

Best Practice Document



Unsatisfactory Apparatus

The attached best practice was agreed by SEHAUC.

Cross Reference Information:

NRSWA 1991	: Section 81
Code of Practice	: Cordination
Regulations	:
SEHAUC Meeting	:15th June 2007

Signed: Joint Chairs *Signed copy held in master file*

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Revision	Made by	Comment

1.0 Introduction

1.1 Aim

This Agreement sets out the guidelines to be adopted by member organisations of SEHAUC for the Identification, Notification and Correction of Undertaker's Unsatisfactory Apparatus and seeks to provide guidance to those officers responsible for identifying and correcting such defective apparatus under Section 81 of New Roads and Street works Act 1991 (the Act). SEHAUC acknowledges the work undertaken by YHAUC upon which this document is taken.

1.2 General

If, at any time, a Street Authority (SA) identifies apparatus which is unsatisfactory it shall notify the Undertaker responsible of the problem as soon as possible.

An Undertaker, becoming aware that its apparatus is in an unsatisfactory condition shall take such action as is necessary to make safe / restore that apparatus to a satisfactory condition without delay.

Identification, Notification and Correction of unsatisfactory apparatus shall be in accordance with the guidelines set out below.

1.3 Definition – Defect / unsatisfactory apparatus

It is to be noted that Unsatisfactory Apparatus does not constitute a Defective Works. In order that confusion does not arise the following definitions shall apply:

1.3.1 Defective Works (s71 New Roads and Street Works Act 1991).

This Section of the Act deals with the way in which Street Works have been performed and the performance of the Reinstatement. It does not relate to the integrity of the apparatus itself unless the apparatus forms part of the reinstatement (ie. where the performed works involved the installation of a chamber frames and covers). Liability under this Section is usually limited to the duration of the Warranty Period (2 or 3 years). Problems reported under this Section shall be known as Defects and are not covered by this agreement:

1.3.2 Unsatisfactory Apparatus (s81 New Roads and Street Works Act 1991)

This Section of the Act deals specifically with apparatus. The apparatus remains the property of the Undertaker or his successor in title, and must be maintained to the reasonable satisfaction of the Street Authority for as long as the apparatus remains within the street. On becoming aware of the unsatisfactory condition of its apparatus the Undertaker is required to make safe / repair or replace it. Apparatus may become unsatisfactory due to wear and tear or other works in the street. Problems reported under this Section shall be known as unsatisfactory apparatus.

UNSATISFACTORY APPARATUS

1.4 Powers

There are a number of Powers derived from the Act and its Regulations which are available to the Street Authority, these are:

- To require the Undertaker to provide facilities to enable the Street Authority to ascertain whether apparatus is maintained to its reasonable satisfaction. [Section 81(1)]
- To, perform such works as are necessary to enable the Street Authority to inspect the apparatus where the Undertaker fails to provide facilities to do so. [Section 81(3)(a)].
- To, execute such emergency works as are considered necessary by the Street Authority where the Undertaker fails to secure that apparatus is maintained. [Section 81(4)].
- To recharge the cost of works performed to facilitate an Inspection and/or Emergency works to the Undertaker. [Section 81(5)].

1.5 The Procedures

The procedures to be followed are detailed in the Appendix to this Part which are as follows:

APPENDIX A - Defining and Identifying the Unsatisfactory Apparatus

APPENDIX B - Notification of the Unsatisfactory Apparatus.

APPENDIX C - Correction of the Unsatisfactory Apparatus.

APPENDIX D – Master Pro-forma (*Section 81Notification)

***This forms can be found under SEHAUC documentation, at www.sehauc.org.uk**

A.0 DEFINING AND IDENTIFYING THE UNSATISFACTORY APPARATUS

A.1 General

Due to the variety of apparatus and the potential problems it is agreed that to use a simple RIGHT/WRONG differential would be both impractical and unreasonable. As a consequence these procedures endeavour to address the issues:

Urgency

- A framework of Time Limits for reaction to Unsatisfactory Apparatus Notifications.

Using Table 1 below will enable a Street Authority officer to report the level of urgency with which defective apparatus ought to be treated and the procedure for notification

A.2 Urgency Guidelines

The Urgency Guidelines are set out in Table 1 below:

Urgency	Maximum Response Time
UNSATISFACTORY APPARATUS (EMERGENCY)	Street Authority to decide the degree of risk. Undertaker to respond (attend site) within 2 Hours . It may be necessary for the SA to provide signing and guarding or remain on site until the Undertaker takes control of the site.
UNSATISFACTORY APPARATUS (URGENT)	Undertaker to respond (attend site) within 24 Hours
UNSATISFACTORY APPARATUS (NON URGENT)	Undertaker to respond (attend site) within 28 Days
UNSATISFACTORY APPARATUS (ADVISORY CONDITION)	Undertaker to respond (Advise SA of action to be taken) within 28 Days
UNSATISFACTORY APPARATUS OWNERSHIP UNKNOWN (EMERGENCY/URGENT)	Undertaker to respond (Advise LA on ownership) within 2 hours / 24 Hours The Street Authority will decide the degree of urgency and may carryout interim works or erect signing and guarding pending identification of the owner.
UNSATISFACTORY APPARATUS OWNERSHIP UNKNOWN (NON URGENT/ADVISORY)	Undertaker to respond (Advise SA on ownership) within 7 Days

A.3 Marking the unsatisfactory apparatus

Having decided that a particular apparatus needs attention it is essential that the Undertaker is able to clearly identify the same item when arriving at the site, clear location information must be provided in order that the appropriate apparatus is corrected. In certain circumstances where identification is seen to be an issue marking the apparatus with paint, where possible and safe to do so, is an option that may be taken by the SA.

B.0 NOTIFICATION OF THE UNSATISFACTORY APPARATUS

B.1 General

As soon as possible after Unsatisfactory Apparatus is identified the Street Authority is to inform the Undertaker responsible by sending the following information by e-mail by the end of the working day to an agreed Utility contact using the S81 notification pro-forma, in order that all relevant information is made available to the Undertaker:-

- Urgency (Emergency Urgent Unsatisfactory Advisory etc)
- Utility Logged Call Ref*
- Street Name
- Description of apparatus
- Description of problem
- Location of apparatus ie **Street Name from Gazetteer** – Full name of the street (from National Street Gazetteer) with **no abbreviations** (i.e. NO 'Rd', 'St', 'Ave') followed by "fronting No 345". This will allow positive identification and sorting in databases. Use of Street Light column numbers and shop names are to be avoided if possible
- Apparatus Sited In (Carriageway Footway Verge Central Reservation)
- How marked on site (if marked)
- Date and time of inspection (DD/MM/YY – HH:MM)
- Inspecting Officer and their Contact Number
- Site plan(1:1250)attached and/or o/s grid ref for location
- Photograph attached**
- Utility's sent to
- Time Reported
- Date Sent
- Street Authority Promoter Works Ref

* Logged call refs are only required for **Urgent / Emergency** S81 Notifications

**Provision of photographs is optional

Where a S81 defect results in an **Urgent** or **Emergency** notification being raised the above procedure is to be supplemented as follows:-

B.2 Urgent / Emergency S81

The street authority may make the site temporarily safe with signing, lighting, guarding or other methods available to the reporting officer whilst on site.

- The street authority informs the undertaker immediately by a logged telephone call and sends by the end of the working day a S81 Notification Pro-forma
- The undertaker takes immediate action to mobilise and make safe in one of the four ways itemised below:-
 - Making the site safe by signing lighting and guarding
 - By carrying out a permanent repair

- By carrying out an interim repair
- By other agreed remedial measures.
- The undertaker or his representative advises the street authority by telephone of the actions taken, or to be taken, within 2 hours of the logged telephone call.
- The street authority may take reasonable action to make safe if:-
 - The owner of the apparatus is unknown or cannot be readily identified
 - The undertaker cannot be contacted
 - The undertaker cannot make safe the defect within the allowable intervention times; or
 - No telephone call is received from the undertaker or his representative within 2 hours of the logged telephone call
- If the street authority takes remedial action subsequent to the initial notification it shall inform the undertaker (were known) by the end of the next day, of the action to be taken and may charge their reasonable costs to the undertaker

Where ownership of defective apparatus cannot be readily established the street authority shall make the site safe by signing, lighting and guarding or other appropriate remedial measures. The street authority shall then send notification to all Undertakers who it may reasonably believe are responsible for the apparatus.

Once ownership has been established the responsible utility shall take action in accordance with the urgency designated to the defect.

In those cases where ownership remains unknown subsequent to submission of notification the street authority shall inform all utility's of its intent to carry out investigatory works that are necessary to establish ownership, this may include excavation, testing and the need for site meetings with a representative from all potentially responsible utility's.

If the street authority takes remedial action they may charge their reasonable costs to the undertaker identified as being responsible for the apparatus, these costs may also include those costs incurred by other undertakers who have been required to attend site meetings.

C.0 CORRECTION OF THE UNSATISFACTORY APPARATUS

C.1 General

Having informed the Undertaker of an Unsatisfactory Apparatus the onus is on the Undertaker to respond by:

- Acknowledging receipt of the Notification.
- Informing the Street Authority of the actions necessary to correct the problem.
- Completion of appropriate works within the agreed timescale.

C.2 Acknowledgement

On receipt of the Unsatisfactory Apparatus Notification the Undertaker is expected to acknowledge receipt within 7 days. In the case of Unsatisfactory Apparatus (Emergency/Urgent) that acknowledgement is supplemented by the use of a logged call.

In order to simplify the acknowledgement process the Section 81 Feedback Report Pro-forma in Appendix D should be used and sent via e-mail to the street authority.

C.3 Corrective procedure information

In addition to acknowledgement of the Notification the Undertaker is required to contact the Street Authority to identify the corrective action to be taken this information will include timescales for action and will be detailed on the Section 81 Feedback Report. Details of works undertaken for (Emergency/Urgent) notifications should also be confirmed on the report.

- If no acknowledgement / corrective action has been taken by the expiry of the Time Limit the Street Authority will pursue the matter with the Undertaker

As both parties will be in possession of an Unsatisfactory Apparatus Pro-forma it should, ordinarily, be possible to discuss the problem on the telephone and reach agreement on the actions required. The agreement is to be recorded on the Pro-forma.

C.4 Time limit for correction of the unsatisfactory apparatus

Particular attention is to be given to the time limit for correction. Every endeavour should be made to keep the time to the commencement of permanent corrective action as short as is practical. Except in exceptional circumstances this period should not exceed 28 days after submission of the Unsatisfactory Apparatus Notification.

In the case of Unsatisfactory Apparatus which were notified as Emergency or Urgent it should be noted that the site will have been made temporarily safe by whatever means are available to the reporting officer. If corrective action is delayed the site will have to be made safe with signing and guarding and continually monitored by the Undertaker to ensure it remains in a safe condition. The permanent correction should be treated as urgent.

C.5 Correcting the unsatisfactory apparatus

Once corrective action has been agreed the Undertaker should commence the works within the agreed time limit and inform the Street Authority once completed by submission of an updated Section 81 Feedback Report. Works requiring excavation or on Traffic Sensitive streets will also need to be notified through EToN

Once corrective action is launched it is to carry on and be completed as quickly as is reasonably practical. Failure to do so may contravene Section 66 of the Act.

Section 81 Notification Pro-forma



Urgency	Emergency	Urgent	Non-urgent	Advisory
Utility Logged Call Ref (if applicable)				
Street Name / USRN				
Description of Apparatus				
Description of Problem				
Location of Apparatus				
Apparatus sited in	C/W	F/W	Verge	Other
How marked on site				
Date and time of Inspection				
Inspecting officer				
Contact Number				
Site Plan Attached	Yes		No	
Grid Ref	Easting		Northing	
Photo Attached				
Utility notice sent to				
Time Reported				
Date Sent				
SA promoter works ref				
Comments:-				