined in section 328 of the Highways Act 1980, “highway means the whole or part of a highway other than ferry or waterway”
Member of the public	In the context of third party reports a member of the public is deemed to be any person not qualified to assess non-compliant reinstatements and/or non-compliant safety measures.
Permit application	Any permit application given as required by the TMA
NRSWA	New Roads and Street Works Act 1991
Non-compliant reinstatement	Reinstatement not complying with the Specification for the Reinstatement of Openings in Highways
Prescribed	As defined in section 104 of NRSWA, “prescribed means prescribed by the Secretary of State by regulations, which may (unless the context otherwise requires) make different provision for different cases”
Reasonable costs	As defined in 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.
Reinstatement	As defined in section 105(1) of NRSWA, “reinstatement includes making good”
Remedial work	Works required to rectify non-compliant reinstatement as identified/confirmed during an inspection
Routine inspection	This is the procedure by which an authority can carry out an inspection that this is not part of any other type of defined inspection (non-chargeable)
Safety code	The Safety at Street Works and Road Works Code of Practice
Street	As defined in section 48(1) of NRSWA, “street means the whole or any part of any of the following, irrespective of whether it is a thoroughfare (a) any highway, road, lane, footway, alley or passage; (b) any square or

	court; (c) any land laid out as a way whether it is for the time being formed as a way or not”
Street Manager	The Department for Transport’s (DfT) Street Manager digital service for planning and managing street and road works in England.
SLG	Signing, lighting and guarding
Street works licence	As stated in section 50(1) NRSWA, “the street authority may grant a licence (a “street works licence”) permitting a person (a) to place, or to retain, apparatus in the street, and (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street)
TMA	Traffic Management Act 2004
Traffic control	Any of the methods for controlling traffic detailed in the safety code
Undertaker	As defined in section 48(4) of NRSWA, “undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be”
Undertaker’s representative	A person who may be an employee of the undertaker, the undertaker’s agent or the contractor
Unable to complete inspection	An allocated inspection that has failed to be carried out due to circumstances beyond the authority's control.
Working day	As defined in section 98(2) of NRSWA, “for the purposes of this Part a working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or bank holiday; and a notice given after 4.30 p.m. on a working day shall be treated as given on the next working day.
WIR	Works inspection report
IR	Inspection report (Street Manager)