

# Transport and Environment Committee

10.00am, Tuesday, 27 August 2013

## Strategic Consultation on Works on Scottish Roads

Item number	7.9
Report number	
Wards	All

### Links

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Coalition pledges	<a href="#">P28</a>
Council outcomes	<a href="#">CO19</a> and <a href="#">CO26</a>
Single Outcome Agreement	<a href="#">SO4</a>

### Mark Turley

Director of Services for Communities

Contact: Stuart Harding, Performance Manager

E-mail: [stuart.harding@edinburgh.gov.uk](mailto:stuart.harding@edinburgh.gov.uk) | Tel: 0131 529 3704

# Executive summary

## Strategic Consultation on Works on Scottish Roads

### Summary

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The purpose of this report is to seek approval for a response to a consultation by Transport Scotland on the suggested changes to legislation that relates to Utilities and Roads Authorities road works.

### Recommendations

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It is recommended that the Transport and Environment Committee approves the draft response given in appendix A.

### Measures of success

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Assisting Transport Scotland in updating and improving the primary and secondary legislation, to bring it up to date.

### Financial impact

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There are no financial implications as a result of this report.

### Equalities impact

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There are no equalities impacts arising from this report.

### Sustainability impact

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There are no sustainability impacts arising from this report.

## Consultation and engagement

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The following Roads Authorities were consulted as part of the quarterly meeting of the Roads Authorities Liaison Group (RALG) on 29 May 2013:

- East Lothian Council
- West Lothian Council
- Mid Lothian Council
- Scottish Borders Council

All areas within Roads and Transport, including the Neighbourhood Roads Managers, were consulted for comments between 20 May 2013 and 28 June 2013.

## Background reading/external references

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New Roads and Street Works Act 1991, Chapter 22

Roads (Scotland) Act 1984, Chapter 54

Transport (Scotland) Act 2005

Code of Practice for the Co-ordination of Works in Roads, Version 1.0, April 2013

Specification for the Reinstatement of Openings in Roads, October 2003

Code of Practice for Inspections, 3<sup>rd</sup> Edition Version 1.1, November 2012

Code of Practice for Penalties, Version 1.2, March 2011

Safety at Street Works and Road Works, A Code of Practice, February 2002

Roads Authorities and Utilities Committee (Scotland) Advice Notes

## Strategic Consultation on Works on Scottish Roads

### 1. Background

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- 1.1 The last major consultation into road works was held in 2003, when the focus was mainly on the regulation of utility company works.
- 1.2 There have been significant changes since then including the appointment in 2007 of a Scottish Road Works Commissioner, to monitor works in roads and to promote good practice.
- 1.3 The development of a range of Indicators has also been developed which provides information regarding the performance of both roads authorities and Utility companies, in relation to the management of works in roads.
- 1.4 The aims of the consultation proposals are to:
  - Improve the safety of those who use or work on roads;
  - Minimise the disruption and inconvenience caused by works; and
  - Protect the structure of roads and the integrity of the pipes and cables under them.
- 1.5 The consultation is in the format of 30 questions and requests for views and three questions asking for any other comments.

### 2. Main report

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- 2.1 The draft response to the consultation questions sets out the proposed Council response on the management and co-ordination of road works being carried out on the road network. The paragraphs below briefly outline the main issues raised within the consultation document.

2.2 The main sections (1-6) of the consultation are:

- The road network as an asset;
- Time taken to complete works;
- Compliance and enforcement;
- Review of other current and proposed legislation;
- Co-ordination of works; and
- Issues not covered.

2.3 The Council's response, within section one, is recommending that Utility companies makes a financial contribution to cover any long term damage to the road network.

2.4 Other suggestions within this section include increasing the exclusion period for excavations in a newly resurfaced road to three years, increasing the guarantee period of all reinstatements to five and six years and increasing the number of inspections carried out on utility work.

2.5 The response within section two does not agree to the suggestion of charging and permit systems for prolonged road occupation. This is because there are satisfactory existing sections within the current legislation and any addition to this would involve more administration. It is suggested, however, that the introduction of lane rental schemes would be welcomed by the Council.

2.6 Section three requests views on the extension to the current fixed penalty notice schemes, creating new summary offences and increasing other penalty amounts. The proposed response from the Council agrees with these suggestions. The remainder of this section asks for views of definitions within the legislation.

2.7 Section four relates to amending current and suggesting new legislation. It is currently mandatory for Utility companies to operate to the Code of practice for safety at street works and road works but not roads authorities. It is proposed that the Code should also become mandatory for roads authority works. This would make it clear that roads authorities and Utility companies are required to work to the same standards. It is suggested that the Council agrees that this should be the case.

- 2.8 The other areas where positive response is suggested are for the holding of electronic records of apparatus, using one section of legislation over another one to save confusion in consenting to work on the road, giving a minimum of three months notice for major works, the creation of a title of major road managers within organisations to ensure a point of responsibility for all organisations and making the early starting of works before their due date statutory.
- 2.9 It is suggested that the Council should not agree that there should be a relaxation of any requirements for roads that are not traffic sensitive as this could affect some roads being used for other purposes. The Council agrees to making early starting of works before their due date be made statutory.
- 2.10 Within section four, it is suggested that roads authorities should have to submit details of all their reinstatements in a similar way to utilities. The Council does not agree with this as it involves the maintenance of their asset, the roads and pavements.
- 2.11 The Council does agree to the introduction of both utilities and roads authorities entering actual start notices of their works, and the timescales involved in this process.
- 2.12 It is agreed that roads authorities should be given powers to impose maximum durations for work by a utility. It should also be given statutory powers to impose embargoes.

### **3. Recommendations**

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- 3.1 It is recommended that the Transport and Environment Committee approves the draft response given in Appendix A.

**Mark Turley**

Director of Services for Communities

## Links

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<b>Coalition pledges</b>	P28 Further strengthen links with the business community by developing and implementing strategies to promote and protect the economic well being of the city.
<b>Council outcomes</b>	CO19 Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm. CO26 The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives.
<b>Single Outcome Agreement</b>	SO4 Edinburgh’s communities are safer and have improved physical and social fabric.
<b>Appendices</b>	A – Response sheet B – Consultation document and explanations

## Appendix A

### STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

#### Response Sheet

Views Sought	
01	<p><b>What contribution do you consider should be introduced? What are your reasons for coming to this view?</b></p>
	<p>The City of Edinburgh Council, having taken part in research into the long term damage to the road network by Utility openings, has confirmed that excavation and reinstatement does cause long term damage to roads, even if the reinstatement is carried out properly.</p> <p>Information regarding the size of reinstatements obtained from the SRWR, allows the system to estimate the cost to individual organizations, based on their information entered on to the SRWR. Possibilities exist where Utilities may not register all, or part, of their reinstatements. An example could be where a Utility reinstates a 2m<sup>2</sup> patch and should contribute £152 at 17% or £22 at 2.5%. Not registering these types of reinstatements would save a Utility a substantial sum over the years.</p> <p>Reinstatement details entered on the Register should be a statutory requirement. The penalty for not entering details of a site accurately should, at a minimum, be a Fixed Penalty Notice.</p> <p>At present, the additional costs arising from these failures are borne by Roads Authorities. The introduction of a Utility company contribution towards this cost would represent a transfer of part of the cost to the organisation causing the damage. This could be in the form of a contribution only if the failure was within an agreed timescale. Roads Authorities are expecting longer and better performance, from existing surfaces, and any reinstatement within this should last as long as the rest of the road and pavement.</p> <p>The advantage of transferring part of the cost to the organisation causing the damage, is that it would give them an incentive to change their behaviour, that could reduce the total cost to customers as a whole. There is considerable scope to reduce the amount of excavation necessary for Utility company works including the length of time excavations are left open to suffer from inclement weather.</p> <p>Greater use of ducts and access chambers would allow apparatus to be replaced without excavation. Transferring some of the long term damage costs from the Roads Authorities to the Utility companies, would give a strong economic incentive for more widespread and rapid introduction of such innovations. Regular inspections by Utilities of their apparatus in the roads and pavements would determine the potential for future use.</p> <p>Although on strictly economic grounds, the transfer of the entire cost of long term road damage to the Utility companies would be the best strategy, to ensure that costs were minimised, a more gradual approach may be preferable to reduce the risk of unintended side effects. A contribution of £38 per square metre of carriageway would represent half the estimated cost of the long term damage and could be regarded as a reasonable first step. This is 8.5%. This should be sufficient to start driving behaviour change but should be more manageable for the Utility companies than the transfer of the entire cost in one transaction.</p>



	<p>Further research would be required to establish suitable contribution rates for long term damage caused by excavations in the footway and in the verge. The issues for footways are similar to those for carriageways, but a lower contribution rate would probably be appropriate. A lot of apparatus in rural roads is located in the verge, and although this practice reduces the damage and disruption arising from works, the reduction in lateral support, following an excavation in the verge, can still cause long term damage to the adjacent carriageway. As with footways, a lower contribution rate would probably be appropriate.</p> <p>Costs of reinstatements carried out by Roads Authorities differ depending on their location, access etc. Major cities and especially city centres can be more expensive due to the traffic management and working time restrictions required to facilitate the work. It would be possible to divide Roads Authorities into different categories dependant on road usage. These factors have a differing affect on the deterioration rate of road surfaces.</p> <p>Costs can also vary depending on the repair treatment and can be £70 per square metre for a plane &amp; resurface treatment to £35 per square metre for simple patching work.</p>
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<b>Views Sought</b>	
<b>02</b>	<b>Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?</b>
	<p>Yes. Edinburgh is of the opinion the informal RAUC(S) agreement to the timescale of three years (carriageway) and one year (footway) should be increased to 5 years for both carriageway and footway. If a Utility requires access, outwith the agreed service connections etc, footway reinstatements should be a minimum of 2m length by full width of footway and for the carriageway a 15m length by full panel should be reinstated. This is in line with the design manual. This timescale and minimum reinstatement should be incorporated into primary legislation.</p>

<b>Views Sought</b>	
<b>03</b>	<b>What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?</b>
	<p>Sample inspections have different purposes.</p> <p>For co-ordination purposes:</p> <p>The 10% of inspections during the works (Cat A) is NOT sufficient. Results from the coring of reinstatements have repeatedly shown that Utilitys are unable to adequately manage their contractors. When the number of inspections during actual works is considered, taking into account where sites are not found, not working at the time of inspection, work already completed by the time an Inspector arrives etc the 10% supervision by the owner of the asset is far too low. This should be increased to at least 30%.</p> <p>The inspection 6 months after reinstatement (Cat B) remains useful in identifying immediate defects and is at an acceptable level at 10%. It may even be possible to remove Cat B inspections if and only if (Cat C) inspections were increased to 100%.</p>

	<p>For specification and workmanship compliance:</p> <p>The inspections within 3 months of the guarantee period (Cat C) should be treated as the end of the warranty. Roads Authorities inspect all works undertaken by their own contractor or developers at the end of warranty and this should be applicable to all Utility works and would seek a 100% inspection ratio.</p> <p>There is also a possibility of increasing the %age of inspections should the previous years results show a failure to comply. The sample rate could be increased by an additional 10% should a Utility fail to meet the required pass rate thus leaving those who do comply at the revised set %age.</p>
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<b>04</b>	<p><b>Should the arrangements for inspection fees be changed, and could this include a performance element?</b></p>
	<p>Yes. High Risk defective apparatus failures are required to be repaired within two hours (or made safe within 2 hours with the permanent repair carried-out within 7 days), Low Risk, made safe within 10 days and permanently repaired within one month. The City of Edinburgh Council is of the opinion that the initial inspection should have no charge. This initial inspection is not an inspection of workmanship; the purpose of the inspection is to pass a report of wear and tear on the apparatus.</p> <p>However, after the agreed time period in the Code of Practice has elapsed, further inspections by Roads Authorities are outwith their normal inspection duty, as the apparatus problem has passed to the Utility responsible for its' maintenance. Defective apparatus inspection follow ups, should it not be repaired, should be payable at the sample inspection rate to cover the costs of the staff time involved in this inspection.</p> <p>It is agreed that a performance related fee for failure to repair or failure to comply with a statutory requirement would be welcomed. Further failures year on year to address any drop in performance should increase the fee payable.</p>

<b>Views Sought</b>	
<b>05</b>	<p><b>Do you agree that such increased periods be introduced? What are your reasons for coming to this view?</b></p>
	<p>Yes. The City of Edinburgh Council submitted information to the OSRWC to support increased time periods. The results of the exercise and the information collected confirms, to Edinburgh Council officers, the guarantee periods should be increased to 5 years for "standard reinstatements" and 6 years for "deep reinstatements". The current guarantee periods are inadequate, as the design life of a road is greater, and any reinstatement should last as long as the road it is carried out on. Evidence has proved that a large percentage of reinstatements fail outside the guarantee period and/or affect the surrounding road structure to their detriment.</p> <p>A further inspection near the end of the 5 years, for example at the 57<sup>th</sup> month should be introduced and be called a Cat D inspection?</p>

<b>Views Sought</b>	
<b>06</b>	<b>Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.</b>
	<p>Under Section 133 a charge can be applied where works are not completed in a reasonable period. A reasonable period is defined as being 'agreed by the authority and utility to be reasonable'. The council considers Road Authorities do not have the technical expertise or knowledge to dictate or be involved in the setting of reasonable time periods for Utility works beyond that which already exists for Section 115 of the New Roads and Street Works Act 1991 timing directions. The City of Edinburgh Council supports the introduction of a charge where works are unreasonably prolonged.</p> <p>The definition of unreasonably prolonged should mean a Section 125 of the New Roads and Street Works Act 1991 direction has not been met, works have been extended without any agreement or discussion with the Roads Authority and Advice Note 17 or the Code of Practice for Co-ordination has not been adhered to. When the Utility and Roads Authority are in discussion and a valid reason for the over- run exists, or where a Section 125 direction is given and met, in the interests of co-operation, there should be no charge.</p> <p>For co-ordination purposes, a sliding scale of offence, per road type, would be particularly useful. The scale would be more severe for Traffic Sensitive roads. Utilities that are given a formal direction to reinstate a site on the strategic road network, would pay more than when they failed to meet a direction given for a less strategic or housing estate road. This would target specific situations when disruption is caused by inaction, rather than "one off" plant break downs etc.</p> <p>A problem with the introduction of a charge for occupation of the road where work is unreasonably prolonged is that the administration costs of such a scheme may be considerable.</p>

<b>Views Sought</b>	
<b>07</b>	<b>Scottish Ministers would welcome views on the introduction of permit schemes.</b>
	<p>The City of Edinburgh Council believes there is no benefit to a permit scheme. Existing penalties/provisions, properly used, are adequate.</p> <p>Permit schemes would have the potential to impose considerable additional administrative costs on the road works community as a whole. There is no obvious need for such a scheme in Scotland at present.</p>

<b>Views Sought</b>	
<b>08</b>	<b>Scottish Ministers would welcome views on the introduction of lane rental schemes.</b>
	The City of Edinburgh Council is of the opinion that lane rental schemes would be a good idea especially if targeted on the strategic Road Network. It believes that the correct use of such a scheme would focus Utilities work durations to provide the Roads Authority with more accurate timescales for carrying out work. This would be essential for the proper co-ordination of roadwork in a major city, where traffic congestion is a great concern.

<b>Views Sought</b>	
<b>09</b>	<b>Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?</b>
	<p>Yes. Sections listed here should have Fixed Penalty Notices:</p> <p>Section 110 of the New Roads and Street Works Act 1991 offences would put right the situation where a Roads (Scotland) Act (RSA) offence is committed, for example, when leaving mono-blocks on a pallet on a footway but not for excavating and reinstating those same mono-blocks. This would meet all the requirements for a new fixed penalty offence.</p> <p>Working in contravention of the New Roads and Street Works Act 1991 Section 115 direction should be a dischargeable offence. No RSA offence is committed when working without a valid permit. However, there is for occupying the road with building materials.</p> <p>Section 124 of the New Roads and Street Works Act 1991 should be used for failing to apply for a permit for traffic signals, rather than cases of blown over barriers.</p> <p>Section 130 of the New Roads and Street Works Act 1991 should be on a case by case basis - as is already the case for interim reinstatements over 6 months old. It is both an inspection and an FPN in the Code of Practice for Penalties. It should also be used where a joint inspection is not held and no agreement is in place to forgo one. When the New Roads and Street Works Act was first introduced, it was agreed, by both roads authorities and Utility companies that defect inspections should be charged at double the rate for other inspections. Subsequent reviews reduced this to the same rate as for other inspections. The introduction of a fixed penalty for not reinstating excavations in accordance with the specification, would reinstate the original intention of a disincentive for poor reinstatement performance.</p>

<b>Views Sought</b>	
<b>10</b>	<b>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</b>
	<p>Yes. The City of Edinburgh Council believes that an expansion of the current range of FPNs is essential and the following FPN's be introduced:</p> <ul style="list-style-type: none"> <li>• Provision of reinstatement information. The reinstatement information is not always provided by Utilities and this is essential for co-ordination and location purposes.</li> <li>• Extensions to notices, without any discussion or agreement with the RA</li> <li>• Major Works notices starting without any traffic management arrangements being discussed or agreed with the Roads Authority. Notices remaining at 'All lanes open at all times' with lanes being closed on site or the use of different traffic management to that entered on the notice. The introduction of a new fixed penalty would, therefore, be welcomed.</li> <li>• Closure information is essential for co-ordination purposes. At this time it is required within 24 hours of physically leaving the site. If a notice expires without extension, as no specific offence has occurred, Utilities cannot be given an FPN for the period between when the notice expires and the closure information being submitted. Even although an occupation of the road has no valid notice. Remaining on site after a notice expires, should be a specific FPN.</li> <li>• An additional FPN for Defective Apparatus that fails two 17 day inspections should be introduced. The City of Edinburgh Council has a major problem with Utilities Apparatus that fail and are continually re-inspected without attempts to repair them, especially if designated Low Risk. The introduction of a new fixed penalty would, therefore, be welcomed.</li> <li>• Failure to rectify a defective reinstatement within a reasonable period. This is a particular area where stronger enforcement powers would assist Roads Authorities. It is in the public interest for defects to be rectified promptly. Under the present regime however, Roads Authorities sometimes have difficulty in getting Utility companies to respond within a reasonable time. The introduction of a new fixed penalty would, therefore, be welcomed.</li> </ul>

Views Sought	
<b>11</b>	<b>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</b>
	<p>Yes. Fixed Penalty Notices (FPN's) are a financial deterrent and there is no reason why inflation should not be added to maintain the level of deterrent. The City of Edinburgh Council is of the opinion the amount of an FPN should be linked to inflation. There should be a rounding-up increase to the nearest £5, and there should be no increase of less than £5. If the inflationary increase is less than £5, it should be deferred to the following year, adding both years together.</p> <p>The City of Edinburgh Council is of the opinion that different levels of FPNs should be levied for different types of offence. An FPN issued to the Utility when late recording a notice, should differ to them working without notifying their works.</p>

Views Sought	
<b>12</b>	<b>What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation eg consumer price index?</b>
	<p>Utilities and Roads Authorities would probably regard the damage to their reputation of receiving a penalty from the Scottish Road Works Commissioner as more serious than the financial loss. However, standards of repair by utility companies remain a major concern and it is considered that an increase in the current maximum of £50,000 might be useful as a potential escalation if an organisation were to be seen to ignore an initial penalty. The Commissioner's recommendation of an increase in the maximum penalty to £200,000 is thought to be reasonable.</p>

Views Sought	
<b>13</b>	<b>Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.</b>
	<p>Re 118 of the New Roads and Street Works Act 1991 - No, do not agree, if bullet point 3 remains "such practices as appears to the Scottish Road Works Commissioner to be desirable"</p> <p>Re 119 of the New Roads and Street Works Act 1991 - Yes, agree, or if the 'desirable elements' were clarified, as it could lead to disagreements as to what is desirable. There is always a danger that being too prescriptive could lead to disputes if it were "not on the list" type of arguments.</p>

Views Sought	
<b>14</b>	<b>Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.</b>
	Yes. This should be compulsory. The Code of Practice for Safety at Street Works and Road Works, however, is not detailed enough to cover the full range of activities carried out by Road Authorities. It refers heavily to Chapter 8 which Road Authorities are already obliged to comply with. There should be a constant and uniform approach for anyone working on a road using the same legislation and safety directions.

Views Sought	
<b>15</b>	<b>Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.</b>
	<p>Yes. The City of Edinburgh Council is of the opinion the digital recording of underground apparatus should be compulsory. However, safeguards must be in place. It is unreasonable to expect any organisation to be responsible for providing plans for apparatus that was placed by unknown third parties, or, for apparatus where the owner is no longer in business. An example could be, an unknown private water main may lie until it is accidentally exposed by new ongoing works. It is not reasonable to hold Scottish Water or the Road Authority responsible for providing those plans, when both parties were unaware of the apparatus.</p> <p>In addition, Road Authorities may reasonably be expected to have details of more recent installations such as traffic signals loops however, much of the drainage network is historical. Drainage pipes are virtually impossible to detect without excavating, although, camera surveys could be used. Whatever method is used to confirm the location of the drainage system, logging the information onto GIS would place an undue strain on existing administrative resources, be time consuming and therefore costly. Additional funding would be required by each Roads Authority if required to submit electronic plans of such networks. Whilst it might be desirable to make this mandatory over the longer term, a transition period of around five years would be necessary to give organisations time to digitise their records.</p>

<b>Questions</b>	
<b>16</b>	<b>Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reasons for your view.</b>
	<p>Yes, this section should be repealed. Section 109 supersedes and gives a clear direction. The City of Edinburgh Council currently use primarily Section 109 already and has done so for a number of years successfully and has permit systems in place for that section.</p> <p>It should be investigated if there are any other circumstances where Section 61 needs to be used and therefore not repealed but clarified as to its use.</p>

<b>Views Sought</b>	
<b>17</b>	<b>Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.</b>
	<p>Yes. This would clarify all roads situations within Scotland whether public or private road networks. This would assist in the overall co-ordination of works. This would also allow for one single point of contact for the road network within a Roads Authority boundary.</p> <p>All reports and performance information would be co-ordinated.</p> <p>All SRWR information and co-ordination would be centralised.</p> <p>One point of responsibility would be an advantage to all customers, Utilities and the Scottish Road Works Commissioner.</p>

<b>Views Sought</b>	
<b>18</b>	<b>What are your views on the 3 month advance notice period for major works?</b>
	<p>The three months notice period for Major Works is an absolute minimum. It is crucial for the effective co-ordination of road works in Edinburgh and the ability to meet statutory obligations that the three month notice period remains.</p> <p>Taken in isolation, three months may seem excessive, however, each Utility has more than one major project planned for any given year. Each of those major projects will generally be carried out on more than one road. A Roads Authority has responsibility for co-ordinating Utilities work as well as their own road repairs, plus, major events and other ‘on road’ activities that need to be co-ordinated with all the general road works and repairs.</p> <p>There are several different functions and services per organisation with their own Major Works, and hundreds of minor and reactive works from these organisations. It is clear therefore that three months is the absolute minimum time that is required to meet and</p>



	<p>agree traffic management, and duration for Major Works.</p> <p>No organisation that co-operates with the Road Authority is disadvantaged by a three month notice period. Major capital spends that involve work within the road network, should not be approved without detailed pre-planning. Notification is an obvious element of any pre-planning.</p> <p>Allowing each Major Project to start in any less than three months from the initial notification of it, would require Road Authorities to only concentrate on issuing directions, to the detriment of any other duties they carry out. The City of Edinburgh Council has cases where the suggested traffic management is to use traffic lights. In practice a road closure is required. This leads to a situation where the notice period is shorter than the timescale required for promoting the road closure. The Utility will therefore either incur a delay, or proceed without a road closure, which could lead to Roads Authorities stopping on-going work</p> <p>The current definition of “major works” is rather wide and can include some works that are rather minor in nature. A revision to narrow the current criteria might be beneficial.</p>
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<b>19</b>	<p><b>Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?</b></p>
	<p>No. Roads may only be designated as “traffic sensitive” if they carry particularly high traffic flows. Works on such roads have the potential to cause substantial disruption and so it is appropriate that advance notice should be required. However, substantial disruption can also be caused on roads that do not qualify as “traffic sensitive” if they involve a closure with a lengthy diversion route. It is therefore appropriate to retain the advance notice requirement to cover such cases.</p> <p>The City of Edinburgh Council does not agree with the relaxation of notices for non-traffic sensitive routes as these works are often critical in the coordination role undertaken by Roads Authorities. This is particularly valid in avoidance of works being undertaken by one organisation on the diversion route for other works</p>

<b>Views Sought</b>	
<b>20</b>	<p><b>Should the early start procedure be a statutory requirement?</b></p>
	<p>Yes. The City of Edinburgh Council is of the opinion this is essential for co-ordination purposes. The early start process is current voluntary and has been working well so it would be appropriate to place it on a statutory footing.</p>

<b>Views Sought</b>	
<b>21</b>	<b>What are your views on making noon the following day a statutory requirement for commencing urgent works?</b>
	<p>The City of Edinburgh Council is of the opinion if works have not started by noon the following day, the work cannot be considered urgent.</p> <p>This could apply to Non Traffic Sensitive only but NOT on traffic Sensitive roads as this requires a 2 hour notice of starting.</p>

<b>Views Sought</b>	
<b>22</b>	<b>Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?</b>
	<p>No, not for all work. Where information relates to co-ordination, for example timing and location of works, then roads authorities and Utility companies should be required to place the same information on the register and to the same timescale. Where information relates to excavations and reinstatements, for example areas locations and dates of reinstatements then it should only be required from the Utility companies. It is the Council's asset that Utilities are working on and if the Council choose to repair it, they should not need to provide reinstatement sizes etc. It is the responsibility of others to inform Roads Authorities of what they are doing to the roads and pavements.</p> <p>The City of Edinburgh Council is of the opinion that 'works starts', 'urgent', and 'emergency works' should have the same notification periods as at present. However, Edinburgh is of the opinion there is no gain to requiring Roads Authorities to register reinstatements.</p> <p>Defective reinstatements belonging to the Roads Authorities are the sole responsibility of the Roads Authority. If all works by third parties are correctly registered, the remaining works can only belong to Roads Authorities, making the need for the Council's own reinstatement details redundant.</p>

<b>Views Sought</b>	
<b>23</b>	<b>Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?</b>
	<p>Yes. For co-ordination purposes works should be notified by all works promoters. Disruption is caused by the works, regardless of the promoter. The City of Edinburgh Council is of the opinion all promoters should notify all works on all occasions.</p> <p>It should be noted however that works involving no excavation can cause disruption if it</p>

	<p>requires traffic management. The existing legislation and guidance requires updating to include for any disruption to the roads and pavements.</p> <p>Another example would be in a city centre where footway trips occur frequently. These may not need to be reported as they require a quick response, involving no or minimal excavation and traffic management. These operations involve minimal disruption to the public.</p>
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<b>Views Sought</b>	
<b>24</b>	<b>Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?</b>
	Yes. Actual start dates on the SRWR provide a number of benefits including a full audit trail of the dates of road occupations, and it is agreed that regulations should be introduced requiring them to be entered.

<b>25</b>	<b>Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic sensitive routes, acceptable? Please can you explain your answer.</b>
	Yes. For co-ordination purposes this information should not be issued any later and, in practice, may be impossible to achieve any earlier. The current timescales are practicable and realistic.

<b>Views Sought</b>	
<b>26</b>	<b>Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic sensitive roads and what are the advantages or disadvantages?</b>
	<p>Yes. For co-ordination purposes this information should not be issued any later and, in practice, may be impossible to achieve any earlier. The current timescales are practicable and realistic.</p> <p>However, there may be a benefit in requiring a greater accuracy of the information that is provided. This is especially important for the most disruptive works being carried out or for work on a strategic road. Registering a “works closed”, i.e. the road is now open, on the day of completion of such works, might be more appropriate. This would allow for better co-ordination of the road network and allow Roads Authorities to notify customers of changes and an end to delays.</p>

<b>Views Sought</b>	
<b>27</b>	<b>Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.</b>
	<p>No. Validity should be kept at the timescales currently in place at this time. The works promoter should be targeting works to start on the first available date. The built-in flexibility that can cause Roads Authorities co-ordination issues should be redundant if “actual start” notices are compulsory.</p> <p>Contractors are often moving from one job to the next and therefore a delay in the first scheme can result in a delay to the next. Add to this the weather conditions, particularly snow in the winter, results quickly in notices becoming problematic. Current flexibility is adequate.</p>

<b>Views Sought</b>	
<b>28</b>	<b>Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?</b>
	<p>Yes. It is agreed that there might be merit in giving roads authorities the power to issue a direction to a Utility company on the maximum duration of works. However, very few directions have been issued under current powers relating to the timing of works, so it is likely that such matters will continue to be resolved by agreement in most cases.</p> <p>Thought should be given to Section 115 Penalties. These should reflect a works promoter ignoring a direction from the Roads Authority. Durations dictated by Roads Authorities would only be suitable for a specific reason, like works created in conflict with other works, over-run, conflicting with an event like a parade, over-run conflicting with Road (Scotland) Act road occupation.</p> <p>Roads Authorities cannot determine the actual time required for Utility works, due to health and safety issues however, co-ordination of the road network requires a Roads Authority to have such powers, which would help the principle of coordination and accountability.</p>

<b>Views Sought</b>	
<b>29</b>	<b>Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?</b>
	<p>Yes. Major sporting events, Major venue concerts, Festival / Fringe, Hogmanay, visits by VIPs, long planned charity events, marches &amp; protests etc have the potential to be seriously disrupted by Utility works. Such events also use the road asset and are an important for the communities that Councils serve. Especially in the Capital City and being the seat of the Scottish Parliament.</p> <p>The City of Edinburgh Council believe that the current Voluntary Agreements should be regularised and Roads Authorities given statutory powers to impose embargoes on Utility works.</p>

<b>Views Sought</b>	
<b>30</b>	<b>Do you agree with the definition of a working day given above?</b>
	<p>Yes, it is agreed that the current definition is perfectly adequate.</p> <p>It should be remembered that all work being carried out is on the Council's asset and so the co-ordination of all work, for which the Council has a responsibility, is during normal Council working hours. Roads Authorities need to view all notices so it makes sense to keep the current definition.</p>

<b>Views Sought</b>	
<b>31</b>	<b>Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.</b>
	<p>1. New innovations are always being introduced and are to be welcomed. The City of Edinburgh Council believe that trialling any new method is essential, to determine performance, durability and the long term effect the new methods have on the roads and pavements.</p> <p>It is suggested that prior to any new method or innovation being adopted for use by an organisation, a specification should be written and issued for agreement, to RAUC(s), by the Organisation introducing a new method of working. This means that, when organisations try to get agreements from individual Roads Authorities the specification should be capable of use by others.</p> <p>The primary role of a Roads Authority is to co-ordinate work and to protect their asset. Without proper trials and an agreed and tested specification, Roads Authorities cannot be expected to agree to new methods and innovations. Consistency must be maintained by getting any new specification agreed by RAUC(s). If this does not happen, the only</p>

specification that can be followed is the one that currently exists. In these cases, if the new method of working and manner in which the roads are reinstated, does not comply with the existing specification, it will be deemed to have failed.

2. Reinstatement details should be a statutory requirement. The penalty for not entering details of a site accurately should, at a minimum, be a Fixed Penalty Notice.

3. When works are not registered at the time of completion, it should be the Utilities' duty to prove the date of the reinstatement. A photograph, taken at the time of the reinstatement, could be deemed sufficient. It would have to be date stamped and show a near-by landmark. If evidence of the date is not available, the reinstatement date, for guarantee purposes, should be the date that it is entered into the SRWR.

4. Stepped joints for ALL reinstatements should be mandatory. This would help seal the underlying areas to ingress water ingress which has a detrimental affect of the road.

5. Where Utility excavations are carried out within a newly surfaced road or pavement or within the 5 year exclusion period, the final surface shall be returned to as new a condition as possible. This would be achieved by the Roads Authority insisting that a full panel width reinstatement be carried out. This would preserve the road structure and provide a better ride quality for road users. The length of this reinstatement would be to a similar length as detailed in the Design Manual for Roads & Bridges. The same would apply to work on a pavement.

6. Improvements to pedestrian/cyclist facilities/routes during the works should be improved e.g. clear routes, suitable widths, provision for disabled users and clear routes for cyclists.

7. Erection of signs informing public of why there is any delay. Requirement for constant updates to the site notice board the reason why any site is not currently being worked on and estimated start and end dates.

8. Section 56 of the Roads (Scotland) Act 1984 should also be added into Transport (Scotland) Act 2005. It is currently missing from the Transport (Scotland) Act 2005 and can be issued for significant road works which do not involve installation of apparatus e.g. new road junction or construction of roundabout.

9. A Code of Practice, similar to the Code of Practice for Well Maintained Highways, for Utilities to inspect their own reinstatements, should be developed. This would apply and be applicable up to the end of the guarantee period. It would ensure Utilities inspect their apparatus on a regular basis. At present there appears to be no inspection regime by Utilities. They seem to have a reliance on Roads Authorities to report Utility defects to the particular Utility. A formalised Code of Practice, with inspection timescales and specific responsibilities, would ensure reinstatements and apparatus were inspected regularly and maintained as required, therefore reducing defects and the necessity for urgent & emergency works. The City of Edinburgh Council regularly receives returned accident claims from Utilities stating it is the Roads Authorities responsibility to inspect the road and therefore they are responsible for any claim from customers, even if the claim relates to Defective Apparatus.

<b>Views Sought</b>	
<b>32</b>	<b>Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.</b>
	No Comment

<b>Views Sought</b>	
<b>33</b>	<b>Please outline the potential impact of any additional costs.</b>
	No Comment



# **STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS**

April 2013





# INTRODUCTION

## Purpose of Consultation

The last major consultation into road works was held in 2003 when the focus was mainly on the regulation of utility company works. There have been significant changes since then including:

- The appointment in 2007 of a Scottish Road Works Commissioner (the Commissioner) to monitor works in roads and to promote good practice;
- Further development of the Scottish Road Works Register (SRWR) internet database to become one of the best works co-ordination systems in the world; and
- The development of a range of Indicators which provide information regarding the performance of both roads authorities and utility companies in relation to the management of works in roads.

The Commissioner has been monitoring activity for the last 4 years and has been working with the Scottish Road Works Policy Development Group to identify areas where further improvement could be made to the planning, co-ordination and quality of works in roads in Scotland. This consultation not only identifies issues but also presents proposals which could support the further improvement sought.

In addition the consultation sets out specific issues which the Minister for Transport and Veterans tasked the Commissioner to consider as part of the Scottish Roads Maintenance Review, details of which can be found at <http://www.transportscotland.gov.uk/strategy-and-research/publications-and-consultations/j234327-00.htm>.

The aims of the consultation proposals are to:

- Improve the safety of those who use or work on roads;
- Minimise the disruption and inconvenience caused by works; and
- Protect the structure of roads and the integrity of the pipes and cables under them.

## Context

Road works are a necessary fact of life if we wish to have a safe and well maintained road network and to continue to enjoy essential utility services such as gas, water, drainage, electricity and telecommunications.

The vast majority of road works are either:

- **utility company works to place, repair, renew or improve utility service pipes and cables; or**
- **roads authority works to repair, renew or improve roads.**

The legislation under which works in roads are undertaken in Scotland is the New Roads and Street Works Act 1991 (NRSWA). This was revised and updated by the Transport (Scotland) Act 2005 and then supported by a series of regulations. Under NRSWA, roads authorities are deemed to be “road works authorities” and as such have an obligation to co-ordinate their own works and the works of utility companies on the roads for which they are responsible.

Utility companies have statutory rights which allow them to place, repair, renew or improve their pipes or cables in roads, subject to meeting certain duties. Under the NRSWA such utility companies are known as “undertakers”. The roads authorities and utility companies currently operating in Scotland are listed at Annex B.

At 55,515 km, the Scottish road network is a significant asset. Within it there are over 300,000km of electricity cables, gas pipes, water pipes, sewers and drains. In addition there is estimated to be well over 100,000 km of telecommunications cables.

With such a significant asset, it is inevitable that works in roads will be required to ensure that the structure of our roads and pipes and cables under them are well maintained and that they remain available now and for future generations. In the last full year there were more than 110,000 works identified on the Scottish Road Works Register (SRWR) of which 95,000 were excavations or surfacing. This does not include short duration localised works such as filling in potholes. If there are any issues not covered by the consultation where you consider that improvements could be made, we would be pleased to hear from you. We would also wish to know of any situations where current procedures or legislation might be stifling innovation.

# 1. THE ROAD NETWORK AS AN ASSET

## Introduction

1.1 Scotland's roads are vital for economic prosperity and for the quality of life of its people. The value of the Scottish road network is estimated at more than £38 billion<sup>1</sup> and it is vital that it is maintained in an appropriate condition. In this section we set out and explore a number of issues and bring forward proposals whose aim would be to protect the road network as an asset going forward.

### CONTRIBUTIONS TO COSTS OF MAKING GOOD LONG TERM DAMAGE

1.2 When the Minister for Transport and Veterans announced the Scottish Roads Maintenance Review in March 2011, he asked the Commissioner to consider the possible long term damage to roads which utility company works might cause and the use of existing legislation to ensure that utility companies contribute to the costs of making good such long term damage.

1.3 Long term damage in this context is the reduction in the service life of a road due to utility company reinstatements, even when such reinstatements fully comply with the specification<sup>2</sup>. The analogy often used is cutting a slice from a cake; no matter how carefully you put the slice back, the cake is never the same.

1.4 In May 2011, consulting engineers URS-Scott Wilson were commissioned to undertake a literature review to consider the topic of long term damage to roads due to reinstatement trenches. The main objective of the review was to determine if reinstatement trenches reduce the service life of roads and if so by how much. The report was completed in October 2011 and a copy can be found on the Commissioner's website [www.roadworksscotland.gov.uk](http://www.roadworksscotland.gov.uk).

1.5 Section 137 of the NRSWA includes provision for regulations to be made requiring a utility company executing road works to contribute to the costs incurred or likely to be incurred, by a roads authority in works of reconstruction or re-surfacing of the road.

The regulations may provide -

- (a) for a contribution to the cost of particular remedial works; or
- (b) for a general contribution calculated in such manner as may be prescribed.

1.6 As the URS-Scott Wilson report considers that there is potential for compliant reinstatements to reduce the service life of a road, it is proposed that section 137 of the NRSWA be enacted to require contributions from utility companies to the

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<sup>1</sup> Maintaining Scotland's Roads – A Follow Up Report – February 2011.

<sup>2</sup> Specification for the Reinstatement of Openings in Roads.

costs of making good long term damage to roads.

1.7 It is suggested that such a general contribution scheme might operate as follows:

- Utility companies would pay a contribution on all road openings based on the area of the opening.
- The contribution rates would need to be agreed and could be based on the class of road.
- SRWR would be configured to identify the monies due from each utility company to each roads authority.
- These monies would be accounted for separately by the roads authority and could only be used for road resurfacing works and within specific criteria.
- Criteria would be developed regarding the types of road on which the monies collected could be used for resurfacing and the proportion of the monies which could be used on any one scheme.
- Roads authorities would have to report publicly how and where the monies collected were used.

1.8 In developing a contribution scheme there will need to be transparency as to the level of contribution which utility companies will be expected to make. The most recent TRL report suggests a 17% reduction in the service life of roads affected by utility company trenches. This means that roads subject to utility company trenches will require to be resurfaced earlier than if there had been no such excavations, resulting in additional work and costs year on year.

1.9 In 2009/10, SCOTS estimated that councils would spend £122.5 million on maintaining the carriageways of local roads<sup>3</sup>. Using say £120 million pounds per annum for illustrative purposes and starting at an upper limit of 17% based on the foregoing figure for service life reduction, the following percentage contribution towards road resurfacing costs would be as follows:

<b>Contribution</b>	<b>Annual Contribution Amount</b>
17%	£20.4 million / annum
10%	£12 million / annum
5%	£6 million / annum
2.5%	£3 million / annum

1.10 From the information submitted in notices placed on to the SRWR, the area of carriageway reinstated each year by utility companies is estimated to be in the region of 270,000 square metres. To provide some context, this area would be equivalent to almost 40 kilometres of 7 metre wide road surface. To recover the

<sup>3</sup> Maintaining Scotland's Roads – A Follow Up Report – February 2011

contribution values set out in paragraph 1.9 above, the contribution per square metre of carriageway excavated would require to be:

<b>Contribution</b>	<b>Square metre cost</b>
17%	£76 / square metre
10%	£45 / square metre
5%	£22 / square metre
2.5%	£11 / square metre

based on 270,000 square metres per annum of reinstatement.

1.11 The URS – Scott Wilson report suggested that further research be undertaken to determine the reduction in service life in a Scottish context. TRL has been appointed to undertake this additional research work. It is considered however, that enough evidence already exists to conclude that utility company excavations do reduce the service life of roads and that a scheme can be developed and introduced. It is proposed that this be done initially with a relatively modest contribution rate set somewhere between 5 and 10%. This would also take into account the exclusion of those parts of the road network which do not have any significant utility company activity. The contribution per square metre would then be reviewed in future years as the results of specific Scottish research became available.

1.12 This analysis has only considered the impact on carriageways. Such a scheme could be widened to encompass footways where around 180,000 square metres of reinstatement is undertaken each year. In such a situation a lower contribution rate would be used.

### **Views Sought**

<b>01</b>	<b>What contribution do you consider should be introduced? What are your reasons for coming to this view?</b>
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### **Road Restrictions**

1.13 The current legislation allows for a one year period after a road has been resurfaced before it can be excavated again by a utility company. The Scottish road works community has recognised that this period is too short and has voluntarily adopted a 3 year period. It is proposed that the 3 year period be adopted into legislation.

## Views Sought

**02** Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?

### Road Works Inspections

1.14 The number of inspections which a roads authority may carry out on utility company road works for which it can charge a fee to recover its costs is set out in regulations. Such chargeable inspections may be undertaken:

- during the works;
- within 6 months of reinstatement; and
- within 3 months of the end of the guarantee period.

1.15 The number of inspections where a fee can be charged is based on the length of time the works take to complete. The way in which the regulations are framed means that just over 10% of any of the above three phases will be inspected. In effect this means that almost 70% of all utility company works will not be inspected by a roads authority, either during or after the works.

1.16 Of the inspections carried out within 6 months of reinstatement, the national failure rate is 8.9%. However there is a wide variation depending upon the roads authority area, ranging from 1% to 40% failure rates. There is also a wide variation across the major utility companies ranging from 3.1% to 35.7% failure rates nationally.

1.17 For inspections carried out within 3 months of the end of the guarantee period the national failure rate is 6.6%. Again there are significant variations depending on the roads authority ranging from 0% to 34% failure rates. There is also a wide variation across the major utility companies ranging from 1.9% to 29.2% failure rates nationally.

1.18 It has been proposed by some roads authorities that the percentage of inspections where the roads authority can recover its costs should be increased to provide a better coverage of inspections with a view to improving compliance with codes and specifications.

1.19 An alternative is that within any roads authority area, where the results from inspections show a poor performance from a specific utility company, the percentage of chargeable inspections be increased for that company alone until such time as the performance improves to within an acceptable level.

<b>Views Sought</b>	
<b>03</b>	<b>What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?</b>
<b>04</b>	<b>Should the arrangements for inspection fees be changed, and could this include a performance element?</b>

**Guarantee Periods**

1.20 The current guarantee periods after utility company works are completed is currently 2 years and 3 years for deeper excavations. Given that road reinstatements are expected to have a service life of 20 years or more, it is proposed that the guarantee periods could be increased from 2 years and 3 years up to 5 years and 6 years for deeper excavations. Evidence on this issue has been sought as part of the consultation for the Code of Practice – Specification for the Reinstatement of Openings in Roads.

<b>Views Sought</b>	
<b>05</b>	<b>Do you agree that such increased periods be introduced? What are your reasons for coming to this view?</b>

## 2. TIME TAKEN TO COMPLETE WORKS

### Introduction

2.1 One aspect of road works over which the public are especially critical is when the works appear to take too long to complete. The NRSWA allows utility companies free access to roads to place and thereafter repair and maintain their pipes and cables. This section considers financial mechanisms which could be adopted with a view to encouraging utility companies not to take any longer than is absolutely necessary to carry out their works.

2.2 Under section 125 of the NRSWA, there is a requirement that utility companies “...**executing road works ... shall carry on and complete the works with all such dispatch as is reasonably practicable.**” A utility company which fails to do so commits an offence and is liable, on summary conviction, to a fine of up to £5,000. The Commissioner is not aware of any Scottish roads authorities pursuing a prosecution for such an offence for many years.

2.3 Where a utility company takes longer than is deemed necessary to complete road works, the roads authority can issue them with a formal notice under section 125 requiring that the works are completed within a specified timescale. Over the last 12 month period there have only been 111 such notices issued in Scotland. Given that there were over 67,000 utility company excavations in this period, it might be inferred that this is a limited problem. Discussions with roads authorities suggests that in a bid to retain good relationships with the utility companies involved, they will explore all other avenues and will only use this provision as a last resort.

2.4 Although roads authorities are reluctant to issue section 125 notices, the Commissioner considers that works are often not undertaken with all such dispatch as is reasonably practicable and that this is an issue which needs to be addressed.

**The following are a range of possible initiatives for consideration which aim to ensure that works are completed within reasonable periods:**

#### **Charge for Occupation Where Work is Unreasonably Prolonged**

2.5 Section 133 of the NRSWA includes provisions for regulations to be made requiring a utility company executing road works to pay a charge to the roads authority where:

- (a) the duration of the works exceeds such period as may be prescribed;  
and
- (b) the works are not completed within a reasonable period.



2.6. The equivalent section of the NRSWA covering England has been enacted by regulations. The charges depend on the type of road, whether it is traffic sensitive and the nature of the works. The current rates range from £250 per day up to £5,000 per day for the first 3 days rising to £10,000 for each subsequent day. In the English model, any surpluses from such schemes are used to develop or implement policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within their area.

2.7 As well as the section 125 notices discussed previously, the numbers of over-running utility company works are also recorded. Over the last 12 months this happened on 1,198 occasions and represents around 2.0% of all works undertaken. It is possible that in many of these cases the roads authority would have been content for the works period to be extended. If it is assumed that half of these instances (600 No) might have attracted a charge at say an average of £500 per instance, the total charged would have been £300,000. However, it is important to keep in mind the costs of administering such a scheme.

2.8 In developing such a scheme care would have to be taken to ensure that no unintended consequences ensued. The Commissioner has repeatedly stressed the message that the estimated work durations recorded in the SRWR should be as accurate as possible. What we don't wish to create is a culture where works periods are over-estimated with a view to avoiding possible charges. This would just lead to tensions between roads authorities and utility companies and the creation of "dead time" within the SRWR when other works could not be planned because of overly conservative proposed durations.

2.9 The Commissioner considers that if it is possible to develop a process which has a light touch administratively, it could lead to a reduction in the time taken to complete works.

### Views Sought

06	<b>Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.</b>
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### Permit Schemes

2.10 Local authorities in England are being urged by the Department for Transport (DfT) to consider the use of permit schemes as they are of the view that such schemes can reduce the disruption caused by road works and give roads authorities more power to co-ordinate road works. A permit scheme gives the roads authority more control over utility companies by being able to impose conditions relating to the duration of the works and the days and times when works can be undertaken. Conditions can also relate to the areas which can be

occupied, the details of the traffic management, the manner in which the works are carried out, the consultation and publicity required and notification on progress. Anyone who breaks the terms of their permit, or works without a permit, can be prosecuted and face a fine of up to £5,000.

2.11 Permits were considered during the progress of the Bill introducing the Transport (Scotland) Act 2005, but were not introduced.

2.12 Following the English model, roads authorities would be able to charge a fee for the issue of a permit and could issue fixed penalty notices for working without a permit or for breaking the conditions of a permit in lieu of a potential fine. It would be for each roads authority to decide whether or not to adopt such a scheme. However, as with overstay charges, there would be costs involved in administering such a scheme. The fees charged would be set to cover the additional costs of running such a scheme.

2.13 Roads authorities in Scotland already have powers under section 115 of the 1991 Act to place restrictions as to the timing of utility works and under section 125 to direct utility companies to complete works which take longer than necessary.

2.14 The Commissioner has not received any requests from either roads authorities or utility companies for the introduction of such schemes.

2.15 Such schemes have now been put into place by a number of councils in England and although some claim that they have provided benefits, the evidence currently available is limited. At this time the Commissioner does not recommend the introduction of permit schemes.

### Views Sought

07	Scottish Ministers would welcome views on the introduction of permit schemes.
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### Lane Rental Schemes

2.16 Following a consultation exercise in 2011, DfT announced in January 2012 its intention to allow trials of lane rental schemes in up to three locations. A London trial commenced in June 2012.

2.17 A lane rental scheme would require utility companies to pay a daily charge for the duration of their works, with exemptions where works are carried out at less disruptive times. Such schemes would be:

- **targeted** - i.e. focused only on those critical parts of the road network where road works cause the greatest disruption; and
- **avoidable** - i.e. designed in a way that enables utility companies to reduce or avoid their exposure to charges by carrying out their works at night or off-peak (rather than merely operating as an unavoidable tax on them).

2.18 Charges would only apply to roads on the most critical part of the roads authority network. These roads would require to be currently designated as „traffic sensitive’ with charges only being applied if the works occupied the road during the busiest times. The maximum daily charge being used in London is £2,500.

2.19 In the London scheme, any additional revenue raised, once operating costs have been recovered, will be put towards further measures to reduce roadwork delays. These include improved 'plating' technology, which would allow excavations to be temporarily covered so roads could return to use more quickly.

2.20 Such schemes would only be likely to provide benefits on the most heavily trafficked parts of major Scottish cities.

#### Views Sought

<b>08</b>	<b>Scottish Ministers would welcome views on the introduction of lane rental schemes.</b>
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## 3. COMPLIANCE AND ENFORCEMENT

### Introduction

3.1 The NRSWA places duties on both roads authorities and utility companies on a wide range of issues relating to how works in roads are managed and undertaken. Failure by utility companies to comply with some of these duties is an offence and roads authorities can seek prosecution which can lead to fines. In some cases roads authorities can issue fixed penalties which discharge the liabilities for the offences. Furthermore, the Commissioner can also impose penalties on roads authorities and utility companies which fail to comply with their duties under sections 118 and 119 of the NRSWA.

3.2 Given that Commissioner penalties and roads authority fixed penalties have been in place since 2007 and 2008 respectively, this is an appropriate time to review how they have been operated and to consider whether or not extending the scope of the provisions or revising them might act a driver to further improve performance.

### Offences under NRSWA

3.3 There are a number of situations within the NRSWA where a utility company which fails to meet its obligations commits an offence and on summary conviction can be fined up to £5,000. The main areas where offences can be committed relate to:

- the safety of the works;
- the timing of placing notices on the SRWR;
- works taking longer than necessary to complete; and
- reinstatements not meeting the specification.

3.4 Should a roads authority decide to seek a prosecution, it requires to collect evidence to present to a Procurator Fiscal who would then have to agree to proceed with a prosecution. This can be a time consuming and costly process for a roads authority which, if the case is successful, may recover its costs. Although offences are being committed, the first Commissioner was not aware of any prosecutions having been sought or undertaken in Scotland since he took up post in July 2007.

3.5 Discussions with roads authorities suggest that in a bid to retain good relationships with the utility companies, they explore all other avenues and are reluctant to pursue court action. Going to court is perceived as being a disproportionate response and very much as being a sledgehammer to crack a nut. Now that the Commissioner is in place there is also a perception that the role of enforcement is his responsibility alone.

3.6 Some roads authorities have suggested that some of these offences could perhaps become fixed penalty notice offences, with the Commissioner settling

any disputes between the parties and with a final appeal to a Sheriff. There would have to be clear guidelines produced as to what would be deemed to constitute an offence. The clear advantage would be that these specific local issues would be dealt with at a local level, that the process would be straightforward, they would not take up valuable court time, would not incur legal expenses and that the issues could be dealt with quickly.

3.7 The use of fixed penalty notices for offences relating to the timing of the placing of information on to the SRWR and reinstatements not being made permanent within 6 months have been in place since 1 April 2008 and the process for their use is now well understood within the road works community. The extension of fixed penalties to discharge other offences directly related to work being undertaken on the road should therefore be relatively simple to introduce.

3.8 The levels of the current maximum fines for each offence are given at Schedule 3 of the Transport (Scotland) Act 2005. The current values of fine levels are level 4 - £2,500 and level 5 - £5,000.

3.9 The following have been suggested as areas where roads authorities should be able to issue fixed penalty notices for current summary offences under the NRSWA:

- Section 110 –prohibition of unauthorised road works ;
- Section 124 - signing, lighting and guarding failure;
- Section 130 - not reinstating excavations in accordance with the specification.

### Views Sought

09	<b>Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?</b>
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### New Offences Dischargeable by Fixed Penalties

3.10 With a view to improving road works management some roads authorities have suggested that the legislation should be strengthened by the introduction of the following as new offences under NRSWA. These could be discharged by the giving of a fixed penalty:

- misclassification of works as urgent or emergency to circumvent longer planned work notice periods;
- not noticing “actual start” notices by the due time (should actual start notices become a legal requirement);

- failure to rectify a defective reinstatement within a reasonable period; and,
- failure to rectify defective utility company apparatus within a reasonable timescale.

### Views Sought

<b>10</b>	<b>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</b>
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### Fixed Penalty Amounts

3.11 The current fixed penalty amount of £120 with a discounted amount of £80 for early payment came into force on 1 October 2008. These are the amounts for offences under both the NRSWA and the Roads (Scotland) Act 1984. In some roads authority areas the cost of the fixed penalty can be less than the cost of obtaining the appropriate permit or consent e.g. the placing of a skip or scaffolding on a road. In some council areas a culture of non-compliance has developed.

3.12 Given that the current amounts of fixed penalty have been in place for almost 4 years, it is appropriate that the levels be reviewed to determine if they continue to drive the correct behaviour.

3.13 The Commissioner considers that fixed penalty notices continue to be an appropriate mechanism to encourage the noticing of works to carried out to a higher standard and that they have contributed to the improved standard we now see. The Commissioner considers that the original values were set at an appropriate level, but that to maintain their effectiveness they should be increased in line with inflation over the period.

3.14 Annex D provides details of the numbers of fixed penalty notices issued to utility companies over the last 3 years for offences under the NRSWA together with an indication of the likely revenues collected by roads authorities. Also shown are details of the numbers of noticing offences which have been recorded on the SRWR over the same period.

### Views Sought

<b>11</b>	<b>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</b>
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## Commissioner Penalty Limit

3.15 The current level of penalty which the Commissioner can impose on roads authorities and utility companies who fail to comply with their duties is £50,000. This was established on 1 October 2007. Whilst this is a significant sum of money, for organisations with large turnovers this may not be enough to encourage them to continue to improve their performance in complying with their statutory duties and the value should be increased.

3.16 The Commissioner issued his first penalties in January 2012. The highest penalty was for £38,500. Given the size and turnover of some of the utility companies operating in Scotland and the value of penalties which can be levied by other regulators in the utility sector, the Commissioner recommends that the maximum level of penalty be increased to £200,000. Annex F provides details as to the penalties which can be imposed by other regulatory monitoring bodies.

## Views Sought

12	<b>What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. consumer price index?</b>
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## Definitions of Co-operate and Co-ordinate

3.17 The Commissioner can only impose penalties on roads authorities which fail to carry out their duty to **co-ordinate** works in the road, under section 118 of the NRSWA and utility companies which fail to fulfil their duty to **co-operate** in this process, under section 119 of the NRSWA. This could lead to an interpretation that focuses very narrowly on the definitions of the words co-ordinate and co-operate. The first Commissioner was of the view that the policy intent underpinning the creation of his role under the Transport (Scotland) Act 2005 was to have the power to penalise utility companies and roads authorities which were failing to suitably undertake any of their duties under the NRSWA.

3.18 The Commissioner therefore recommends that for clarity, the legislation should be revised to state that:

### ***“Failure to comply with***

- ***any duty under the NRSWA and supporting regulations; or***
- ***any requirement in a statutory code of practice; or***
- ***such practice as appears to the Scottish Road Works Commissioner to be desirable***

***shall be deemed to be a failure to comply with sections 118 and 119 of the NRSWA. “***

3.19 This would provide the Commissioner and the roads authorities and utility companies with much greater certainty and clarity as to the extent of Commissioner powers and the scope for issuing penalties in appropriate circumstances across a wide range of issues.

**Views Sought**

<b>13</b>	<b>Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.</b>
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## 4. REVIEW OF OTHER CURRENT AND PROPOSED LEGISLATION

### Introduction

4.1 With the appointment of a Commissioner in 2007 and the creation of the Policy Development Group with representatives from both roads authorities and utility companies, there has been much closer attention paid in recent years to the legislation under which road works are undertaken. The following are issues over and above those already discussed which have been identified by the Group and which it and the Commissioner consider could be improved by revisions to legislation:

#### Safety at Road Works

4.2 A revised version of the „Code of Practice Safety at Street Works and Road Works’, which details how the signing lighting and guarding of works on roads should be undertaken, was consulted on by DfT in 2010. It is currently mandatory for utility companies to operate to the Code but not roads authorities. It is proposed that the Code should also become mandatory for roads authority works. This would make it clear that roads authorities and utility companies are required to work to the same standards.

#### Views Sought

14	<b>Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.</b>
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#### Apparatus Records

4.3 The legislation relating to making available records of utility company underground apparatus was developed over 20 years ago in a pre digital age when paper records were kept in local offices. The only requirement is that utility companies “... *shall make his records available for inspection at all reasonable hours and free of charge by any person having authority to execute works ....*”. RAUC(S) Advice Note 1 has been in place since 1995 and provides practical advice on the exchange of apparatus information using the SRWR.

4.4 In March 2012 the VAULT system for accessing underground apparatus records via the SRWR came into operation. Annex E provides details of the system. This is currently operating on a voluntary basis and utility companies and roads authorities are not obliged to submit their records.

4.5 Section 138(2) of the NRSWA provides that “The records ... shall be kept in such form and manner as may be prescribed.” It is proposed that all utility companies and roads authorities be required to keep their apparatus records in a digital format.

4.6 The Commissioner considers that the benefits of VAULT will not be fully maximised until all utility companies and roads authorities have submitted their records. It is therefore proposed that it should be made mandatory for all utility companies and roads authorities not only to hold digital records of their apparatus in roads but also to provide such digital records for use in VAULT on the SRWR.

### Views Sought

<b>15</b>	<b>Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.</b>
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### Section 109 Permissions

4.7 Where an organisation which is not a utility company with a statutory right wishes to place apparatus in a road it requires the permission of the roads authority. The roads authority can issue this under section 109 of NRSWA or under section 61 of the Roads (Scotland) Act 1984. Section 61 is seen as being less onerous by roads authorities as it does not require that they retain records of the apparatus placed.

4.8 It is proposed that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie.

### Questions

<b>16</b>	<b>Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reasons for your view.</b>
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### Road Managers

4.9 Section 112A(3) of the NRSWA requires the Commissioner to give access to the SRWR to those who are required to enter a notice and this includes “road

managers”. Given that road managers can range from major organisations such as airport and seaport owners down to individuals whose property has a frontage on an unadopted road, it is not possible, nor would it be desirable to provide them all with direct access.

4.10 The Commissioner proposes creating a new legal entity of “major road manager”, each of which would be individually identifiable. This would require those organisations responsible for the more significant roads not under roads authority control to place notices of their works on the SRWR. This would aid the overall co-ordination of works on roads. It is envisaged that major road managers would be the major airport and seaport operators which own significant lengths of road open to the public. Small road managers such as individual household frontagers would be excluded.

### **Views Sought**

<b>17</b>	<b>Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.</b>
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### **Training and Accreditation**

4.11 Regulations regarding the qualifications of supervisors and operatives are part of a separate review and will be the subject of a separate consultation in due course.

## 5. CO-ORDINATION OF WORKS

### Introduction

5.1 The NRSWA provides a legislative framework for all „works in roads’ in Scotland. This includes road works by utility companies and works for road purposes by roads authorities – to the extent that these must be co-ordinated by the roads authorities. The aim is to balance the statutory rights of roads authorities and utility companies to carry out works, with the expectation of road users that disruption from works shall be kept to a minimum.

5.2 A Roads Authorities and Utilities Committee (Scotland) [RAUC(S)] Working Group chaired by the Commissioner has recently reviewed and re-drafted the Code of Practice for Co-ordination, consolidating all existing advice and providing a more user friendly guide for those with responsibility for the planning, co-ordination and management of works in roads. This is the core document for anyone involved in organising and managing road works.

5.3 The Code of Practice for Co-ordination is intended to help roads authorities carry out their duty to co-ordinate works in the road, under section 118 of the NRSWA, and utility companies to fulfil their duty to co-operate in this process, under section 119 of the NRSWA. In undertaking these duties to co-ordinate and co-operate, the roads authorities and utility companies are required to undertake all of their duties under the NRSWA and supporting regulations and to apply any guidance provided in any other codes of practice issued or approved under the NRSWA or such practice as appears to the Commissioner to be desirable.

5.4 A consultation on the revised Code of Practice was undertaken recently, closing on 12 October 2012. A copy of the consultation version can be found on the Transport Scotland website.

5.5 In reviewing the Code, the Working Group identified a number of more technical issues where it was felt that the existing legislation could be a barrier to improving co-ordination and where new or revised legislation could improve the situation.

### Advance Notice Periods

5.6 The Commissioner is aware that individuals within some roads authorities and utility companies are of the view that the 3 month advance notice period for major works is too long and can in some situations be perceived as a barrier to good co-ordination. Some individuals also question the need for advance notice on non-traffic sensitive roads as the impacts of the works on traffic and the inconvenience caused are not likely to be significant. There would still be a requirement to place a notice of expected starting date at least 7 days before the works commence and it has been suggested that this could be sufficient to allow

co-ordination.

5.7 The Commissioner considers that the three month notice period for major works is appropriate in all situations, that it aids co-ordination and that the early start procedure provides flexibility in appropriate circumstances.

#### Views Sought

18	<b>What are your views on the 3 month advance notice period for major works?</b>
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19	<b>Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?</b>
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#### Early Start Procedure

5.8 An early start procedure has been created and endorsed by the Commissioner to provide flexibility to allow works to start without providing the statutory minimum notice period for an „advance notice’ and in some circumstances for a „notice of expected starting date’. This means that works can be brought forward in situations where there is no good reason to delay them. The road works community agrees that this is required to manage and co-ordinate works effectively and has adopted the procedure into RAUC(S) Advice Note 17, with this procedure being introduced into the draft revised Co-ordination Code of Practice. This means however that the statutory requirement for the provision of advance notices within prescribed minimum notice periods, as set out in regulations, is not met when the early start procedure is used.

5.9 Although the previous Commissioner reported that to date the voluntary use of the non-statutory RAUC(S) Advice Note 17 had worked well and has been accepted by both roads authorities and utility companies, his opinion was that as the procedure will now form part of a statutory code of practice, its use should be placed on a statutory footing.

#### Views Sought

20	<b>Should the early start procedure be a statutory requirement?</b>
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#### Urgent Works

5.10 The draft revised Code of Practice for Co-ordination now proposes that under normal circumstances it would be expected that urgent works would be commenced as soon as is reasonably practicable and in any event within hours

of the need being identified, with an absolute maximum period of noon the following day. This has been introduced because of concerns regarding proposed works being entered on to the SRWR categorising them as being urgent but with the actual works not being commenced for days or even weeks.

5.11 By definition there should be a level of urgency in starting such works and it is proposed that the maximum period of noon the following day should become a statutory requirement.

### Views Sought

<b>21</b>	<b>What are your views on making noon the following day a statutory requirement for commencing urgent works?</b>
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### Roads Authority Noticing Obligations

5.12 The rules under which roads authorities enter information on to the SRWR differ from those under which utility companies operate. The differences are outlined at Annex C. Roads authorities are not presently required to enter on to the SRWR details of all expected starting dates, urgent works and emergency works. There is also no time limit set within which the completion of works requires to be entered. Although the roads authorities have agreed to operate in the same way as utility companies with regard to the information placed on the SRWR and its timing, it is proposed that they should also be under the same statutory obligations.

5.13 Having a situation where roads authorities are under the same obligations to enter information on to the SRWR will remove any uncertainties as to what is required and will strengthen the position of the Commissioner when considering the performance of roads authorities.

### Views Sought

<b>22</b>	<b>Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?</b>
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### Minor Works Involving No or Minimal Excavation

5.14 Regulations are already in place which allow utility companies the flexibility of not requiring to place notices for works involving no or minimal excavation on non-traffic sensitive roads. [Regulation 7(3) of the Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations

2008]. The wording of this regulation would suggest that the original policy intent was that it should encompass both utility companies and roads authorities. However the exact wording does not reflect this intent.

5.15 In February 2010 the then Commissioner issued an Advice Paper stating that until such time as the appropriate legislation can be promoted and brought into force, he was content that it would be appropriate for roads authorities to operate on the same basis as utility companies. The revised Code of Practice for Co-ordination reflects this advice, and it is proposed that regulations are introduced.

### Views Sought

<b>23</b>	<b>Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?</b>
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### Actual Start Notices

5.16 Although there is currently no statutory obligation on roads authorities or utility companies to place notices on to the Scottish Road Works Register when works commence, the road works community has recognised the value of “actual start” notices as a co-ordination tool and they have formed part of the existing Code of Practice for Co-ordination for some time and are again included within the draft revised version. It is proposed that entering a notice when works actually commence should become a legal requirement.

5.17 As well as the co-ordination benefits to roads authorities and utility companies of being aware that works are under way, there are also significant potential benefits for third party organisations and the public to know that works have actually commenced.

5.18 The draft revised Code requires that actual start notices should be issued by noon the following day after works commence. Although this appears to be appropriate to allow general co-ordination to be undertaken, it does mean there is a time lag and reduces the value of the information for use by roads authorities in say, adjusting their traffic signal timings, by the public for journey planning or bus companies in relation to the effect on their timetables. This is an issue particular to traffic sensitive roads.

### Views Sought

<b>24</b>	<b>Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road</b>
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	<b>Works Register?</b>
<b>25</b>	<b>Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic sensitive routes, acceptable? Please can you explain your answer.</b>

### **Works Closed Notices**

5.19 The current legislation requires a utility company to place a works closed notice by the end of the next working day on completion of their works. (It is proposed at 5.12 that this also becomes a roads authority requirement). In effect, if a works is closed early in the morning, then the best part of 2 working days can elapse before a works closed notice requires to be entered.

5.20 As with actual start notices, although this appears to be appropriate to allow general co-ordination to be undertaken, it does mean there is a time lag and reduces the value of the information for use by roads authorities in say adjusting their traffic signal timings, by the public for journey planning or bus companies in relation to the effect on their timetables. This is an issue particular to traffic sensitive roads.

### **Views Sought**

<b>26</b>	<b>Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic sensitive roads and what are the advantages or disadvantages?</b>
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### **Validity Periods**

5.21 The current legislation states that when a „notice of expected starting date’ is placed by a utility company, depending on the type of works and whether or not the road is traffic sensitive, the company has a period of up to seven working days from the expected start date given for the works to actually commence on site. These validity periods do not currently apply to roads authorities, however the revised Code of Practice for Co-ordination states that they should apply, to provide a level playing field of requirements between road authorities and utility companies.

5.22 The current legislation relating to validity periods was part of the framework for co-ordinating works 20 years ago when, at best, information was being exchanged by fax. Given that the flexibility now provided by the SRWR allows proposed works dates to be easily revised at the press of a button, these extensive validity periods are considered to be far too long and it is proposed that



they be shortened to a maximum of 2 days and apply to both utility companies and roads authorities.

5.23 It is considered that this would aid co-ordination by giving greater certainty as to when works will actually commence. It will also reduce the extent of dead time within the SRWR e.g. currently works of 5 working days with a validity period of 7 days will effectively “book” a 12 day window in the SRWR. With a 2 day validity period the “booked” time will be reduced to a 7 day window.

### Views Sought

<b>27</b>	<b>Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.</b>
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### Duration of Works

5.24 Roads authorities have powers to give directions to utility companies with regard to the timing of works, but have no powers to issue directions as to the duration of works where they consider that the period proposed is longer than required. Roads authorities do discuss such issues with utility companies but have no powers to require the proposed period to be revised before the works commence. They can only use their powers under section 125 of NRSWA once works have commenced and they have evidence that works are not being undertaken with all such dispatch as is reasonably practical.

5.25 The Commissioner considers that there might be merit in giving roads authorities powers to challenge the proposed durations of works and impose maximum periods within which the works must be completed if they consider the period proposed to be excessive.

### Views Sought

<b>28</b>	<b>Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?</b>
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### Embargoes

5.26 RAUC(S) Advice Note 20 published in October 2009 provides advice on roads authority embargoes on works in roads. This advice has been incorporated into the draft revised Code of Practice for Co-ordination. Part of the advice relates to voluntary embargoes where the roads authority seeks a

voluntary agreement with the utility companies to place an embargo based on economic factors rather than because of potential significant traffic disruption. This is mainly related to the pre-Christmas and New Year periods in city and town centres and around shopping centres. It is proposed that this situation be regularised and that roads authorities might be given statutory powers to impose such embargoes on utility company works.

### Views Sought

29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
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### Definition of “working day”

5.27 The definition of working day at section 157(2) of NRSWA includes a definition for bank holiday exclusions. Given that many organisations now do not take bank holidays and others use local holidays, the Scottish road works community has agreed that the following definition be used.

***“Working day (regulation 2(1) of SI 2008 No88), which is a day other than a Saturday, Sunday or the public holidays for Christmas Day, Boxing Day, New Year’s Day and the day following New Year’s Day; and a notice given after 16:30 on a working day is to be treated as given on the next working day.”***

5.28 The importance of the definition is that the time periods relating to providing notice of works are based on working days. The above definition is included in the revised version of the Code of Practice for Co-ordination. It is proposed that regulations be introduced to reflect the revised definition of working day currently being used.

### Views Sought

30	Do you agree with the definition of a working day given above?
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## 6. ISSUES NOT COVERED

### Issues Not Covered In The Foregoing

6.1 As well as seeking your comments regarding the issues identified, we are seeking views on any issues we might have missed and if there are any innovations in ways of working which current processes or legislation might be getting in the way of implementing. We welcome your views on any other issues which could contribute towards improving the way in which works in roads are managed and undertaken.

### Views Sought

31	<b>Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.</b>
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### Innovation

6.2 We welcome your views on any potential innovations which could contribute towards improving the way in which works in roads are managed and undertaken.

### Views Sought

32	<b>Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.</b>
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### Financial Implications

6.3 There may be financial costs associated with some of the proposals outlined above should they be introduced.

### Views Sought

33	<b>Please outline the potential impact of any additional costs.</b>
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## Annex A

### Glossary of Terms

(Note: References in this Glossary to numbered sections are to sections of the New Roads and Street Works Act 1991, unless otherwise indicated)

<b>Term</b>	<b>Explanation</b>
Apparatus	Includes any structure for the lodging therein of apparatus or for gaining access to apparatus (section 164).
Commissioner	The Scottish Road Works Commissioner.
Emergency Works	As defined in the following table.
Major Works	As defined in the following table.
Minor Works	As defined in the following table.
Notice	A set of specified information which should be entered in the SRWR by a specified point in time.
NRSWA	The New Roads and Street Works Act 1991.
Permanent Reinstatement	The placement and proper compaction of reinstatement layers up to and including the finished surface level.
RAUC(S)	Road Authorities and Utilities Committee (Scotland).
Road	Any way (other than a waterway) over which there is a public right of passage (by whatever means) and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes; and any reference to a road includes a part thereof.
Roads Authority	In relation to a road or proposed road, the regional or islands council within whose area the road is (such council being in this Act referred to as a "local roads authority"); and In relation to a trunk road (whether existing or in course of construction) or, without prejudice to a special road provided (or to be provided) or to any other road constructed (or to be constructed) by the Scottish Ministers.
Road Manager	In relation to a road which is not a public road, the authority, body or person liable to the public to maintain or repair the road, or if there is none, any authority, body or person having the management or control of the road (section 108).
Road Works Authority	If the road is a public road, it is the roads authority and if it is not a public road, the road manager.
Road Works	Works for any purposes other than roads purposes, being works of any of the following kinds executed in a road

	<p>pursuance of a statutory right or with permission granted under section 109 (NRSWA):</p> <ul style="list-style-type: none"> <li>• placing apparatus or</li> <li>• inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it or works required for or incidental to any such works (including in particular, breaking up or opening the road, or any sewer, drain or tunnel under it, or tunnelling or boring under the road).</li> </ul>
Road Works Permission	Permission granted by a roads authority to a person to carry out road works.
Scottish Road Works Register (SRWR)	The register of all road works and related events in Scotland.
Standard Works	As defined in the following table.
Traffic Sensitive Situation	A traffic sensitive road or that part of it which is designated traffic sensitive and in the case of a limited designation the dates or times to which the designation applies (based upon section 123 of the NRSWA).
Undertaker	The person in whom the relevant statutory right is exercisable or a person having permission under section 109 of the NRSWA (see section 107(4) of the NRSWA).
Urgent Works	As defined in the following table.
Utility Company	An undertaker by whom a statutory right to execute road works is exercised.
Works For Road Purposes	<p>(a) works for the maintenance of a road,</p> <p>(b) works for any purpose falling within the definition of "improvement" in section 151 of the Roads (Scotland) Act 1984,</p> <p>(c) the erection, maintenance, alteration or removal of traffic signs, or</p> <p>(d) the construction of a crossing for vehicles across a footway or the strengthening or adaptation of a footway for use as a crossing for vehicles.</p>
Works In Roads	This encompasses both „road works’ and „works for roads purposes’.

## DEFINITIONS FOR EACH WORKS CATEGORY

<u>Works Category</u>	<u>Definition</u>
<b>EMERGENCY (INCLUDING REMEDIAL - DANGEROUS)</b>	<p>Emergency works means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.</p> <p>Where works comprise items some of which fall within the preceding definition, the expression “emergency works” shall be taken to include such of the items as do not fall within that definition as cannot reasonably be severed from those that do.</p>
<b>URGENT</b>	<p>These are works which fall short of emergency works as defined in the NRSWA, but are of sufficient urgency to warrant immediate action either to prevent further deterioration of an existing situation or to avoid an undertaker breaching a statutory obligation.</p> <p>”urgent works” means:</p> <p>(a) road works (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required):</p> <ul style="list-style-type: none"> <li>■ to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker;</li> <li>■ to avoid substantial loss to the undertaker in relation to an existing service; or</li> <li>■ to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the normal notice period.</li> </ul> <p>and include works that cannot reasonably be severed from such works: and</p> <p>(b) works for road purposes (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required) to prevent or put an end to an unplanned obstruction of any part of the road and includes works that cannot reasonably be severed from such works</p>
<b>MINOR WORKS</b>	<p>To qualify as minor works the works must:</p> <ol style="list-style-type: none"> <li>(a) not be emergency or urgent works, and</li> <li>(b) not be of a planned duration of more than 3 days, and</li> <li>(c) not form part of a rolling programme, and</li> <li>(d) not involve at any one time more than 30 metres of works or 20 square metres of reinstatement, or leave less than the minimum width of carriageway necessary for one-way traffic in accordance with the Code of Practice for Safety at Street Works and Road Works.</li> </ol>
<b>MINOR WORKS (WITHOUT EXCAVATION)</b>	<p>Where a works promoter proposes to execute minor works (as defined above) in a road which is not traffic sensitive, no notice is required in the case of:</p> <ol style="list-style-type: none"> <li>(a) minor works not involving breaking up the road. This could include works at manholes and chambers, operating valves or works of a similar nature: or</li> <li>(b) the replacement of poles, lamps, columns and signs, pole testing and similar</li> </ol>

	works involving minimal breaking up of the road.
<b>MINOR WORKS (MOBILE &amp; SHORT DURATION)</b>	<p>Mobile and Short Duration Works are continuous mobile operations, as well as those which involve movement with periodic stops and short duration static works. It also includes minor works (as defined above) which do not include excavation and pothole repairs of less than one square metre, involving the use of a single vehicle or a small number of vehicles.</p> <p>Mobile and short duration working shall cover all works at any specific location where the work involved takes no longer than 30 minutes in total, including setting up and clearing away all signing, lighting, guarding and spoil.</p>
<b>REMEDIAL WORKS (NON-DANGEROUS)</b>	Remedial works are works in a road required to repair a defect which has developed on a road reinstatement.
<b>STANDARD WORKS</b>	These are road works which are not emergency works, urgent works, minor works or major works.
<b>MAJOR WORKS</b>	<p>Major Works means road works by a works promoter (other than minor works):</p> <ul style="list-style-type: none"> <li>• which have been identified specifically in the Works Promoter’s annual operating programme or which, if not specifically identified in that programme, are normally planned at least six months in advance of work commencing;</li> <li>• where an order is required under section 14 of the Road Traffic Regulation Act 1984 for any works other than emergency works;</li> <li>• other than emergency works and urgent works, in a multi lane road (more than one lane in each direction) that is traffic sensitive where one or more lanes are closed to enable the works to take place; or</li> <li>• other than emergency works, which have a duration in excess of 10 days and for which traffic control is required for three or more of those days, in accordance with the Code of Practice “Safety at Street Works and Road Works”.</li> </ul>
<b>SUBSTANTIAL WORKS FOR ROAD PURPOSES</b>	<p>Substantial works means works for road purposes which comprise a reconstruction, widening, alteration in the level, resurfacing or specialist non skid surface dressing of the part of the road concerned and–</p> <p>(a) if executed in a footpath, footway, bridleway or cycle track, extend for more than 30 metres of continuous length and result in the width of the footpath, footway, bridleway or cycle track available for pedestrians, cyclists, or others having right to use the way as the case may be, being reduced by more than two thirds; or</p> <p>(b) if carried out in the carriageway, extend for more than 30 metres of continuous length and result in the use by vehicles of the carriageway being prohibited or the width of the carriageway available for vehicular traffic being reduced by more than one third.</p>

## Annex B

### List of Scottish roads authorities

**Aberdeen City Council**  
**Aberdeenshire Council**  
**Angus Council**  
**Argyll and Bute Council**  
**City of Edinburgh Council**  
**Clackmannanshire Council**  
**Comhairle nan Eilean Siar**  
**Dumfries and Galloway Council**  
**Dundee City Council**  
**East Ayrshire Council**  
**East Dunbartonshire Council**  
**East Lothian Council**  
**East Renfrewshire Council**  
**Falkirk Council**  
**Fife Council**  
**Glasgow City Council**  
**Highland Council**

**Inverclyde Council**  
**Midlothian Council**  
**Moray Council**  
**North Ayrshire Council**  
**North Lanarkshire Council**  
**Orkney Islands Council**  
**Perth and Kinross Council**  
**Renfrewshire Council**  
**Scottish Borders Council**  
**Scottish Ministers (through Transport Scotland)**  
**Shetland Islands Council**  
**South Ayrshire Council**  
**South Lanarkshire Council**  
**Stirling Council**  
**West Dunbartonshire Council**  
**West Lothian Council**

### List of utility companies currently operating in Scotland

**Oil and Pipeline Agency**  
**BP**  
**BSkyB Telecommunications Services Ltd**  
(formerly Easynet Telecommunications Ltd)  
**Business Stream** (a Scottish Water Company)  
**Cable & Wireless Worldwide** (powers under Cable and Wireless UK)  
**CityFibre Metro Networks Ltd**  
**Energetics** (powers under Energetics Electricity Ltd and Energetics Gas Ltd)  
**ES Pipelines**  
**Everything Everywhere Ltd** (formerly T Mobile)  
**Fulcrum Pipelines Ltd**  
**Gamma Telecom Holdings Ltd**  
**GTC Pipelines Ltd**  
**GEO Networks Ltd**  
**Global Crossing (UK) Telecommunications Ltd**  
**Hutchison 3G UK Ltd**  
**Independent Pipelines Limited**

**INEOS Enterprises Ltd**  
**National Grid Gas plc**  
**Network Rail**  
**Openreach** (powers under British Telecommunications plc)  
**Orange Personal Communications Services Ltd**  
**Royal Mail**  
**Scotland Gas Networks plc**  
**Scottish & Southern Energy** (powers under Scottish Hydro Electric Power Distribution plc and Scottish Hydro Electric Transmission Ltd)  
**Scottish Power** (powers under SP Distribution Ltd and SP Transmission Ltd)  
**Scottish Water**  
**Shell**  
**Smallworld Media Communications Ltd**  
**Talk Talk** (powers under Opal Telecom Ltd)  
**Telefonica** (formerly O2 (UK) Ltd)  
**Verizon UK Ltd**  
**Virgin Media Ltd**  
**Vodafone Ltd**



## Annex C - STATUTORY AND NON STATUTORY OBLIGATIONS

The following tables show the notice periods used in the Co-ordination Code of Practice and highlight those which are statutory and those which are not.

### Roads Authorities- Non Traffic Sensitive Situations

Minimum Notice Periods				
	<u>Advance Notice</u>	<u>Notice of Expected Starting Date</u>	<u>Actual Start Notice</u>	<u>Works Closed/Clear Notice</u>
EMERGENCY (INCLUDING REMEDIAL - DANGEROUS)			WITHIN 2 HOURS OF WORK STARTING	BY THE END OF THE NEXT WORKING DAY
URGENT			WITHIN 2 HOURS OF WORK STARTING	BY THE END OF THE NEXT WORKING DAY
MINOR WORKS (WITHOUT EXCAVATION)				
MINOR WORKS (WITH EXCAVATION)		24 HOUR NOTICE - BY NOON ON THE DAY BEFORE Reg 3(4)(v)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY
REMEDIAL WORKS (NON-DANGEROUS)		24 HOUR NOTICE - BY NOON ON THE DAY BEFORE	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY
STANDARD WORKS		7 DAYS NOTICE Reg 3(4)(iii)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY
MAJOR WORKS	THREE MONTHS NOTICE Reg 3(4)(i)	7 DAYS NOTICE	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY

Those marked green indicate a statutory requirement. Regulations are from The Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008. Sections are from the New Roads and Street Works Act 1991.

Those marked blue indicate that although regulation 3(6)(a) requires the date of completion to be entered, there is no time limit for doing so.

Those marked red are non-statutory. Notwithstanding the foregoing, all of the above timings are included within the Code of Practice for Coordination.

## Roads Authorities- Traffic Sensitive Situations

Minimum Notice Periods				
	<u>Advance Notice</u>	<u>Notice of Expected Starting Date</u>	<u>Actual Start Notice</u>	<u>Works Closed/Clear Notice</u>
EMERGENCY (INCLUDING REMEDIAL - DANGEROUS)			WITHIN 2 HOURS OF WORK STARTING	BY THE END OF THE NEXT WORKING DAY
URGENT			AT LEAST 2 HOURS IN ADVANCE OF WORK STARTING	BY THE END OF THE NEXT WORKING DAY
MINOR WORKS (WITHOUT EXCAVATION)		3 DAYS NOTICE Reg 3(4)(vi)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY
MINOR WORKS (WITH EXCAVATION)	ONE MONTH NOTICE Reg 3(4)(iv)	7 DAYS NOTICE	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY
REMEDIAL WORKS (NON-DANGEROUS)		3 DAYS NOTICE	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY
STANDARD WORKS	ONE MONTH NOTICE Reg 3(4)(ii)	7 DAYS NOTICE	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY
MAJOR WORKS	THREE MONTHS NOTICE Reg 3(4)(i)	7 DAYS NOTICE	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY

Those marked green indicate a statutory requirement. Regulations are from The Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008. Sections are from the New Roads and Street Works Act 1991.

Those marked blue indicate that although regulation 3(6)(a) requires the date of completion to be entered, there is no time limit for doing so.

Those marked red are non statutory. Notwithstanding the foregoing, all of the above timings are included within the Code of Practice for Coordination.

## Undertakers- Non Traffic Sensitive Situations

Minimum Notice Periods				
	<u>Advance Notice</u>	<u>Notice of Expected Starting Date</u>	<u>Actual Start Notice</u>	<u>Works Closed/Clear Notice</u>
EMERGENCY (INCLUDING REMEDIAL - DANGEROUS)			WITHIN 2 HOURS OF WORK STARTING Section 116(2)	BY THE END OF THE NEXT WORKING DAY Section 129(3)
URGENT			WITHIN 2 HOURS OF WORK STARTING Reg 7(2)	BY THE END OF THE NEXT WORKING DAY Section 129(3)
MINOR WORKS (WITHOUT EXCAVATION)				
MINOR WORKS (WITH EXCAVATION)		24 HOUR NOTICE - BY NOON ON THE DAY BEFORE Reg 7(2)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)
REMEDIAL WORKS (NON-DANGEROUS)		24 HOUR NOTICE - BY NOON ON THE DAY BEFORE Reg 7(2)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)
STANDARD WORKS		7 DAYS NOTICE Section 114(1)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)
MAJOR WORKS	THREE MONTHS NOTICE Reg 6	7 DAYS NOTICE Section 114(1)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)

Those marked green indicate a statutory requirement. Regulations are from The Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008. Sections are from the New Roads and Street Works Act 1991.

Those marked red are non statutory. Notwithstanding the foregoing, all of the above timings are included within the Code of Practice for Coordination.

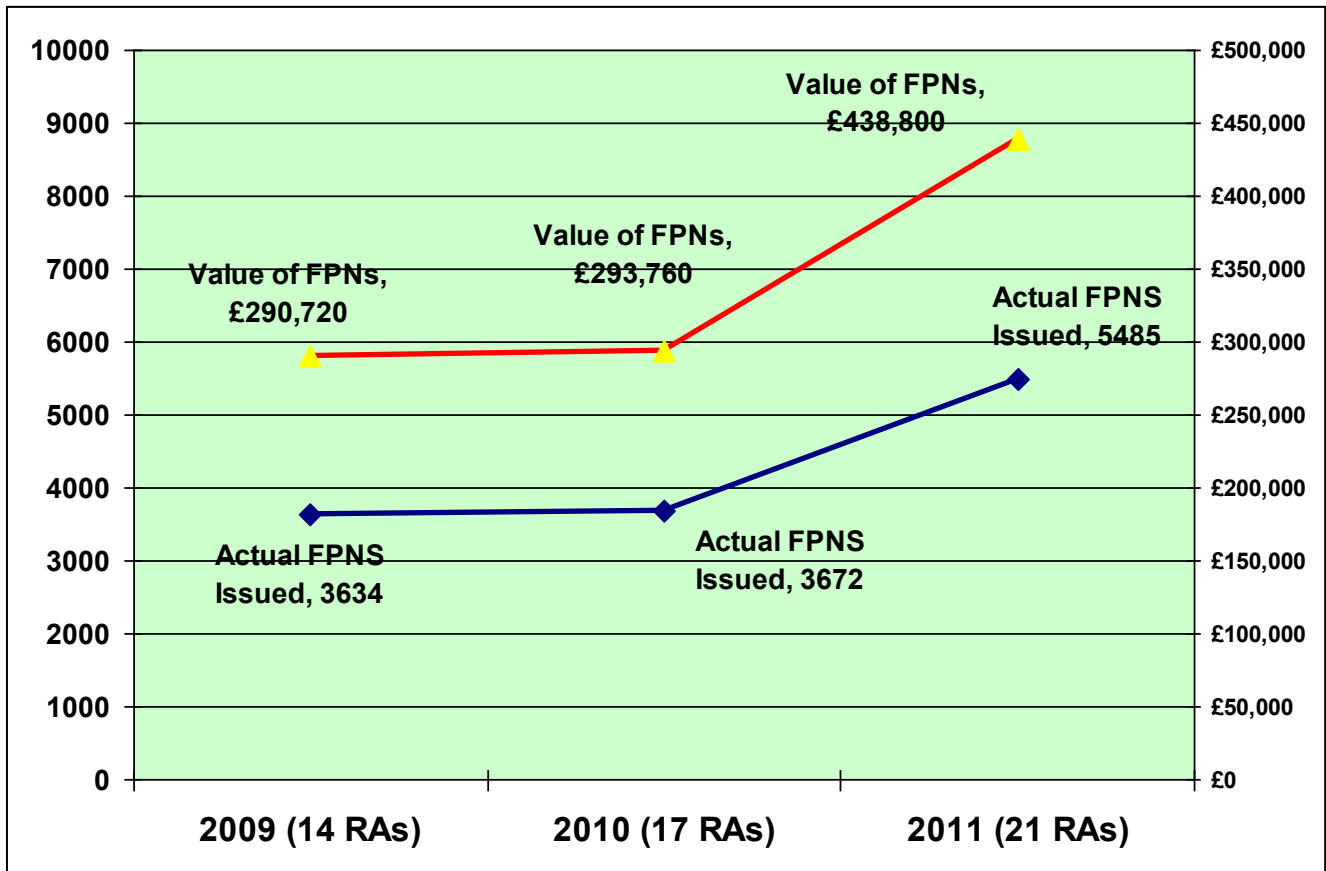
## Undertakers- Traffic Sensitive Situations

Minimum Notice Periods				
	<u>Advance Notice</u>	<u>Notice of Expected Starting Date</u>	<u>Actual Start Notice</u>	<u>Works Closed/Clear Notice</u>
EMERGENCY (INCLUDING REMEDIAL - DANGEROUS)			WITHIN 2 HOURS OF WORK STARTING Section 116(2)	BY THE END OF THE NEXT WORKING DAY Section 129(3)
URGENT			AT LEAST 2 HOURS IN ADVANCE OF WORK STARTING Reg 7(1)	BY THE END OF THE NEXT WORKING DAY Section 129(3)
MINOR WORKS (WITHOUT EXCAVATION)		3 DAYS NOTICE Reg 7(1)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)
MINOR WORKS (WITH EXCAVATION)	ONE MONTH NOTICE Reg 6	7 DAYS NOTICE Section 114(1)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)
REMEDIAL WORKS (NON-DANGEROUS)		3 DAYS NOTICE Reg 7(1)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)
STANDARD WORKS	ONE MONTH NOTICE Reg 6	7 DAYS NOTICE Section 114(1)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)
MAJOR WORKS	THREE MONTHS NOTICE Reg 6	7 DAYS NOTICE Section 114(1)	BY NOON THE FOLLOWING DAY AFTER WORKS COMMENCE	BY THE END OF THE NEXT WORKING DAY Section 129(3)

Those marked green indicate a statutory requirement. Regulations are from The Road Works (Scottish Road Works Register, Notices, Directions and Designations) (Scotland) Regulations 2008. Sections are from the New Roads and Street Works Act 1991.

Those marked red are non statutory. Notwithstanding the foregoing, all of the above timings are included within the Code of Practice for Coordination.

## Annex D – Fixed Penalty Notices Given to Utility Companies



## Annex E



### **PROJECT VAULT** - *Instant access to maps of underground cables and pipes*

#### **OVERVIEW**

Scotland is leading the world with a new way to share and access information on the location of underground pipes and cables. This major new development known as the Scottish Community Apparatus Data Vault (or VAULT for short - a vault being an underground storage place for precious items, in this case information about our buried assets), will make underground pipe and cable information accessible via the Scottish Road Works Register (SRWR) (Scotland's existing national database for the electronic transfer, retention and management of road works data).

The aim of the service is to enable access to information about all underground pipes and cables from one centralised location.

#### **THE IMPORTANCE OF UTILITY RECORDS**

The pipes and cables in roads are necessary to supply the services we take for granted in a modern society – electricity, water, gas, sewers, and telecommunications. In Scotland there are 33 roads authorities and 34 utility companies who own such pipes and cables. Within the 55,500 km of roads in Scotland there are over 120,000 km of gas, water and drainage pipes and over 200,000 km of electricity and telecommunication cables.



Before any excavation takes place, it is essential the workers on site have accurate and up to date information about what lies beneath a road. This is a requirement under Health and Safety regulations and helps prevent injury to operatives carrying out work. Sadly, there are a significant number of incidents every year where workers are injured or even killed as a result of damage to underground pipes and cables. Even in instances where no one is hurt, a strike to a pipe or cable can often lead to costly damage with lengthy disruption to services vital to the community.

Emergencies can occur at any time of the day or night, so fast access to underground information can be crucial. At the planning stage of works, this information is vital, allowing utility companies to select routes for new cables and pipes in the full knowledge of where existing cables and pipes are located.

#### **THE CHALLENGE**

Currently underground apparatus information is provided in a variety of formats including:

- Maps provided via e-mail
- CDs containing Geographic Information System (GIS) data
- Separate web sites showing the location of apparatus
- Traditional paper copies of plans

Every organisation needs staff resources to provide and distribute this information.



Until recently Scottish roads authorities and utility companies have never had a common approach to the recording and storage of this information. GIS are now commonplace for the storage of underground pipe and cable information, however:

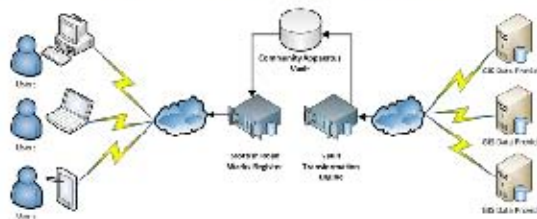
- what is stored;
- how it is stored; and
- how it is represented

can vary considerably from one organisation to the next. For example, although Ordnance Survey (OS) maps are commonly used as the standard background layer for these plans, different types of OS maps to different standards of accuracy are used by different organisations.

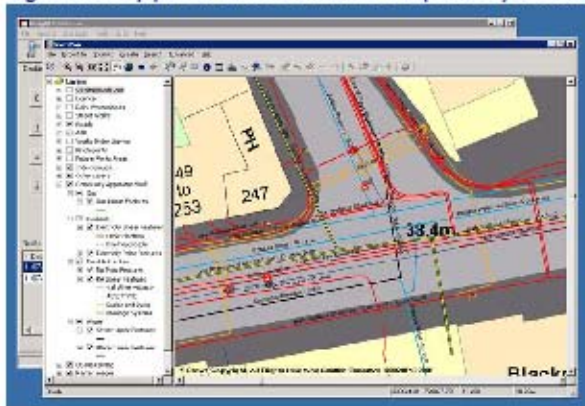
## WHAT DOES VAULT DO?

What VAULT does is take the information from each individual GIS and transform it into a common GIS format as shown on the following diagram. The information is then available to users via the SRWR internet interface.

This development will provide significant administrative benefits to those who hold such records and those who require access to them. It also means that with the aid of a handheld device or laptop, anyone needing to dig in a road will be able to access the records on site and instantly see what pipes and cables are likely to be encountered, providing significant safety benefits when excavating.



The picture below shows how the underground pipe and cable information on the SRWR is displayed. Each organisation's pipes or cables are held as a separate layer within the system and can be displayed to show the pipes and cables of all organisations or any specific organisations as required. On the map layers, other information such as proposed works or the locations of bus stops can also be accessed as individual or overlying layers.



SRWR permanently.

Access to VAULT will be limited to roads authorities and utility companies and will be securely controlled using the existing SRWR security systems. A full audit trail of what information was accessed, when and by whom is also available.

## FURTHER INFORMATION

If you are interested in supplying data for use in VAULT or simply wish more information on the service please contact Iain Ross ([iain.ross@susiephone.co.uk](mailto:iain.ross@susiephone.co.uk)).

The images included in this document are owned by VISTA Project Board, Symology Ltd and Ordnance Survey. They should not be used elsewhere without the owner's consent.

## Annex F - Penalties Which Can Be Imposed By Other Regulatory Monitoring Bodies

Bodies	Penalties
OFCOM	Communications Act 2003 –section 97(1) - “The amount of a penalty imposed under section 96 is to be such amount not exceeding ten per cent. of the turnover of the notified provider’s relevant business for the relevant period as OFCOM determine ....”
OFGEM	Electricity Act 1989 – section 27A(8) - “No penalty imposed by the Authority under this section may exceed 10 per cent of the turnover of the licence holder.”
Office of Rail Regulation	Railways Act 1993 – section 57A(3) – The amount of a penalty imposed on a relevant operator may not exceed 10 per cent of his turnover...”
Water Industry Commission for Scotland	Water Services etc (Scotland) Act 2005 – section 11(1) – “...the Commission may impose on the provider a financial penalty of such amount as it considers reasonable in the circumstances of the case.”
Information Commissioner	Data Protection Act 1998 – section 55A(5) – “The amount determined by the Commissioner must not exceed the prescribed amount.”; and  The Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2012 – regulation 2 – “The prescribed amount for the purpose of section 55A(5) is £500,000.”

It is also worth noting that under the ScotRail franchise the operator receives bonuses for above benchmark performance and penalties for areas that fall below benchmark. Penalties for the 12 months to 27 June 2009 totalled £938,959.



Further copies of this document are available, on request, in audio and large print formats and in community languages (Urdu; Bengali; Gaelic; Hindi; Punjabi; Cantonese; Arabic; Polish).

اس دستاویز کی مزید کاپیاں آڈیو کیسیٹ پر اور بڑے حروف کی چھپائی میں اور کیوئی کی زبانوں میں طلب کیے جانے پر دستیاب ہیں، برائے مہربانی اس پتہ پر رابطہ کریں:

এই ডকুমেন্ট-এর (দলিল) অতিরিক্ত কপি, অডিও এবং বড়ো ছাপার অনুর আকারে এবং সম্প্রদায়িক ভাষায় অনুরোধের মাধ্যমে পাওয়া যাবে, অনুগ্রহ করে যোগাযোগ করুন:

Gheibhear lethbhreacan a bharrachd ann an cruth ris an èistear, ann an clò mòr agus ann an cànan coimhearsnachd. Cuir fios gu:

इस दस्तावेज़/कागज़ात की और प्रतियाँ, माँगे जाने पर, ऑडियो टैप पर और बड़े अक्षरों में तथा कम्प्यूनिटी भाषाओं में मिल सकती हैं, कृपया संपर्क करें:

ਇਸ ਦਸਤਾਵੇਜ਼/ਕਾਗਜ਼ਾਤ ਦੀਆਂ ਹੋਰ ਕਾਪੀਆਂ, ਮੰਗੇ ਜਾਣ 'ਤੇ, ਆੱਡਿਓ ਟੇਪ ਉੱਪਰ ਅਤੇ ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਕੰਮਿਊਨਿਟੀ ਭਾਸ਼ਾਵਾਂ ਦੇ ਵਿਚ ਮਿਲ ਸਕਦੀਆਂ ਹਨ, ਕ੍ਰਿਪਾ ਕਰਕੇ ਸੰਪਰਕ ਕਰੋ:

此文件有更多備份，如果需要，語音版本和大大字體版本及少數種族語言版本也可提供，請聯絡：

يمكن أن تطلب النسخ الأخرى من هذا المستند كالتسجيل الصوتي والخط الكبير ونسخ بلغات أخرى، يرجى الإتصال على:

Aby otrzymać niniejszy dokument w innej wersji językowej, na kasecie lub w wersji z powiększonym drukiem, prosimy o kontakt:

Transport Scotland, Buchanan House,  
58 Port Dundas Road, Glasgow, G4 0HF  
0141 272 7100  
[info@transportscotland.gsi.gov.uk](mailto:info@transportscotland.gsi.gov.uk)  
[www.transportscotland.gov.uk](http://www.transportscotland.gov.uk)

Any responses to this consultation can be sent to: [WorksInRoads@transportscotland.gsi.gov.uk](mailto:WorksInRoads@transportscotland.gsi.gov.uk)

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