UTILITIES MAY BE HOLDING HIDDEN LIABILITIES

As we enter an era of increasingly stringent regulation and scrutiny of activities, and with the gathering of asset data gaining pace, Utilities are becoming increasingly aware of numerous potentially hazardous situations that exist across their estates.

The Occupiers Liability Act 1984 and greater HSE interest, together with recent legal precedent in the sector, is exposing the fact that Utility companies may be unwittingly creating and holding a host of hidden liabilities. There is a growing awareness of the opportunity for personal injury claims, with the associated potentially brand damaging attention they attract.

Where assets interface with the general public, particularly in areas such as pipe crossings, each anti-trespass measure installed can store potentially expensive and brand-damaging liabilities – all awaiting exposure or claim. With increasingly litigious attitudes, and legal firms supporting individual claims on a no win, no fee basis, these interfaces are attracting greater attention.

The traditional method of protecting assets from trespassers in vulnerable locations has been to use wire defence systems and expensive, heavy duty metal anti-climb deterrents. But are these economical, sustainable and legally viable? Experience would suggest probably not.

Not only are the metal deterrents heavy on pipework and time consuming to install, recent case law would suggest they do not meet the test of reasonableness under the 1984 Act. They could possibly be deemed to be unsafe for the general public and of course trespassers.

Some exposed assets which score highly on a risk assessment matrix are in sensitive areas or attached to nationally protected assets. Unauthorised works carried out to a Listed asset is a criminal offence in perpetuity. So even the equipment fitters are liable for prosecution under Conservation Act provisions. This is aside from the Utility company having a requirement to safeguard the historic character and setting. Dealing with complicated Planning regulations and installing intrusive and heavy metal devices can be overcome through more sensitive means which greatly reduces liability on the Utility.

We are finding that as Utilities are gathering data on these potential hazards, they are turning to lighter weight, effective and quick to install innovative products as a safer alternative. These specially designed, off the shelf, plastic products can be used economically to deter trespassers in a safer way, minimising the potential for embarrassing and costly claims.

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