



<u>Committee and Date</u>	<u>Item</u>
Place Overview Committee	
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	<u>Public</u>

Street Works Enforcement Policy

Responsible Officer

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1.0 Summary

- 1.1 Shropshire Council Street Works team has a responsibility to manage the Shropshire Council network of roads. In doing so utility companies, such as gas, electric, water are required to obtain permission from Shropshire Council's Street Works team to undertake works. Under legislation set out in New Roads and Street Works Act 1991 and Traffic Management Permit Scheme (England) Regulations 2007 we have powers that allow Shropshire Council to enforce legislation against utilities.

Shropshire Council's Regulation and Enforcement Policy covers all aspects of enforcement and options open to Shropshire Council across a wide range of legislation. Paragraph 1.2 of this policy states that:

"Certain services may have additional legislative guidance and considerations that set out specific enforcement requirements in their service areas with relevant policies and guidance developed to run in parallel with this policy."

The nature of the enforcement undertaken by the Street Works team requires a more specific policy, detailing the legislation that the Street Works team use and the options open to Shropshire Council for enforcement.

This policy will also ensure that if a prosecution is brought for any offence covered by the policy, any legal challenge on the basis of process is less likely.

Following a recent audit of the Street Works team it was identified that there was a requirement for a more service specific enforcement policy.

2.0 Recommendations

- 2.1 Shropshire Council consult on this policy, to allow interested parties to comment on its contents and be made aware of the intention that Street Works will have its own policy.

Shropshire Council adopt this policy as a sub policy to Shropshire Council's Better Regulation and Enforcement Policy, giving more service specific guidance in relation to the compliance and enforcement options open to the Street Works Team.

3.0 Opportunities and risks

- 3.1 This policy has been prepared to ensure a consistent approach is conveyed and carried out across all utilities undertaking work on Shropshire Council's network.

By preparing this policy, Shropshire Council Street Works team demonstrates that it takes its regulatory role seriously and will work with utilities to secure compliance and improved performance.

The policy creates transparency for all stakeholders and further provides Shropshire Council with a basis for a robust defence to any challenges that may be encountered and demonstrates commitment to compliance.

This new policy would formalise the approach to enforcement that the Street Works team currently takes.

By allowing the policy to go out for consultation with external stakeholders it will show how we want to formalise a robust approach to enforcement at Shropshire Council.

4.0 Financial assessment

- 4.1 There are no cost implications of the above recommendations as they do not require any additional council expenditure.

When street works go wrong the financial implications to the local economy can be severe. There are also implications with regard to road structure and future issues if works are not completed to the standard required. This policy will act as a deterrent to utilities to ensure they comply with the permits granted by Shropshire Council.

A Fixed Penalty Notice (FPN) is one of the options open to Street Works and is offered as an alternative to prosecution. The utility may discharge its liability to prosecution by payment of an FPN. Any income generated from the payment of a

FPN is used in accordance with The Street Works (Fixed Penalty) (England) Regulations 2007, section 9 which states that:

"A street authority may deduct from fixed penalties received the reasonable costs of operating the scheme under. Any remaining monies must be used for the purpose of developing or implementing policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within their area."

As such a FPN is not viewed as a source of general income to the Council. This takes away the possibility of the system being used as an income tool for the council, detracting from the purpose of FPN to improve highways network performance.

5.0 Report

5.1 *Introduction*

The Street Works team manages the co-ordination of the highway network across the designated roads within Shropshire Council.

As part of this co-ordination Shropshire Council are able to enforce action against poor performance and non-compliance within the West and Shires Permit Scheme that was introduced in April 2014.

5.2 *Background*

Street Works have recently undergone an internal audit and one of the recommendations to come from it was as follows:

It should be ensured that where appropriate policies which are specific to Shropshire Council are produced and agreed, these should include ... an enforcement policy which would include information such as the course of action to take where a utility company persistently breaks permit conditions and when the Council would seek a prosecution regarding a Fixed Penalty Notice."

Utilities have no lawful right to conduct works on our network without obtaining permission to do so. Where they do carry out works without permission or breach any conditions agreed then we will seek to enforce under permitted legislation. Street Works are governed and enforce specific legislation and elements of this are used to drive performance. Where necessary Street Works will prosecute a utility company if it shows consistent poor performance or a blatant disregard to the safety of their site, operatives or members of the public.

6.0 Additional Information

- 6.1 Background data on FPN's issued. 1613 across all offences and utilities from April to end September 2018.

Shropshire Council had a successful prosecution of BT in 2017 for unsafe works. The prosecution was undertaken in the spirit of the proposed policy and was successful, resulting in a £10,000 fine.

7.0 Conclusion

- 7.1 The Street Works team has expanded since introducing permits in 2014 and as such the team are able to identify more potential offences. The Better Regulation and Enforcement Policy was recently updated however it was not felt that this was specific enough for Street Works, considering the increasing enforcement action taken by the team, therefore it was decided to write a more department specific policy for adoption. This and the identification by audit that we require a service specific policy is why we are proposing adoption of the policy.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Steve Davenport – Portfolio Holder for Transport and Highways

Local Member

All

Appendices

Shropshire Council Street Works Enforcement Policy document