

New Roads and Street Works Act 1991

**CODE OF PRACTICE FOR
INSPECTIONS**

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RAUC(S)



SCOTTISH EXECUTIVE

New Roads and Street Works Act 1991

**CODE OF PRACTICE FOR
INSPECTIONS**

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Foreword

Under section 131 of the New Roads and Street Works Act 1991, the road works authority is empowered to carry out investigatory works to check on whether or not an undertaker has complied with the duties placed on it in respect of reinstatement of the street. Under section 134, an undertaker executing road works is required to pay the road works authority a prescribed fee in respect of each inspection of works carried out by the authority. Section 134 also empowers the Scottish Ministers to make a scheme under which the prescribed fee is only paid in respect of such proportion or number of road works as the scheme may determine.

Whilst the Act does not make any provision for the Scottish Ministers to issue or approve a code of practice on inspections of street works, the road authorities and utilities have agreed that it would be prudent to have a non-statutory code covering not only aspects of inspections determined under the Scottish Ministers' scheme but also matters not covered by specific legislative requirements.

The first edition of the Code of Practice For Inspections came into operation in England, Wales and Scotland on 1 January 1993, at the same time as the related regulations applicable in England and Wales, The Street Works (Inspection Fees) Regulations 1992 (S.I. 1992 No. 1688), made under sections 75 and 104 of the Act, and the Road Works (Inspection Fees) (Scotland) Regulations 1992 (S.I. 1992 No. 1676 (S. 163)) made under sections 134 and 163, set out the levels of fee payable for each chargeable inspection of works, and defined certain related concepts.

Road works have been a devolved matter in Scotland and Wales since the promulgation of constitutional changes with effect from 1999. Given this, the Scottish, second edition of the Code of Practice applies in Scotland only. The Road Works (Inspection Fees) (Scotland) Regulations 2003 set out the revised arrangements that apply to road works in Scotland.

This edition of the Code of Practice was prepared by a working party of the Road Authorities and Utilities Committee (Scotland) (RAUC(S)).

In Scotland, the Scottish Road Works Register provides the means to transfer notices, reports and notifications electronically.

The regulations and Code of Practice will come into operation on 1 October 2003. As soon as possible after publication in paper form the Code will be posted on the Scottish Executive website at <http://www.scotland.gov.uk>.

CHAPTER 1

Introduction

- 1.1 The New Roads and Street Works Act 1991 (hereinafter referred to as ‘the Act’) gives undertakers, including the holders of permissions under section 109, responsibility, under section 124, for signing, lighting and guarding and, under section 130, for reinstating the street to the prescribed requirements on completion of their works. It also gives road works authorities the power under section 131 to inspect, investigate and report on undertakers’ works and reinstatements and powers under sections 124 and 131 to take such steps as appear necessary to remove dangers these may cause to users of the street. This Code of Practice gives practical guidance on procedures for inspections, investigations, improvement plans, fee arrangements and reports.
- 1.2 The Act makes undertakers wholly responsible for the management of their street works. Road works authorities are responsible for monitoring the performance of the undertakers and wholly responsible for co-ordination. Road works authorities are empowered to charge undertakers for a number of sample inspections that they will carry out to monitor undertakers’ performance. Sample inspections may also be supplemented by the results of routine road works authority inspections and by reports from the police and members of the public. Defect inspections may be carried out prior to, during and after the remedial work to defective reinstatements, and fees may be charged to the undertaker concerned. Chapter 2 describes these provisions. Inspections carried out as part of an improvement plan are described in Chapter 7.
- 1.3 The road works authority may carry out such investigatory works as appear to them to be necessary to determine whether an undertaker has complied with his duties with respect to reinstatement. If such a failure is disclosed, the undertaker will bear the cost of the investigatory works. This provision is described in Chapter 3.
- 1.4 Before carrying out road works within an area, undertakers should have arrangements in place for that area to ensure that the remedial actions, required under this Code, are able to be carried out within the prescribed time period. This is particularly important in relation to the procedures for making good defects in reinstatements and inadequacies in signing, lighting and guarding, covered in Chapters 4 and 5. Essential features of such arrangements are information boards on each site and a contact number available 24 hours per day and 7 days per week to which urgent messages about defects and inadequacies can be passed. It should be a number which will give a prompt response, and to achieve this it may have to be independent of normal service numbers.
- 1.5 Equally, road works authorities need to ensure that they can be contacted in accordance with these procedures. The change of staff between daytime and night time, and vice versa, is an occasion when communications can break down. They need to ensure that they can be contacted seamlessly over such shift changes. Because the road works authority has overall responsibility for the safety of road users, they must 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 stating that the remedial work has been done. If such a call is not received then the road works authority will have to take direct action.
- 1.6 Regulations set the fees for chargeable inspections. The Financial Arrangements are discussed in Chapter 6.

- 1.7 Processes for exchanging information and dealing with the results of inspections are described in Chapter 7. Procedures are also detailed for the serving of improvement notices on poorly-performing undertakers, together with the operation of an improvement plan to ensure that the undertaker conforms to the specified standards.
- 1.8 Guidance on the procedure, to be adopted in the case of disputes, is described in Chapter 8.

CHAPTER 2

Inspections

2.1 PURPOSE OF INSPECTIONS

2.1.1 Undertakers are expected to regularly inspect all of their own works at all stages, including during the reinstatement guarantee period. Where this monitoring shows that standards are not being met, it is the responsibility of the undertaker to institute measures, such as further testing or independent supervision of works, to ensure that operatives comply with the Specification for the Reinstatement of Openings in Highways (hereinafter in this Code referred to as 'the Specification'). Procedures for sharing this information are set out in Chapter 4. It is important to complete the work correctly first time. Inspections undertaken by the road works authority are designed for monitoring the work of the undertaker and not supervision of its work.

2.1.2 The Act provides that undertakers are to pay for inspections of the works by the road works authority such as:-

- sample inspections (section 134 of the Act)
- defect inspections
- investigatory inspections
- improvement plan costs or expenses
- inspections of work carried out under section 109

Section 131 deals with investigatory works needed in the event of reinstatement defects or reported defects, and with subsequent inspections (defect inspections), and sets out the statutory responsibility for meeting the costs.

2.1.3 Apart from sample inspections, road works authorities may identify defects or inadequacies either during their own routine inspections, or during investigatory inspections resulting from reports from the police or members of the public.

2.1.4 Where defects or inadequacies are found during routine road works authority inspections, no sample inspection fee may be charged, but the appropriate procedure described in Chapters 4 or 5 may be carried out and defect inspection fees or reasonable costs, as appropriate, charged to the undertaker concerned.

2.1.5 Where reinstatement defects or inadequacies in signing, lighting and guarding are reported by the police or members of the public, it will be necessary for a road works authority inspector to undertake an investigatory inspection in order to confirm that a defect exists. If a defect is confirmed, the road works authority may charge the undertaker concerned an investigatory inspection fee in addition to any fees or charges which may arise from the appropriate procedure described in Chapters 4 or 5.

2.2 TYPES OF INSPECTION

2.2.1 Sample Inspection

This is the procedure by which a road works authority can regularly establish the overall performance of each undertaker operating in its area. It involves inspection of a

structured random sample of works at various stages during the works and reinstatement guarantee period. The method of calculating the size of this sample is described in clause 2.3.3. It will enable the road works authority to monitor the level of compliance with the relevant prescribed standards in the Codes of Practice. The road works authority should also check that the undertaker is complying with his duty under section 126 in relation to qualifications for persons as supervisors and operatives. Section 127 requires the undertaker to assist them in doing so.

2.2.2 Defect Inspection

This is the procedure for dealing with individual reinstatements that do not comply with the Specification. It will normally allow for a joint inspection by both the road works authority and the undertaker before remedial works are undertaken. It is then followed by two further inspections, carried out by the road works authority. The first of these is undertaken while the remedial works are in progress, and the second when the remedial works have been completed.

As indicated in the definition above, defect inspections are concerned with reinstatement defects, not with inadequacies in signing, lighting and guarding.

2.2.3 Investigatory Inspection

An inspection of a site by the road works authority to verify a defect or inadequacy reported by a member of the public or the police.

2.2.4 Inspection of section 109 works

The provisions of the Act pertaining to inspections apply to all undertakers, regardless of whether they are statutory undertakers or holders of permission under section 109. Permission holders are therefore covered by sections 2.2.1 to 2.2.3 above. However, in the case of holders of permission under section 109 whose estimated units of inspection in a given year are fewer than 100, 100% of sample inspections up to a maximum of 30 are chargeable.

2.3 SAMPLE INSPECTION PROCEDURE

The sample inspection procedure is designed to enable road works authorities to monitor undertakers' performance.

2.3.1 Categories of Sample Inspection

Three stages have been identified at which significant information on undertakers' performance can be obtained. These are categorised as follows:-

Inspection Category	Timing of Inspection
A	Undertaken during the progress of the works
B	Undertaken within the six months following interim or permanent reinstatement

- C Undertaken within the three months preceding the end of the guarantee period

2.3.2 Unit of Inspection

2.3.2.1 The calculation of the sample size for each undertaker and the identification of particular works to be inspected is based upon dividing the works into units of inspection. This concept has been introduced solely to ensure that the total number of sample inspections reflects the number and scale of works carried out by each undertaker. This means that large works may generate more than one unit of inspection. Small single excavation works, which are part of the same project, may be grouped together to form a single unit of inspection.

2.3.2.2 A unit of inspection is defined as

either (i) A single excavation not exceeding 200 metres in length and not part of works as defined under (ii) below. Excavations longer than 200 metres will be counted as one unit of inspection for each 200 metres or balance thereof

or (ii) Up to 5 excavations (up to 10 excavations in the case of works relating to service pipes or service lines), provided that they meet all of the following criteria:-

- (a) all the excavations are in the same road;
- (b) all the excavations are part of the same works;
- (c) all the excavations are made over the same period of time (not exceeding 10 days);
- (d) each excavation is within 500 metres of every other excavation;
- (e) the aggregate length of all the excavations does not exceed 200 metres.

2.3.2.3 All works which involve breaking up the road will be included in the calculation of units of inspection, irrespective of whether the works in question are located in the footway, verge or carriageway. In the case of shared trenches, provided that one undertaker accepts responsibility for the works, the trench will be regarded as a single trench in calculating the number of units of inspection.

2.3.2.4 Undertakers are required, when giving notice under section 114 of the Act, to estimate the number of units of inspection the works will generate.

2.3.3 Sample Size

2.3.3.1 The number of sample inspections for any year shall be based on the actual number of units of inspection averaged over the previous three financial years for that undertaker. This is to enable the annual charge to be determined.

- 2.3.3.2 The estimated total number of sample inspections for which payment is made shall not exceed 30% of the actual number of units of inspection calculated as in 2.3.3.1. The number in each category shall be 10% of the actual number of units of inspection subject to a tolerance of plus or minus 0.5%.

The following example illustrates the calculations.

If the actual number of units of inspection in the previous three years are 1100, 925, and 975 respectively the average number of units of inspection for the three year period equals 1000.

$$(1100 + 925 + 975) \div 3 = 1000$$

Therefore the estimated number of sample inspections = $1000 \times 30 \div 100 = 300$

These are split over the three categories for example:-

Category A could be 9.8% = 98

Category B could be 10.2% = 102

Category C could be 9.9% = 99

Total = 299 which is less than 30% (300) and therefore acceptable for payment.

- 2.3.3.3 In each of the first three years, new undertakers will provide the road works authority with an estimate of the number of units of inspection they expect to generate in that year. The annual charge will be based on this figure. The undertaker will also indicate how these units are expected to be distributed over the quarters of that year so that at the end of each quarter the road works authority can monitor the actual units generated and, if necessary, adjust the annual charge.

2.3.4 Selection of Samples

- 2.3.4.1 Samples are to be selected using the Scottish Road Works Register.

2.3.4.2 Grouped sites

When visiting a selected site, an inspector may find, in the vicinity of that site, other sites within the same works in the same road and in the same inspection category. These other sites may be included in the sample, provided the group so formed lies within the definition of a unit of inspection as defined in paragraph 2.3.2.2.

A works inspection report is produced for each site in the group. The overall result of the inspection will be 'failed' if any one site fails, otherwise the result will be 'passed'. The pass or fail will be recorded against the selected site but the details will be on the works inspection report for the site that failed.

Inspections of a group like this count as single inspections against the annual total of inspections. Every site inspected is tagged and the reference number of the selected site recorded against it so that it is not selected again for sample inspection in that category.

2.3.4.3 Sites larger than an inspection unit

Alternatively, the notice issued before work starts may show only one site for each road in that works. In this case, a single site may consist of many inspection units (for example a trench 300 metres long would count as 2). If such a site is selected for inspection, the inspector should inspect all the areas within that site where the works are at the stage defined by the category of inspection being undertaken. The location of any defect is defined in the works inspection report. Even though the site is larger than an inspection unit, the inspection counts as one inspection against the total number of inspections in the year as calculated under section 2.3.3.

2.4 DEFECT INSPECTIONS

2.4.1 When a reinstatement defect is found the road works authority may carry out three defect inspections as follows:-

- (i) a joint inspection, involving both the road works authority and the undertaker, to determine the nature of the failure and what remedial action should be taken. Where the diversity of the remedial work requires more than one site visit, agreement must be reached on the number of inspections the road works authority need to undertake during the progress of the remedial works;
- (ii) inspection(s) by the road works authority of the remedial works in progress; and
- (iii) inspection by the road works authority when all the remedial works have been completed.

The amount of work covered by any one of these inspections will be governed by the size of the sites as defined in the most recent notice from the undertaker. Early in the works this might include a whole street but, after the defects are agreed, the notice for carrying out the remedial works may define a smaller site or sites.

As described in 2.3.4.2, where individual sites form a group, the group is inspected as one inspection with payment of one defect inspection fee.

In the situation described in 2.3.4.3, the defects may be further apart than is specified in the definition of a single inspection unit. Therefore more than one defect inspection fee may be payable for the remedial works inspections arising from this single works. This depends on the position of the defects.

2.4.2 Payment will be made only for those defect inspections actually undertaken.

2.4.3 The Act makes no provision for Defect Inspections to apply to inadequacies in signing, lighting and guarding. If the road works authority has to attend joint inspections to discuss the inadequacies, HAUC UK recommends that the road works authority charges a defect fee to the undertaker if an inadequacy is found.

2.5 INSPECTION REPORTS

2.5.1 The road works authority inspector will complete a Works Inspection Report for every inspection carried out and a Defect Notification for each inspection where a defect is

found. Details will be entered into the Scottish Road Works Register. Suggested formats are in Appendix B.

2.6 DIAGRAMMATIC ILLUSTRATIONS

- 2.6.1 Diagrammatic illustrations of the operation of the inspections arrangements and where the fees are payable are set out in Appendix C.

CHAPTER 3

Investigatory Inspections and Investigatory Works

3.1 INVESTIGATORY INSPECTIONS

- 3.1.1 An Investigatory Inspection may be carried out to verify an alleged defective reinstatement or inadequacy in signing, lighting and guarding reported by the police or member of the public.
- 3.1.2 The results of such inspections should not be included with those of sample inspections in calculating the undertaker's performance as set out in paragraph 7.2 of this Code.
- 3.1.3 If a defect or inadequacy is revealed, a fee as set out in paragraph 6.5 will be payable.

3.2 INVESTIGATORY WORKS

- 3.2.1 The road works authority has power under section 131(1) of the Act to carry out Investigatory Works (such as coring, measurement of texture depth, material sampling) considered necessary to determine whether an undertaker has complied with its duties with respect to reinstatement. It is not sufficient to simply carry out an additional visual inspection.
- 3.2.2 If Investigatory Works confirm a defect in a reinstatement, the road works authority may recover their reasonable costs of the Investigatory Works relevant to that defect. If no defect is found the road works authority must bear the cost of the Investigatory Works.
- 3.2.3 When Investigatory Works confirm a defect in the reinstatement, the procedures in paragraph 4.2 for dealing with Defective Reinstatements are followed.
- 3.2.4 Investigatory Works apply only to reinstatement. They do not apply to signing, lighting and guarding.
- 3.2.5 Where there is a joint pre-inspection (eg to agree the condition of modular paving) before works start, the costs of either party shall lie where they fall. Procedures for pre-inspection are set out in the Specification for the Reinstatement of Openings in Roads.

CHAPTER 4

Reinstatement Defects

Note

It should be noted that the Act sets out circumstances in which failure to comply is an offence. The following procedures are designed as a practical way of rectifying such failures when they arise but they in no way affect liability to prosecution or the power of road works authorities to remove danger.

4.1 REINSTATEMENT DEFECTS

Reinstatement defects are identified by road works authorities in a number of ways including:-

- sample inspections
- routine road inspections
- reports from the public
- reports from the police
- investigatory works

Where an undertaker carries out a monitoring programme, they are encouraged to share the results with the road works authority.

4.1.1 Undertaker's Monitoring Results

Where an undertaker's monitoring results indicate a need for remedial works, a timetable for carrying out such works will be included with the results. Provided that notices are received for the remedial works, in accordance with the timetable, a road works authority will not issue defect notices on the basis of an undertaker's results.

4.1.2 Types of Defects

Reinstatements that do not comply with the Specification are divided into two types, each of which requires a specific action. These are:-

(i) Reinstatement Defects causing Danger

Reinstatements that do not comply with the Specification and that appear to the road works authority to be causing danger.

(ii) Non-Dangerous Reinstatement Defects

Reinstatements that do not comply with the Specification and that will require some remedial action.

4.2 PROCEDURES FOR DEALING WITH DEFECTIVE REINSTATEMENTS

In the case of non-complying reinstatements that appear to the road works authority to be causing danger, the overriding aim of the procedure is to remove the danger as soon as possible.

4.2.1 Category A Inspections

Defects found during Category A inspections will be notified to the undertaker. If these cannot be remedied during the course of the work, the procedure set out in 4.2.2 or 4.2.3 is followed.

4.2.2 Defects not causing danger

On finding a defect not causing danger, the procedure detailed below should be followed:-

- (i) The road works authority sends, by the end of the next day, electronically or by fax, a Works Inspection Report and Defect Notification to the undertaker responsible and supplies copies to the undertaker's representative if on site.
- (ii) The undertaker contacts the road works authority by the end of the next day following receipt of the report, to arrange a date for the joint inspection of the defect. The inspection takes place within 10 days of initial notification of the defect, unless both parties agree that a meeting is not required and the undertaker agrees to abide by the road works authority's assessment of the defect and the remedial works required. The undertaker gives notice of the start of the remedial works. The undertaker should undertake the agreed remedial works within 10 days of the date of the joint inspection or the date of the agreement not to have a joint inspection unless an extended period is mutually agreed. If it is agreed that there is no defect, no further action is taken and no fee is payable.
- (iii) If the road works authority carries out an inspection during the remedial work a further defect inspection fee is payable, as set out in paragraph 2.4.2.
- (iv) The undertaker notifies the road works authority when the remedial work is completed by sending an appropriate notice.
- (v) If the road works authority undertakes an inspection of the completed remedial works, a further defect inspection fee is payable, as set out in paragraph 2.4.2.
- (vi) If, by the seventeenth day after the joint inspection referred to in (ii) above, the undertaker has neither notified completion of the remedial work nor has agreed with the road works authority a longer period for the remedial work to be completed, the road works authority may carry out an inspection and charge an inspection fee as set out in paragraph 2.4.2.
- (vii) If, on a further inspection under (vi) above, appropriate notices required by (ii) and (iv) above have not been received by the road works authority but the remedial work is found to be satisfactory then this inspection should be charged as the third stage defect inspection described in 2.4.1(iii). The undertaker may be informed that the required notices have not been received.
- (viii) If, on a further inspection under (vi) above, the remedial work is not satisfactory or has not been completed, or if the appropriate notices continue to be outstanding, this procedure will commence again at (i) above. Similarly, the procedure shall commence again if the remedial work is found to be unsatisfactory during defect inspections at stages (iii) or (v) above.

- (ix) If the undertaker continues to perform unsatisfactorily in carrying out this procedure, the road works authority may undertake the work and charge their reasonable costs to the undertaker.
- (x) If the road works authority takes action, they must inform the undertaker by the end of the next day either electronically or by fax.

4.2.3 Defects causing danger

When the road works authority becomes aware of a non-complying reinstatement causing danger, it may make the site safe by signing, lighting and guarding or other methods agreed with undertakers and then follow the procedure below:-

- (i) The road works authority informs the undertaker immediately, by a logged telephone call, and sends electronically or by fax, a Works Inspection Report and Defect Notification to the undertaker responsible. Copies are supplied to the undertaker's representative if present on site.
- (ii) The undertaker takes immediate action to mobilise and make safe in one of the four ways itemised below:-
 - (a) by making the site safe by signing, lighting and guarding;
 - (b) by carrying out a permanent reinstatement;
 - (c) by carrying out an interim reinstatement; or
 - (d) by other agreed remedial measures.
- (iii) The undertaker's representative advises the road works authority by telephone of the actions taken, within 2 hours of the logged telephone call.
- (iv) A defect inspection fee, as set out in paragraph 2.4.2, shall be payable to the road works authority if a joint inspection is carried out and a defect agreed following notification to the undertaker under 4.2.3 (i).
- (v) The road works authority may take reasonable remedial action to make it safe if:
 - (a) there is no one on site and the road works authority does not know the identity of the undertaker; or
 - (b) the undertaker cannot be contacted; or
 - (c) the undertaker cannot make safe the defect within 2 hours; or
 - (d) no telephone call is received from the undertaker within 2 hours of the logged telephone call; or
 - (e) the undertaker persistently fails to respond to dangerous defects (see Chapter 7).
- (vi) If the road works authority takes remedial action under 4.2.3 (v), they may charge their reasonable costs to the undertaker.
- (vii) If the road works authority takes action, it should inform the undertaker by the end of the next day, either electronically or by fax.
- (viii) When the defect is made safe as in 4.2.3 (ii), the procedure in 4.2.2 for non-dangerous defects is then followed.

Chapter 7 sets out procedures to be followed where the undertaker persistently fails to respond to dangerous defects.

4.3 GUARANTEE PERIODS

- 4.3.1 Guarantee periods are detailed in the Specification.
- 4.3.2 The reinstatement is entered into the pool of works for the appropriate category(s) of inspection depending on the rules for the guarantee period detailed in the Specification.

CHAPTER 5

Inadequacies in Signing, Lighting and Guarding

Note

It should be noted that the Act sets out circumstances in which failure to comply is an offence. The following procedures are designed as a practical way of rectifying such failures when they arise but they in no way affect liability to prosecution or the power of the road works authority to remove danger.

5.1 INADEQUACIES

5.1.1 Deviations from the Code of Practice, Safety at Street Works and Road Works (hereinafter called “the Safety Code”) are divided into two types, each of which requires a specific action. These are:-

(i) **Higher Risk Inadequacies**

Deviations from the Safety Code of such extent that, in the view of the road works authority, the signing, lighting, and guarding requires making safe without delay.

(ii) **Lower Risk Inadequacies**

Deviations from the Safety Code that require making good to bring signing, lighting and guarding up to standard.

5.1.2 When inspecting a site, compliance with the Safety Code, in terms of both the equipment provided and the way it is set out, is checked and recorded separately.

5.2 PROCEDURES FOR DEALING WITH INADEQUACIES

In the case of inadequacies that appear to the road works authority to be causing higher risk, the overriding aim of the procedure is to remove the danger as soon as possible.

5.2.1 **Lower Risk Inadequacies**

On finding a lower risk inadequacy, the procedure detailed below should be followed:-

- (i) The road works authority sends, by the end of the next day, electronically or by fax, a Works Inspection Report and Defect Notification to the undertaker responsible and supplies copies to the undertaker’s representative if on site. If the undertaker’s representative is not on site, the road works authority immediately informs the undertaker by a logged telephone call in addition to the electronic or faxed report.

- (ii) The undertaker shall ensure that both the inadequacy is made good and the road works authority is informed of the action taken within 4 hours of the notification on site or the logged telephone call.
- (iii) The road works authority makes good the inadequacy if:-
 - (a) there is no one on site and the road works authority does not know the identity of the undertaker; or
 - (b) the undertaker cannot be contacted; or
 - (c) the undertaker cannot make good the inadequacy within 4 hours; or
 - (d) no telephone call is received from the undertaker within 4 hours of the notification on site or logged telephone call; or
 - (e) the undertaker fails to respond to inadequacies in signing, lighting and guarding (see Chapter 7).
- (iv) If the road works authority takes remedial action under 5.2.1(iii), they may charge their reasonable costs to the undertaker.
- (v) If the road works authority takes action, they inform the undertaker by the end of the next day, either electronically or by fax.

5.2.2 Higher Risk Inadequacies

On finding a higher risk inadequacy the procedure detailed below should be followed:-

- (i) If the undertaker's representative is on site, the road works authority completes the Works Inspection Report and Defect Notification and hands them to the undertaker's representative. Further copies are sent, electronically or by fax, to the undertaker by the end of the next day;
- (ii) If the undertaker's representative is not on site, the road works authority immediately informs the undertaker by means of a logged telephone call as well as sending, electronically or by fax, the Works Inspection Report and Defect Notification. In the meantime, the road works authority makes any possible minor adjustments to improve the safety of the site at no cost to the undertaker;
- (iii) The undertaker takes immediate action to mobilise and must ensure that both the inadequacy is made safe and the road works authority is informed of the action taken, within 2 hours of being informed on site or the logged telephone call;
- (iv) The road works authority makes safe the inadequacy if:-
 - (a) there is no one on site and the road works authority does not know the identity of the undertaker responsible; or
 - (b) they cannot contact, until some time later, the undertaker responsible; or
 - (c) the undertaker cannot make the inadequacy safe within 2 hours; or
 - (d) no telephone call is received from the undertaker within 2 hours of the logged telephone call; or

- (e) the undertaker fails to respond to inadequacies in signing, lighting and guarding (see Chapter 7).
- (v) If the road works authority takes action under 5.2.2(iv), they may charge their reasonable costs to the undertaker;
- (vi) If the road works authority takes action, they inform the undertaker by the end of the next day either electronically or by fax.

CHAPTER 6

Financial Arrangements

6.1 INADEQUACIES

The number of paid sample inspections to be undertaken is determined in accordance with paragraph 2.3.3 of this Code.

6.2 SAMPLE INSPECTION FEES

A fee for each chargeable sample inspection is payable to the road works authority. This fee is prescribed in regulations.

6.3 DEFECT INSPECTION FEES

A fee for each chargeable defect inspection is payable to the road works authority. HAUC (UK) recommends that the defect inspection fee should be double the sample inspection fee.

6.4 FEES FOR INVESTIGATORY INSPECTIONS ARISING FROM REPORTS BY THE POLICE OR MEMBERS OF THE PUBLIC

A fee for each chargeable investigatory inspection is payable to the road works authority. HAUC UK recommends that the investigatory inspection fee should be the same as the sample inspection fee. If required the road works authority shall make their records of the reports available for inspection by the undertaker.

6.5 COSTS OF INVESTIGATORY WORKS

Where investigatory works, described in Chapter 3, confirm a defective reinstatement the road works authority are entitled to recover their reasonable costs relevant to that defect.

6.6 COSTS OF REMEDIAL ACTIONS

If a road works authority takes action under paragraphs 4.2.2(ix), 4.2.3(v), 5.2.1(iii) and 5.2.2 (iv), they are entitled to charge their reasonable costs to the undertaker responsible.

6.7 INVOICING

6.7.1 Invoicing arrangements for sample inspections are as follows:-

- (i) within each road works 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;

- (ii) the annual charge to undertakers will be calculated on the basis of the estimated number of inspections set out in paragraph 2.3.3. It will then be divided into four equal amounts to be billed and paid quarterly in arrears;
- (iii) if the number of inspections actually carried out in any one financial year is less than the estimated number, a refund will be made to the undertaker;
- (iv) the road works authority may inspect a larger sample of works, but the additional inspections will be at their own expense;
- (v) invoices in respect of section 109 permission holders, inspected on the basis set out in paragraph 2.2.4, will be submitted monthly.

6.7.2 Invoices for defect inspections are submitted and paid monthly in arrears. Defect inspection fees relating to individual reinstatement remedial work may, by agreement, be invoiced together after the third inspection. Invoices should be submitted within six months of the date of the inspection.

6.7.3 Invoices for chargeable investigatory works are submitted and paid monthly in arrears.

6.7.4 Invoices for chargeable investigatory inspections are submitted and paid monthly in arrears.

6.7.5 The agreed improvement plan costs or expenses are invoiced monthly and paid in arrears throughout the duration of the plan.

CHAPTER 7

Performance

- 7.1.1 Works Inspection Reports are sent electronically within 10 days of the date of the inspection. However, where paper copies are still being used, Works Inspection Reports are sent to the undertaker within 3 months and prior to issuing an invoice or improvement notice.
- 7.1.2 Where a reinstatement defect or signing, lighting and guarding inadequacy is found by the road works authority, the undertaker is informed electronically within the time scales required in Chapters 4 and 5 of this Code. Where paper is still being used, notification must be by Defect Notification.
- 7.1.3 Each undertaker and road works authority should establish and maintain arrangements for receiving reports and instigating action, as set out in Chapters 4 and 5 of this Code. Undertakers and Road works authorities must be contactable at all times. Different arrangements may operate in and out of normal office hours. See also paragraphs 1.4 and 1.5 of this Code.
- 7.1.4 The road works authority has ultimate responsibility for the safety of all users of the road. Under the Act, the responsibility for road works carried out by an undertaker rests with that undertaker. However, where in a road works authority area an undertaker persistently fails to respond to reinstatement defects or inadequacies in signing, lighting and guarding, or the road works authority otherwise feels obliged by their duty of care to take action in the interests of the safety of road users, it may have to make good these defects or inadequacies, without first notifying the undertaker, and then charge their reasonable costs for doing so.
- 7.1.5 The road works authority may have serious cause for concern if an undertaker, new to the area, or for whom there are no specific local records, initially fails to:-
- reply to the call out number;
 - respond to reports of defects or inadequacies;
 - protect sites adequately.

The road works authority immediately seeks from the undertaker an action plan to address such failures. An improvement plan, as described below, should be put in place if no action plan is produced within the agreed time scale or similar instances continue to occur.

7.2 SUMMARY OF PERFORMANCE

Quarterly reports on performance should be sent to undertakers. These will enable an analysis of each undertaker's performance to be carried out and ensure that undertakers receive adequate feedback at both local and national level. Road works authorities are also recommended to produce an annual summary report of undertakers' performance for publication as appropriate. Copies should be forwarded to the appropriate Area RAUC. In the interests of comparing the results from different areas, these reports should include a specific section showing the results of the 30% sample inspections correctly distributed.

7.3 IMPROVEMENT NOTICES

It should be noted that separate improvement notices are required for reinstatements and for signing, lighting and guarding.

- 7.3.1 Where more than 10% of the sample inspections of an undertaker's works in a three month period reveal a reinstatement defect, the road works authority should issue an improvement notice within 4 weeks of the period end. However, where the undertaker carries out 50 or less inspection units of work in a year, the issue of such a notice is at the discretion of the road works authority.
- 7.3.2 Where a sample inspection reveals an inadequacy in signing, lighting and guarding the procedures in Chapter 5 are followed. Where it is found that the equipment provided on the site does not comply with the Safety Code, or the road works authority has to take action because the undertaker has failed to respond to the provisions in Chapter 5, it will note the instance. If this occurs in more than 10% of sample inspections over a three month period, the road works authority should issue an improvement notice to the undertaker within 4 weeks of the period end. Where the undertaker carries out 50 or less inspection units of work in a year, the issue of an improvement notice is at the discretion of the road works authority.
- 7.3.3 An improvement notice will record the road works authority's dissatisfaction with that undertaker's performance. Typical formats are shown in Appendix B.
- 7.3.4 In deciding whether to issue an improvement notice for inadequate measures for signing, lighting and guarding, the road works authority should take into account whether the equipment is adequate. If it is, only failure to respond to an inadequacy within the time scale is counted as a defect.
- 7.3.5 Improvement Notices should be copied to RAUC(S) and the appropriate Area RAUC.

7.4 IMPROVEMENT PLAN

- 7.4.1 Within 5 days of receiving the improvement notice, the undertaker must verify and analyse the defect data to establish appropriate improvement objectives. It should then prepare an outline improvement plan designed to achieve the objectives and forward it to the road works authority. The undertaker arranges a meeting with the road works authority, on a date within 10 days of the undertaker receiving the improvement notice, to agree and finalise the improvement plan.
- 7.4.2 At the meeting, the areas of concern should be identified and specific objectives agreed. Proposed measures to achieve the objectives should be discussed. The monitoring provisions within the plan are to measure the progress being made by the undertaker in achieving the improvement objectives.
- 7.4.3 The plan must include the following features:-
- (i) Essential items
 - Monthly meetings to discuss progress.
 - The provision of appropriate monitoring information prior to the meeting. This information should relate to the work undertaken within the period of the improvement plan so that progress can be measured.

- Consideration of appropriate changes to the plan.
 - Detailed arrangements regarding the recovery of costs or expenses incurred by the road works authority under the improvement plan to be detailed in the plan.
- (ii) Items dependent on the improvement plan's objectives
- Items to be reported in the improvement plan monitoring (see Appendix D).
 - Sampling and testing undertaken by the road works authority or their representative to check compliance with the Specification.
 - The percentage of work to be visited and reported on.
- 7.4.4 The minimum period of the plan should be 3 months. At the end of this period, if the objectives have been met, the decision to terminate the plan will be made at the next monthly progress meeting.
- 7.4.5 Not less than 5 days before the agreed date of the regular meetings set out in the plan, the results of the improvement plan monitoring carried out in the previous month will be forwarded to the undertaker.
- 7.4.6 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 such as:-
- escalation of the improvement plan monitoring to achieve a step change in performance;
 - involvement of a more senior level of management within both the undertaker and the road works authority;
 - civil and/or criminal remedies.

CHAPTER 8

Guidance for Disputes

- 8.1 This Code is intended to provide sufficiently detailed guidance to enable agreement on its operation and implementation to be reached at local level. Road works authorities and undertakers should always use their best endeavours to achieve a solution to disputes without having to refer them to conciliation. This might be achieved by referring the issue to management for settlement.
- 8.2 When there is a need for conciliation or arbitration, the provisions set out in the Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters should be followed.

APPENDIX A

Glossary of Terms

Agent	A person duly authorised by the road works authority or undertaker, as the case may be, to act on their behalf in relation to the matter in question. Unless otherwise stated, the terms “road works authority” and “undertaker” in this Code of Practice include agents acting for them.
Contractor	A person or organisation duly authorised by the undertaker to undertake works and services on its behalf.
Costs	The costs or expenses of taking any action shall be taken to include the relevant administrative expenses (of the authority, body or person concerned) including general staff costs and overheads as defined in section 155 of the Act.
Day	Means working day, which is a day other than a Saturday, Sunday, Christmas Day, Good Friday, Bank Holiday or other prescribed public holiday. Bank Holiday means a day which is a Bank Holiday under the Bank and Financial Dealings Act 1971 in the locality in which the works in question are situated. A notice given after 4.30 pm on a working day shall be treated as given on the next working day. In reckoning any period, which is expressed to be a period from or before a given date, that date shall be excluded.
Expenses	See “costs”.
Fees	The fees prescribed by the regulations under section 134 of the Act.
HAUC UK	Highway Authorities and Utilities Committee, the national committee comprising representatives of the highway and road authorities and the National Joint Utilities Group which deals with matters of common interest. Similar bodies exist at Regional level.
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 reinstatement or signing, lighting, and guarding defects and inadequacies respectively.
Notice 1991	Means any notice given as required by the New Roads and Street Works Act 1991
RAUC(S)	Road Authorities and Utilities Committee (Scotland), the Scottish national committee comprising representatives of the road authorities and the Scottish Joint Utilities Group which deals with matters of common interest. Similar bodies exist at Area level.
Road works authority	If a road is a public road, the road works authority is the roads authority and, if not, the road works authority is the road managers as defined in S108 of the act.
SRWR	Scottish Road Works Register. Susiephone Ltd has been appointed by the Scottish Ministers as keeper of the register.
Undertaker’s representative	A person who may be an employee of the undertaker, the undertaker’s agent or the contractor.

APPENDIX B

Notification Forms

Works Inspection Report

Defect Notification

Improvement Notice - Reinstatement

Improvement Notice - Signing, Lighting and Guarding

Notification Forms

WORKS INSPECTION REPORT

Date: _____ Site informed - Yes Passed
 Time: _____ No Dangerous/Higher risk
 Inspector: _____ Non-dangerous/Lower risk
 Abortive

Road works authority _____ Undertaker _____

Road works authority ref _____ Undertaker ref _____

NSG Street reference _____

Group site type (circle) Sampled site Non-sampled site

Sampled site number _____

Site number _____ Site location _____

Inspection Type _____ Inspection category A, B, C (please circle)

Signing lighting and guarding

	Incorrect Equipment	Acceptable	Not acceptable	Not seen	Not Applicable
Signs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Distance		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Safety zone		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barriers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Traffic control	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pedestrian control	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other					

Excavation

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

Backfill and reinstatement

Apparatus surround	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compaction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sub-base	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Base (Roadbase)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Binder course (Basecourse)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Surface course (Wearing course)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Profile and structure

Edge depression	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Edge cracking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Surface depression	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crowning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Texture depth	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Surface regularity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Structure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
As laid profile	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: _____

Defect Notification

Road Works Authority Logo

Undertaker _____ Address _____

Undertaker ref _____ Reference number _____

Contact _____

Officer _____

Site informed / Logged telephone call (delete as appropriate)

Time _____ Date _____ (where required)

Dear Sir/Madam,

**New Roads and Street Works Act 1991
Defect Notification**

A non-compliance as described below and detailed on the attached Works Inspection Report has been identified by the Authority. You are required to carry out remedial action as indicated below.

- Take immediate action to remedy a higher risk signing, lighting and guarding inadequacy and notify the above within 2 hours that you have completed the works.
- Take immediate action to remedy a lower risk signing, lighting and guarding inadequacy and notify the above within 4 hours that you have completed the works.
- Take immediate action to make safe a reinstatement defect causing danger and notify the above within 2 hours that you have completed the works.
- Contact the above to arrange a site inspection within 10 days.
- Due to the seriousness of risk, the authority has arranged to carry out the following works. Please arrange a joint site meeting to discuss what further work is required.

Works: _____

Please acknowledge receipt of this notice

Yours faithfully,

Improvement Notice - Reinstatement

Road Works Authority Logo

Undertaker _____ Address _____

Undertaker ref _____ Reference number _____

Contact _____

Officer _____

Site informed / Logged telephone call (delete as appropriate)

Time _____ Date _____ (where required)

Dear Sir/Madam,

**New Roads and Street Works Act 1991
Improvement Notice**

This notice is issued in accordance with paragraph 7.3 of the Code of Practice for Inspections

One quarter of total number of agreed inspections for the year is

The total number of sample inspections carried out on your works is

The number of these inspections resulting in a reinstatement defect report is

The percentage resulting in a reinstatement defect report is %

In accordance with paragraph 7.3, the percentage of defects is such that the standard of your reinstatement work is classified as unsatisfactory. Within 5 days of receiving this notice please contact me to arrange a meeting to discuss an Improvement Plan. This meeting should take place within 10 days of the date of receiving this notice.

A copy of this notice is being sent to RAUC (Scotland) and to Area RAUC for their information. The statistics may be used in reports to this Council to keep members informed of the standards being achieved by undertakers within their area.

Please acknowledge receipt of this notice

Yours faithfully,

Improvement Notice - Signing, lighting & guarding Road Works Authority Logo

Undertaker _____ Address _____

Undertaker ref _____ Reference number _____

Contact _____

Officer _____

Site informed / Logged telephone call (delete as appropriate)

Time _____ Date _____ (where required)

Dear Sir/Madam,

**New Roads and Street Works Act 1991
Improvement Notice**

This notice is issued in accordance with paragraph 7.3 of the Code of Practice for Inspections

One quarter of total number of agreed inspections for the year is

The total number of sample Category A inspections carried out on your works is

The number of these inspections resulting in an inadequacy report is

The number where the road works authority had to take action for reasons specified in 5.2.2(iv) or 5.2.1(iii) is

The percentage of the latter is

In accordance with paragraph 7.3, the percentage of defects is such that the standard of your signing, lighting and guarding is classified as unsatisfactory. Within 5 days of receiving this notice please contact me to arrange a meeting to discuss an Improvement Plan. This meeting should take place within 10 days of the date of receiving this notice.

A copy of this notice is being sent to RAUC (Scotland) and to Area RAUC for their information. The statistics may be used in reports to this Council to keep members informed of the standards being achieved by undertakers within their area.

Please acknowledge receipt of this notice

Yours faithfully,

APPENDIX C

Explanatory Diagrams

Figure 1 Flow diagram – Reinstatement Defects

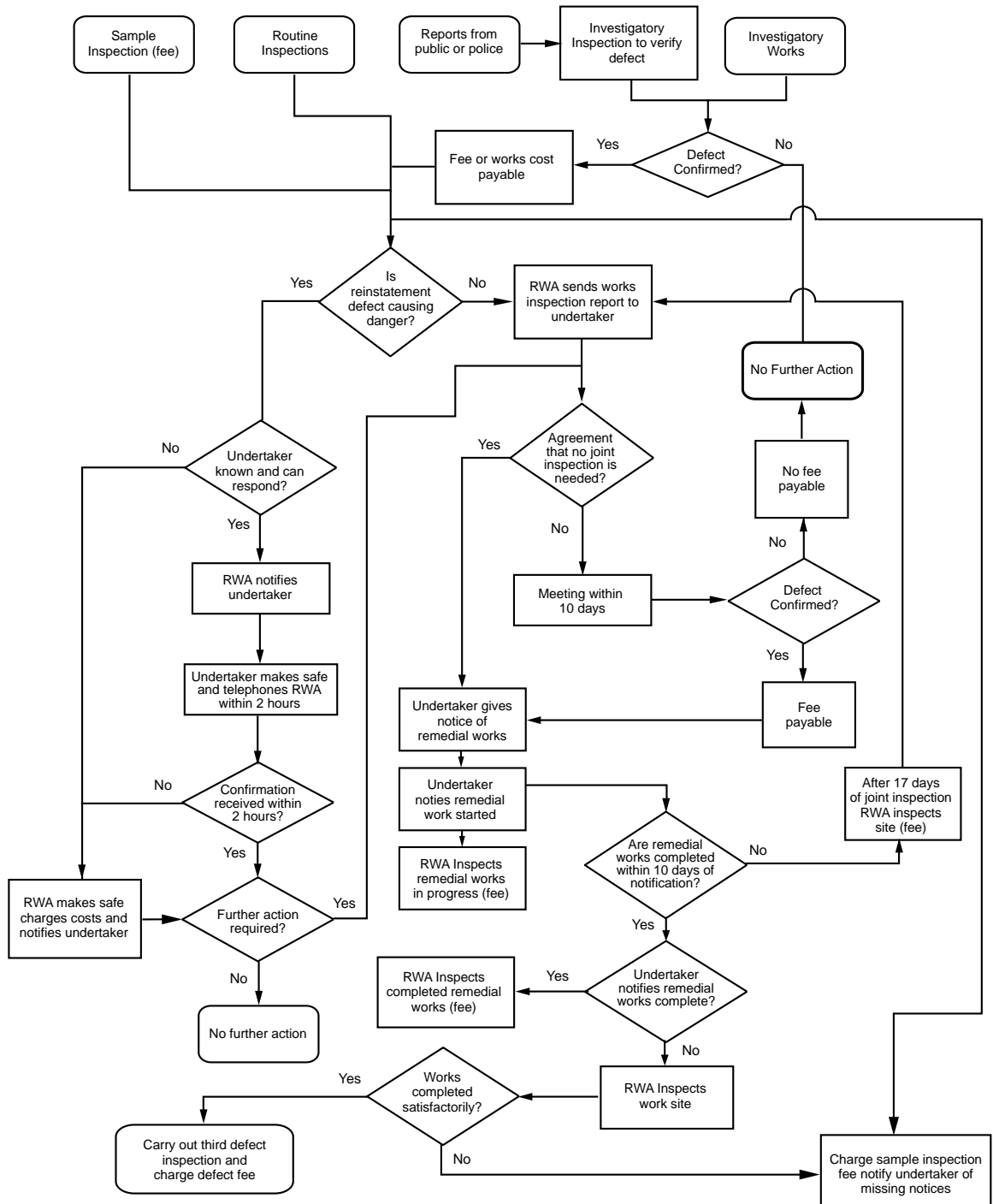
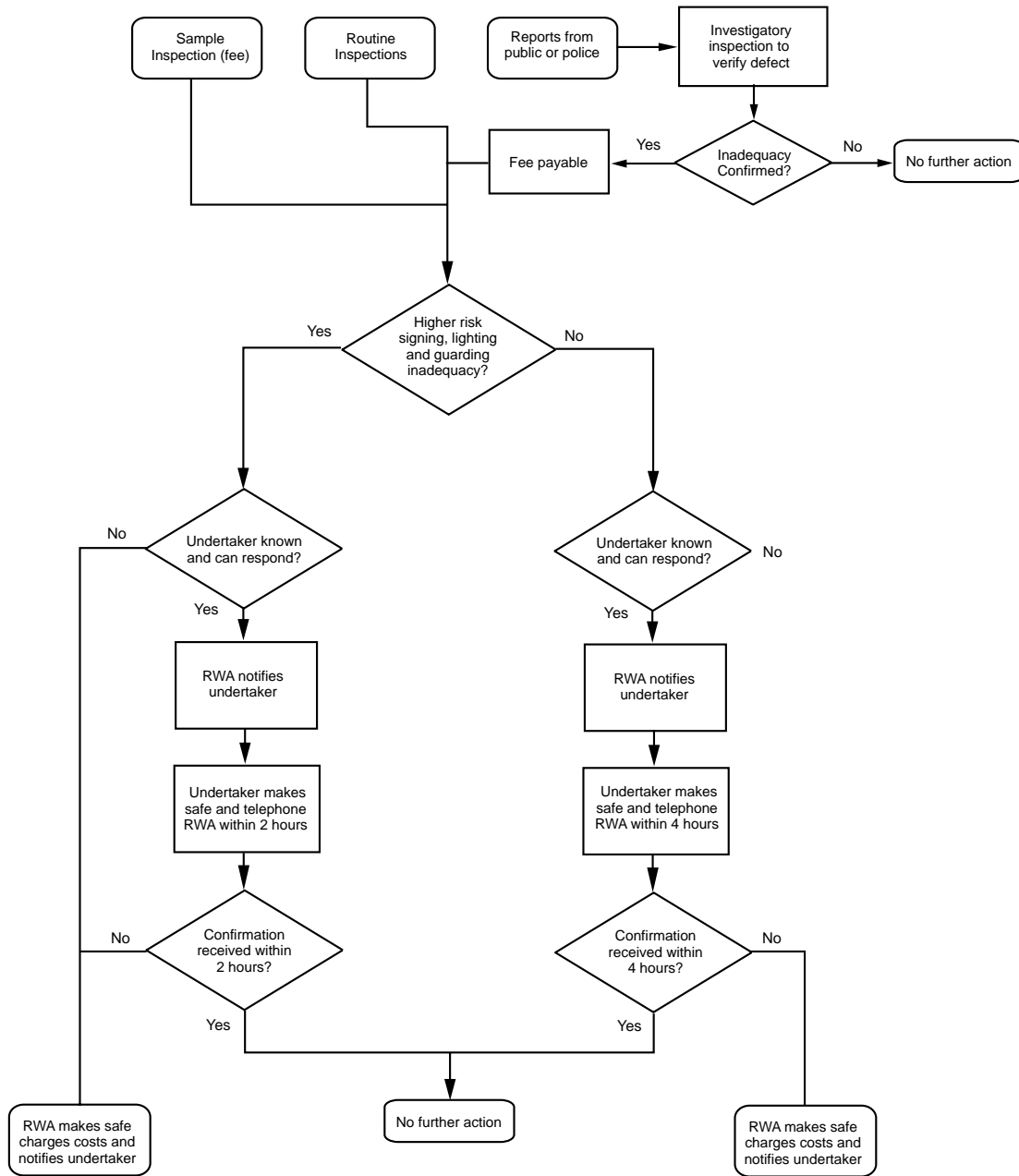


Figure 2 Flow diagram – Signing, Lighting and Guarding Inadequacy



APPENDIX D

Site Check-List for Improvement Plan Process

Note:- Suggested construction items which may be reported from a site visit. A selection of these may be incorporated in the plan as items to be monitored depending on the objectives to be achieved by the plan.

Signing, Lighting and Guarding

- Correct equipment on site
- Signs in correct positions
- Barriers correctly erected
- Pedestrian provision where required
- Approved traffic signals

Reinstatements

- Surface profile
- Ironwork

Bituminous

- Sub-base, Base (Roadbase), Binder Course, Surface Course – Materials, lifts, compaction equipment and finished depth.
- Tack coat
- Edge sealant
- Overbanding
- Joint treatment
- Chippings

Concrete

- Reinforcement
- Mix
- Joints
- Texture

Modular (including flag stones)

- Bedding
- Flags
- Slabs
- Modules
- Setts
- Joints

Note that this is not an exhaustive list and other criteria may be appropriate in particular cases.

APPENDIX E

Electronic Transfer of Inspections

- E1. This Appendix is included to maintain compatibility with the English Second Edition of the Code of Practice for Inspections.
- E2. All notices including Works Inspection Reports and Defect Notifications are exchanged by means of the Scottish Road Works Register.
- E3. All Works Inspection Reports and Defect Notifications are to be entered into the Scottish Road Works Register as soon as possible after carrying out the inspection. The option in this edition of the Code of Practice to send notifications by fax is retained solely to assist the speed of response and does not remove the absolute requirement to enter the information into the Scottish Road Works Register

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