

Strategic Consultation – Works on Scottish Roads – Respondent list

	Respondent	Response
39	Network Rail	Published
40	Inverclyde Council	Published
41	SGN	Published
42	City of Edinburgh Council	Published
43	Transform Scotland	Published
44	Joint Authorities Group UK	Published
45	Cycling Scotland	Published
46	Energy Networks Association	Published
47	Scottish Power Energy Networks	Published
48	Dumfries and Galloway Council	Published
49	Traffic Commissioner for Scotland	Published
50	Strathclyde Partnership for Transport	Published
51	Argyll and Bute Council	Published

Bus and Local Transport Policy
Transport Policy

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Joanne.gray@transportscotland.gsi.gov.uk



39

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Your ref:

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p> <p>None – Network Rail does not believe that a utility contribution towards long-term damage of any kind is warranted. We question the validity of the URS-Scott Wilson Report, which has been used as the basis for some of the proposals in the consultation.</p> <p>We believe that the commissioned desk-top report does not present any new evidence or provide additional conclusions, but serves merely as a literature review of previously published reports and old outdated research.</p> <p>We also believe that some of the reports reviewed in the URS-Scott Wilson Report and specifically the evidence on long-term damage is fundamentally flawed.</p> <p>One of the Scottish Government's key priorities is the need to stimulate growth in the economy. We believe that the introduction of a long term damage contribution will negatively impact on measures to drive economic growth as this would result in additional cost to promoters of works. We therefore urge the Scottish Government not to implement these proposals.</p>

Views Sought	
02	<p>Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?</p> <p>Yes. Network Rail agrees that the period of restriction following resurfacing should be changed. The Scottish road works community already acknowledges that a 1 year restriction period is too short and a 3 year voluntary period has been adopted. These measures would merely transpose what is being done into legislation. As we currently operated this on a voluntary basis, Network Rail would support this transposition to a legislative basis on the understanding that any new restriction period should be subject to certain exemptions for things such as new service connections, urgent and emergency works.</p>



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Views Sought	
03	<p>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?</p> <p>Network Rail does not believe that the inspection levels for utility works that road authorities can charge for should increase. The current 30% inspection level is a high sample which gives an extremely strong indication of quality.</p> <p>Effective voluntary measures are already in place which has led to a 91.1% compliance rate nationally. Where there are variations, and the reasons for these variations have been understood, Network Rail advocates a more focussed and targeted approach tailored to the needs of each individual case.</p> <p>Network Rail would also like to highlight that these inspections proposals ignore the current Inspections Code of Practice which was agreed by RAUC(Scotland) and fails to recognise the Improvement Plans currently in place, with utilities and road authorities working together to drive up standards.</p>



04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	<p>Yes, Network Rail believes that the current arrangements for inspection fees should be changed to incorporate a reduction in the level of inspections and fees for high performers and in turn, incorporate additional inspections and higher fees for those identified as poor performers. There are already in place Improvement Plans and an Inspection Code of Practice to promote and foster good performance amongst utilities and road authorities.</p> <p>Network Rail believes that additional regulation is unnecessary, particularly when voluntary measures already in place are proving so effective, however a change to the existing regulation could deliver even greater improvements, further incentivising good performance.</p>

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	<p>No – Network Rail does not believe that any increase should be introduced to the guarantee period after utility works are completed. There is no evidence available to suggest that any reinstatement that has not failed after 2 or 3 years is likely to fail after 5 years or beyond. Even though the likelihood of any failure after 2 and 3 years, or 5 years, is small, utilities and contractors will be forced to plan, and therefore hold funds for these liabilities regardless. Any increase in the guarantee period for utility works would therefore see a significant increase in costs to utility companies for no justifiable reason. In addition, if utility companies decide to pass on the liability to contractors, as is likely to happen, this will in turn be reflected in increased contractor prices and regrettably lead to consumer prices going up.</p> <p>Alongside the financial liability that would be incurred by utilities, Network Rail also has accountability concerns regarding the increased guarantee period. With different companies and authorities digging up the road at different time, overly complex 5 and 6 year guarantee periods will lead to questions being raised over who is actually liable in the event of a failure.</p>

Views Sought



06	<p>Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.</p>
	<p>Network Rail would like sight of the data that led to the conclusion that Section 133 of the NRSWA is needed, given that Paragraph 2.3 of the consultation suggests that unreasonably prolonged utility works have been '<i>a limited problem</i>' with only 11 formal notices having been issued under section 125 in the last 12 month period. Indeed, there is data which shows that 99% of works across the whole of the UK were completed on time. Therefore, Network Rail would question the justification and value of introducing a Section 133 overstay charge when Paragraph 2.7 of the consultation recognises that only around 2% of over-running utility works have been recorded in the last 12 months.</p> <p>Utilities already regularly undertake works on an extended hours basis, for example working 7 days a week on busier streets, in agreement with road authorities and taking into account environmental considerations, safety, and operational and practical requirements. We would point out that utilities and roads authorities do already agree the duration of works in advance of them taking place and utilities have the knowledge and expertise to know the length of time a job will take, but should be expected to justify that to authorities.</p>



Views Sought	
07	<p>Scottish Ministers would welcome views on the introduction of permit schemes.</p> <p>Network Rail believes that the existing notice provisions in Scotland coupled with the cohesive and constructive approach to undertaking road works coordinated through RAUC(Scotland), provide sufficient powers and co-operation to manage both road authorities and utility works.</p> <p>From experience of permit schemes in England there is no current evidence of reduced disruption caused by road works or improved co-ordination of works (as referenced in Paragraphs 2.10 & 2.12). Instead permit schemes have resulted in considerably increased costs to utilities in paying the permit fees. These costs are passed on to consumers, either through direct connection quotes, or allowed by the economic regulators, as permit fees become a normal cost of undertaking road works. In some cases, in particular within London, there is a significant reduction in productivity and efficiency due to onerous conditions placed on utilities.</p>

Views Sought	
08	<p>Scottish Ministers would welcome views on the introduction of lane rental schemes.</p> <p>Network Rail is yet to be convinced that lane rental will deliver substantial additional benefits over and above the myriad of existing legislation, regulation and voluntary initiatives already available to manage street works. Our view is that greater consistency and effectiveness in implementing the myriad of existing legislative, regulatory and voluntary measures would deliver the same objectives at a much lower cost to utilities, roads authorities and their customers.</p>



Views Sought	
09	<p>Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?</p> <p>No – Network Rail does not support the proposal to extend the range of summary offences dischargeable by fixed penalty notices (FPNs). In respect of the suggested areas to which FPNs could be extended, we believe that there are already suitable existing measures that roads authorities can use to address non-compliance</p> <p>Section 110 – prohibition of unauthorised road works – Section 51 provides road authorities with the ability to prosecute utilities who do not notify authorities of their works.</p> <p>Section 124 – signing, lighting and guarding failure – Section 65 allows road authorities to prosecute utilities for signing, lighting and guarding non-compliances, and we believe that once the revised Safety Code of Practice is finalised, its launch could provide a real catalyst for re-emphasising the importance of correct signing, lighting and guarding through RAUC(Scotland).</p> <p>Section 130 – Not reinstating excavation in accordance with the specification – Section 71 allows roads authorities to tackle poorly reinstated excavations, and indeed the Scottish Road Works Commissioner and RAUC(Scotland) already have in place effective Improvement Plans which are delivering year on year improvements in the quality of reinstatement, with higher percentage targets set each year.</p>



Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	No – Network Rail's views on the specific offences suggested are similar to our views in response to Question 9

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	No – Network Rail does not support the increase of the FPN levels. NJUG's own performance figures indicate that only 2% of the total number of Notices has attracted an FPN which is subsequently paid. Therefore, the quality and timeliness of Noticing at 98% compliance, does not justify any increase in the FPN level.

Views Sought	
12	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?
	As above, given the high level of utility compliance in terms of timeliness and quality of Noticing (98% compliance) Network Rail does not believe that any increase in FPNs is warranted



Views Sought	
13	<p>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.</p>
	<p>No – Network Rail believes that the existing definitions of “co-operate” and “co-ordinate”, if used effectively, are right and appropriate. The suggested amendment is very open-ended and could be used inappropriately without suitable safeguards.</p> <p>The Scottish Road Works Commissioner and RAUC(Scotland) could deliver even greater results through raising the level of proactive co-ordination and co-operation through:</p> <p>Incentivising roads authority road works managers to reduce disruption through each authority agreeing individual targets for reducing the number of days overall occupation of the road.</p> <ul style="list-style-type: none"> Continuing to promote earlier Advance Planning – through the sharing of utility and road authority plans up to two years in advance, thereby allowing easier flexing of works to facilitate joint occupation or sequential working.

Views Sought	
14	<p>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.</p>
	<p>Yes – Network Rail strongly believes that there should be one safety standard across the UK applying to all those working on the road. The general public do not care who undertakes the work in the street, they just want works completed safely, efficiently (including as quickly as possible) and at lowest feasible cost to the ‘council tax payer’ or consumer.</p>

Views Sought



15	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.
	"No comment"

Questions	
16	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.
	Yes – Network Rail agrees with repealing S61 and revising S109(2), as we believe that it is extremely important that as much relevant data as possible on utility and authority apparatus is held on a central register, irrespective of who has carried out the works.

Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	Yes – Network Rail supports the proposal to establish a designation of “major road managers”, but believes that ‘major road managers’ should relate to roads where a minimum number of works are undertaken e.g. number of works undertaken in a calendar year is above a level which then justifies the ‘major road manager’ having access to the Scottish Road Works Register (SRWR).

Views Sought



18	What are your views on the 3 month advance notice period for major works?
	<p>As currently defined, those undertaking major works have to give 3 months' notice Network Rail recognises that to deliver effective co-ordination, road authorities appreciate as much notice of all works as possible, and especially of major works. However, sometimes the requirement to give 3 months' notice for certain types of works, like repairs to level crossings presents difficulties within specified time limits</p>



19	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?
	<p>No - In order for roads authorities to co-ordinate major planned works and be aware of potential smaller scale works which could still have an impact on the surrounding community, and which may necessitate the postponement of works on other roads in order not to cause unnecessary disruption, Network Rail does not believe that advance notice of such works on non traffic-sensitive roads should be removed.</p> <p>Although we would recommend a return to one month of notice of major works on non traffic-sensitive street, as this would still allow local coordination without being overly burdensome on utilities and road authorities.</p>

Views Sought	
20	Should the early start procedure be a statutory requirement?
	<p>Yes - Network Rail would support the early start procedure being a statutory requirement provided this it is based upon an agreed RAUC (Scotland) Advice note.</p>



Views Sought	
21	<p>What are your views on making noon the following day a statutory requirement for commencing urgent works?</p> <p>No – Whilst Network Rail agrees that by definition, there should be a degree of urgency to commence for any works defined as “urgent”, Network Rail would prefer to retain the existing definition of urgent works necessary to repair a primary network failure. There are times when temporary fixes may be required (to ensure safety of the network and the public), or other temporary measures particularly on traffic-sensitive roads, which are necessary to enable specialist materials to be obtained, where they are not readily available. This does not mean that the works are not urgent, but that the excavation phase may be delayed until the permanent works can take place and be completed without delay.</p>

Views Sought	
22	<p>Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?</p> <p>Yes - This legislation would greatly aid co-ordination, enhance co-operation and enable much better data analysis to assess both existing and future legislation and voluntary initiatives.</p> <p>Indeed, the general public do not differentiate between road authority and utility works, and so it would make sense for all works to be required to provide the same information to the same timescales. The more rigorous information the road works community has at its disposal, the better informed the Scottish government and the Commissioner will be in formulating any future road works policy, legislation or voluntary initiatives through RAUC(Scotland).</p>



Views Sought	
23	<p>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?</p> <p>Yes - The flexibility to not notice works involving no or minimal excavation on non traffic-sensitive roads is valuable for both utilities and roads authorities, reducing the administrative burden for both. Network Rail supports the approach taken in the February 2010 Commissioner Advice Note, and so Network Rail agrees that any regulation should provide flexibility whilst ensuring parity of treatment for road authorities and utilities.</p>

Views Sought	
24	<p>Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?</p> <p>Yes – Network Rail supports the introduction of regulations to require roads authorities and utilities to enter actual start notices on the SRWR, as this will greatly aid the co-ordination of works by roads authorities and the management of their road networks, as well as providing greater certainty to utilities of who else is working on or in the vicinity of the road (s) on which they are planning to work or are working currently</p>



25	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.
	Yes – Network Rail believes that the existing requirement for actual start notices to be lodged by noon the following day for all works, achieves a sensible balance between ensuring certainty that the works have commenced, and making sure information on the SRWR is as up to date as possible. Of course, the noon next day deadline should act as a backstop, and, wherever possible, all works promoters should aim to confirm the actual start of works as soon as possible.

Views Sought	
26	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?
	Yes – Network Rail believes that the existing requirement for works closed notices to be lodged by the end of the following day, achieves a sensible balance between ensuring certainties that the works have finished, and making sure that information on the SRWR is as up to date as possible. Of course, the close of play next day deadline should act as a backstop, and, wherever possible, all works promoters should aim to confirm that works have closed as soon as possible

Views Sought	
27	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.
	No – Network Rail does not believe that the validity period should be reduced to a maximum period of two days at this time. This is because there are many reasons which may delay the actual start of works by a few days i.e adverse weather.



Views Sought	
28	<p>Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?</p> <p>No - Utilities are best placed to determine the duration of works on their networks in order to perform them safely and efficiently and taking into account network and engineering requirements and commercial constraints. Undue pressure to reduce durations to an unsustainable level with the imposition from roads authorities of 'maximum periods within which the works must be completed' (5.25) could potentially lead to decreased quality and the need to return at a later date. However, utility and roads authorities should seek to agree a reasonable duration to minimise unnecessary occupation of the carriageway.</p>

Views Sought	
29	<p>Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?</p> <p>No – Network Rail does not believe roads authorities should be given statutory powers to impose embargoes on works for reasons other than traffic disruption. Utilities undertake road works for many reasons – safety, security of supply, diverting apparatus for major transport or urban regeneration projects. Billions of pounds are invested to deliver safe and secure utility services which underpin the UK economy. They are therefore a major contributor to economic growth in their own right and through. Therefore, having statutory powers to impose embargoes on utility works could have very significant consequences.</p> <p>Network Rail's preference would be for roads authorities and utilities to continue to, or start to share plans of major works and upcoming events in order to facilitate voluntary embargoes on roads when necessary. The road works community has a long and proud track record in managing the flexing of works and complying with voluntary embargoes, including during pre-Christmas and New Year periods and major events, such as the Commonwealth Games and Edinburgh festival. We believe that this should continue without the need for embargoes to be placed on statutory footing.</p>

Views Sought



30	Do you agree with the definition of a working day given above?
	No – Network Rail strongly believes that the definition of “ <i>working day</i> ” in section 157(2) of NRSWA should stand as it is, with a definition for bank holiday exclusions. Network Rail is not aware that ‘ <i>many organisations now do not take bank holidays</i> ’ (Paragraph 5.27), and so we would welcome sight of the evidence that supports this statement

Views Sought	
31	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.
	<p>Network Rail’s view is that the greatest benefits in terms of driving up standards and reducing disruption can be achieved by road authorities and utilities working together to co-ordinate works and thereby reduce the number of overall days occupation, as well as continuing the very positive collaborative approach under RAUC(Scotland), working with the Commissioner, to drive up standards.</p> <p>This coupled with more effective and consistent use of the myriad of existing legislation and regulation, will deliver the Scottish Government’s objectives of improved standards and reduced disruption, without impacting on growth or unnecessarily pushing up utility consumers’ bills or prices for connection.</p> <p>Given that 27% of works on the road are undertaken by the road authorities themselves, we believe that applying existing legislation and regulations to road authority works will deliver a considerable benefit, and bring parity of treatment, which will further enhance the collaborative approach of RAUC(Scotland).</p>

Views Sought



32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	No comment

Views Sought	
33	Please outline the potential impact of any additional costs.
	No comment



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Network Rail

Title Mr ☐ Ms ☐ Mrs ☒ Miss ☐ Dr ☐ Please tick as appropriate

Surname

McAdam

Forename

Caroline

2. Postal Address

Buchanan House, 58 Port Dundas Road, Glasgow

Postcode G4 0LQ

Phone 0141 555 4272

Email

Caroline.Mcadam@networkrail.co.uk

3. Permissions - I am responding as...

Individual



Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

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Response Sheet: Inverclyde Council

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p>
	<p>The maintenance responsibility for the public road network in Scotland is borne by the Scottish Government and 32 Local Authorities. This is a statutory duty.</p> <p>Section 137 of The New Roads and Street Works Act 1991 provides the facility for a contribution from Utility Companies for working on the public road.</p> <p>In principle, such a charge would seem a reasonable way of contributing to the repairs to road networks caused by the long term damaged to newly constructed roads, footways and verges by utility openings.</p> <p>Inverclyde Council would support the introduction of such a scheme.</p> <p>Further investigation would be required into the following:</p> <ul style="list-style-type: none">1 Impact on Council resources;2 What financial systems would be required for audit purposes;3 Charge per surface area/type.(Frequency of revision);4 System and process required to run such a scheme;5 What management processes would be required to deal with organisations that fail to pay the charge e.g. would they be able to continue working on public road while dispute is ongoing?

Views Sought	
02	<p>Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?</p>
	<p>Yes, the restriction period should be a minimum of 3 years if not 5 years.</p> <p>Having such an extensive waiting period may, over time would improve the coordination of major works between organisations.</p> <p>It would improve the public perception that utility companies and councils communicate with to each other.</p> <p>The warranty period should be incorporated within legislation.</p> <p>Other issues that have to be resolved on the issue of road restrictions:</p> <ul style="list-style-type: none">1. What notice types should be exempt from road restrictions?2. What systems can be introduced to avoid the noticing exemptions

	<p>being abused? What is the penalty for abusing system?</p> <p>3. There should be an agreement that the minimum rea of reinstatement on restricted roads should be full panel e.g. machine laid for full panel rather than just track width.</p> <p>4. What type of surface treatment can be classified as "Road Restricted" e.g. thin laminate?</p> <p>5. Collateral damage is an area where disputes occur e.g a water burst. In such situations all damage to the road surfaced should be renewed rather than just the track width. Can further investigation be carried out to set parameters for restricted roads?</p>
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Views Sought

03

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?

The NRSWA legislation should be amended so that inspection of road works should be carried out and recorded on the SRWR by Utility Companies and local Authorities.

Inspections carried out while the works are in progress are of more value to the roads authorities than those carried out after the works are complete. As defects can be rectified immediately rather than programming to re-opening the same section of carriageway at a later date. Therefore reducing inconvenience to the public.

The table below details Inverclyde Councils thoughts on number of inspections:

Notice type	Duration	Works in progress	Warranty period	Total number of Inspections
Minor	<=3 days	1	1	2
Standard	3<10 days	1	1	2
Major	>10 days	weekly	2	3+
Emergency/urgent	short	1	1	2
Emergency/urgent	long	weekly	1/2	3+

Listed below are issues that require further to be addressed in regard to inspections:

1. Abortive site visits. i.e. turning up on site and no works have commenced or works have finished. Council incur costs for abortive visits.
2. Actual start date vital for reducing point 1 above

04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	<p>If the number of work in progress inspections is increased then there may be an improvement on the quality of reinstatements and a reduction in the number of failures.</p> <p>The national coring exercise provides information on reinstatement quality. Unfortunately, some of the sample sizes can be small e.g. 5 number BT sites for one council area. Is this really a representative number of cores to demonstrate what is actually happening on the ground?</p> <p>Currently organisations are working to minimum numbers in both inspections and coring sites and this may be skewing the figures.</p> <p>Inverclyde Council would support a change in the inspection process if a balance could be achieved between the number of actual inspections of works in progress carried out and the number of coring sites that are selected for the national coring programme.</p>

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	<p>Inverclyde Council would support an increase from the current levels of 2 years to 3 years and 5/6 years for deep excavations.</p> <p>Having longer warranty periods may change some utility companies (contractors) culture/practice with regard to reinstatement quality.</p>

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	<p>Detailed below are factors which contribute for road works occupying the road network for prolonged periods:</p> <ol style="list-style-type: none"> 1. Schemes are desk top designed. 2. Few schemes have trial site investigation works carried out to confirm the existing underground environment e.g. location of existing utility apparatus or ground formation/condition. <p>Inverclyde Council would support the introduction of an occupation charge subject to the additional managing and resourcing costs would be recovered from the charges collected via the occupation scheme.</p> <p>The introduction of such a scheme would have a significant impact on the early late start process and the FPN process.</p>

Views Sought	
07	<p>Scottish Ministers would welcome views on the introduction of permit schemes.</p>
	<p>The current powers under the NRSWA and Transport Scotland Act provide adequate tools to coordinate works with utility companies.</p> <p>The existing RAUC framework has encouraged good practice and working relationship between all organisations that work in Scotland. This environment should continue to be encouraged.</p> <p>From speaking to officers who attend both meetings in Scotland and England It is not uncommon for such meetings to turn in to shouting matches or worse.</p> <p>Would the introduction of such a scheme be of benefit to the road users and residents of Scotland?</p> <p>Inverclyde Council would have no objection to the introduction of a permit scheme subject to the additional managing and resourcing costs being recovered from the charges collected via that scheme.</p>

Views Sought	
08	<p>Scottish Ministers would welcome views on the introduction of lane rental schemes.</p>
	<p>Inverclyde Council would support the introduction of lane and rental schemes charge subject to the additional managing and resourcing costs would be recovered from the charges collected via such schemes.</p> <p>This scheme would only seem applicable to road with large vehicle volumes e.g. Trunk Road network.</p>

Views Sought	
09	<p>Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?</p>
	<p>Yes.</p> <p>A legal requirement to record the actual start date would be an area where which could be extended to the summary offences.</p> <p>This would reduce the number of abortive inspection visits carried out by local authorities.</p> <p>It may improve the accuracy of the works notice recorded on the SRWR.</p> <p>To improve the local Authorities coordination function it may be possible to reduce or remove the necessity for the existing start day</p>

	<p>window for works e.g. major works have a 30 day window from the commencement date of the original notice to start.</p>
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Views Sought	
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10	<p>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</p>
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	<p>Inverclyde Council would support summary offences as FPN.</p>
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| | <ul style="list-style-type: none"> • <i>Misclassification of works as urgent or emergency to circumvent longer planned work notice periods.</i> |
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	<p>The possibility of receiving an FPN for the above may focus utility companies forward planning practice which could assist in the coordination role of the LA and possibly reduce conflict on the road network itself.</p>
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| | <ul style="list-style-type: none"> • <i>Not noticing "actual start" notices by the due time (should actual start notices become a legal requirement. If actual start notices were to become a legal requirement then it would be consistent with comparable existing requirements if failure to issue the notice by the due time were to be a fixed penalty offence.</i> |
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| | <ul style="list-style-type: none"> • <i>Failure to rectify a defective reinstatement within a reasonable period.</i> 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 and under the present regime roads authorities sometimes have difficulty in getting utility companies to respond within a reasonable time. |
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| | <ul style="list-style-type: none"> • <i>Failure to rectify defective utility company apparatus within a reasonable timescale.</i> This is another particular area where stronger enforcement powers would assist roads authorities. It is in the public interest for defects to be rectified promptly and under the present regime roads authorities sometimes have difficulty in getting utility companies to respond within a reasonable time. |
|--|---|

Views Sought	
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11	<p>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</p>
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	<p>Inverclyde Council agrees that the FPN charge should be linked to the rate of inflation or similar mechanism.</p>
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Views Sought	
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12	<p>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?</p>
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	Inverclyde Council would support the Commissioners recommendation of an increase in the maximum penalty to £200,000 and should be linked to the rate of inflation or similar mechanism.
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Views Sought	
13	<p>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.</p>
	<p>Inverclyde Council would support the change to the description for Points 1 and 2.</p> <p>Point 3 would require clarification on the definition "such practice as appears...desirable" this is a subjective term and may be open to abuse by organisations that cover the whole of the UK rather than just Scotland.</p> <p>The change in points 1 and 2 would reduce disagreements between organisations.</p> <p>Voluntary arrangements appear to work well in the Scottish RAUC areas. Point 3 could open the door for the utility companies to take a more national stance and argue that their practice accepted in other countries e.g. Wales, England and why are LA in Scotland being unreasonable. It may be appropriate if this could be documented as a code of conduct or similar type of Advice Note?</p>

Views Sought	
14	<p>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.</p>
	<p>Inverclyde Council would support this change.</p> <p>Making it a statutory code for roads authority works would remove the current anomaly whereby utility companies can be prosecuted for a minor breach under the New Roads and Street Works Act whereas roads authorities can only be prosecuted under provisions of the Health and Safety at Work Act.</p>

Views Sought	
15	<p>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.</p>
	<p>In an ideal world this would be the best way forward.</p> <p>The cost for creating digital records may be prohibitive to some organisations</p>

	<p>A case could be made on the strength and weakness for both immediate and phased introduction of this legislation.</p> <p>Inverclyde Council would support in principle the need to have digital records but would have to be balanced this with the Council owns goals and aims for the residents of Inverclyde</p>
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Questions	
16	<p>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.</p>
	<p>Inverclyde Council would agree to repeal Section 61 of the Roads (Scotland) Act 1984 and Section 109 of the New Roads and Street Works Act 1991 revised to provide accordingly.</p> <p>This change would mean a standardise approach throughout Scotland which can only improve efficiency and performance.</p>

Views Sought	
17	<p>Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.</p>
	<p>Inverclyde Council agreed that organisations such as major airport and seaport operators managing significant lengths of road open to the public should be designated as "major road managers" and required to place notices of their works on the SRWR. This would assist in the overall co-ordination of works. It is expected that such organisations would join our community and pay costs accordingly.</p>

Views Sought	
18	<p>What are your views on the 3 month advance notice period for major works?</p>
	<p>Inverclyde Council would not support any reduction of the 3 month advance notice period for major work on traffic or non-traffic sensitive roads within its council area.</p> <p>At present utility companies register "Major" works on the SRWR 3 months in advance of their proposed start date. Unfortunately, the full details of their operations are never submitted to the LA at this time. This is not an uncommon practice.</p> <p>This causes problems for coordination with other utility works and with keeping the general public advised on what is happening on the road network locally.</p>

19	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?
	Inverclyde Council would not support any reduction in advance notice for working on non-traffic sensitive roads within its council area.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	<p>Inverclyde Council has no current issues with the existing voluntary early/late start procedure. This way of managing early late starts has been successful.</p> <p>Inverclyde Council would support the majority decision from the RAUC community on this issue.</p>

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	<p>Experience suggests that abuse of the "urgent" classification is most likely to occur if a works promoter fails to issue the prescribed notice of start date and seeks to avoid a breach of noticing requirements by misclassifying standard works as urgent.</p> <p>The change in noticing time would create additional problems for LA in their coordination duties.</p> <p>It is not uncommon for utility companies to abuse the Emergency/Urgent notice type to manage their workloads e.g. a water burst can run for 8 weeks then suddenly becomes an emergency or urgent.</p> <p>Inverclyde Council would not support this change.</p>

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	<p>Inverclyde Council would support this proposal.</p> <p>This would improve the coordination of road works on the SRWR and on the road network.</p>

Views Sought	
23	<p>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?</p>
	<p>Inverclyde Council would support this amendment.</p> <p>Currently the existing facility for mobile working permits Inverclyde Council to carry out the vast majority of its minor works so this change would formalise this.</p>

Views Sought	
24	<p>Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?</p>
	<p>Inverclyde Council would support this change for all organisations using SRWR.</p>

25	<p>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.</p>
	<p>To assist with the coordination of works on the road network the earlier works are recorded on the SRWR the better.</p> <p>On certain types of road e.g. housing scheme roads the impact caused by openings is limited after/ before peak times therefore the recoding of these works has minimal effect on coordination and disruption/delays for road users.</p> <p>It would be beneficial if the noticing period could reflect the class of road or high volume flows.</p> <p>Inverclyde Council has no issue with the current timescales but would welcome any improvements that could be made in providing information earlier for areas of high volume traffic.</p>

Views Sought	
26	<p>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?</p>
	<p>Inverclyde Council has no issue with the current timescales but would welcome any improvements that could be made in providing information earlier for areas of high volume traffic.</p> <p>To assist with the coordination of works on the road network the earlier</p>

	<p>works are recorded on the SRWR the better.</p> <p>On certain types of road e.g. housing scheme roads the impact caused by openings is limited after/ before peak times therefore the recoding of these works has minimal effect on coordination and disruption/delays for road users.</p> <p>It would be beneficial if the noticing period could reflect the class of road or high volume flows.</p>
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Views Sought	
27	<p>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.</p>
	<p>Inverclyde Council has no objection to reducing the advance notice period to 2 days and this change applying to all organisations.</p> <p>This would assist in the coordination of road works as there would be more accuracy in relation to the actual start date being correct.</p> <p>The proposed statutory requirement to recorded the Actual Start Date would have to be in effect.</p> <p>The FPN scheme could apply to organisations that do not start on the date in the notice. This may encourage behavioural change by all organisations.</p>

Views Sought	
28	<p>Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?</p>
	<p>Inverclyde Council issue duration challenges to utility companies. On the whole most companies amend the timescale of their notices. There will always be one or two organisation that ignore or refuse to budge. S118 and S119 are there to assist in the coordination of road works.</p> <p>It may be beneficial if the Commissioner could monitor the duration periods of notice types and confirm if it is acceptable to put 14 or 21 days for everything?</p> <p>Inverclyde Council would support additional statutory powers for LA</p>

Views Sought	
29	<p>Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?</p>
	<p>In principle having the facility to introduce and embargo could be beneficial to everyone.</p> <p>The challenge would be having the correct balance of exemptions e.g. Emergency / Urgent where the system could be bypassed.</p> <p>The existing system has been successful. Would having this as a statutory</p>

	duty provide any national benefit?
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Views Sought	
30	Do you agree with the definition of a working day given above?
	Inverclyde Council agrees with the definition of "Working Day" as laid out by the Scottish road works community.

Views Sought	
31	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.
	Inverclyde Council has no further issues to add.

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	<p>For urban/ high footfall locations an easy way of recording of specialised surface course and depths would be of value for costing and supply of reinstatement materials in advance of site works.</p> <p>Due to the nature of the construction of non trunk roads there may be benefit to the community if layer depths were recorded on the SRWR. This would assist in reducing disagreements over reinstatements?</p> <p>Would it be possible for all drawings associated with Major Works to be attached to the notice?</p>

Views Sought	
33	Please outline the potential impact of any additional costs.
	<p>Additional staff would have to be taken on to manage and monitor any additional statutory duties resulting from this consultation.</p> <p>Additional IT equipment would be obtained to provide digital information e.g. handheld and desktop on SRWR.</p>

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Inverclyde Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Moffat

Forename

Ian

2. Postal Address

71 East Hamilton Street, Greenock

Postcode PA 15 2UV

Phone 01475 717171

Email

roads@inverclyde.gov.uk

3. Permissions - I am responding as...

Individual

☐

Group/Organisation

☒

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your response to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

Andrew Leyden,
Scotland Gas Networks,
Kilbirnie Street,
Glasgow
G5 8JD

5th July 2013

Sir/Madam,

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
Scotland Gas Networks Response

Scotland Gas Networks (SGN) is the gas distribution company in Scotland, owning and maintaining the gas transportation network in Scotland.

SGN is a committed member of the Scottish road works community and we fully accept that one of the most significant impacts we have on the communities we serve is through roadworks and traffic disruption. However, our work is essential and we work tirelessly to continue to reduce the negative impact which we have on our customers through road works and have made significant progress over the years e.g. development of innovative techniques (core & vac excavation).

In addition, on 1st April 2013, we have commenced a new 8 year price control period and our regulator, Ofgem has incentivised even further improvements associated with stakeholder engagement and customer service.

We fundamentally disagree that any significant changes are required to Scottish roadworks policy as we (and other utilities) are already working hard to reduce impacts and deliver successful innovations in this area. Any new regulations would increase costs for consumers and deliver only negligible reductions in street work impacts.

We do very much welcome the opportunity to comment on this consultation and we would be more than happy to discuss any of the issues we have raised in person. Please see the following annex for detailed answers to the consultation questions,

Kind regards,

Andrew Leyden

Annex 1

Question 1: What contribution do you consider should be introduced? What are your reasons for coming to this view?

None - SGN does not believe that a utility contribution towards long-term damage of any kind is warranted. This is for a number of reasons.

Firstly, SGN questions the validity of the URS-Scott Wilson report, which has been used as the basis for some of the proposals in the consultation. SGN believes that the commissioned desk-top report does not present any new evidence or provide additional conclusions, but serves simply as a literature review of previously published reports and old outdated research.

SGN also believes that some of the reports reviewed in the URS Wilson Report and specifically the evidence on long-term damage is fundamentally flawed. SGN therefore, does not feel that assumptions can be made on the impact of utility reinstatements on Scottish roads based on the existing evidence, and does not accept the findings laid out in the URS Scott Wilson report.

SGN believes that the best way to reduce the impact of utility and authority works on the long term performance of the road structure is through innovation in methodology, techniques and materials. The impact of reinstatements on road structure is influenced by many varied factors such as traffic loading, the original quality of road construction and materials used, the quality and level of road maintenance, as well as quality and quantity of road works. There are many other factors that can contribute to road degradation including extreme weather conditions and volume and type of traffic that passes over the road. The specification used to prescribe the methods of reinstatement required may no longer be fit for purpose given the increased traffic loading and volumes now being experienced in many urban environments. We believe that as part of a way forward the specification must be reviewed regularly to consider developments in materials and techniques which may address these changes. It may also be prudent to consider moving away from a 'method specification' and re-write it as a 'performance specification'. SGN has already started using this methodology by employing deflectometers to ensure reinstatement compaction is consistent with the surrounding structure.

We believe the main issue regarding the condition of Scottish roads is the continued lack of investment in roads and particularly in maintenance of existing road network.

We believe the analogy of the road as a 'piece of cake' is fundamentally flawed. The road is an engineering structure and can, through the use of appropriately designed reinstatement methods, be returned to its original strength.

SGN believes that the introduction of a utility contribution to long term damage would also have a direct and unavoidable impact on consumer costs.

A utility contribution based on any of the ranges proposed would have a dramatic effect on the cost of new connections and major capital projects and potentially reduce investment in our networks to deliver the secure and reliable gas supplies that underpin the Scottish economy. This will have a direct impact on the construction industry, leading to a reduction in the number of jobs within the sector, which contradicts the Scottish and UK governments' primary goal of driving economic growth and creating jobs.

For maintenance and replacement works, the increased costs would be allowed by OFGEM to be passed through and therefore reflected in SGN's transportation costs which ultimately would be borne by the end user.

In summary, placing additional costs on the general public during such difficult economic times,, will become inescapable for utilities if these measures are pursued. We therefore urge the Scottish Government to not implement these proposals.

Detailed Comments on the Data and Assumptions Used for Long-Term Damage

In addition to the high level points above, SGN, in conjunction with other utilities, would like to make the following specific detailed comments on the assumptions made in the Transport Scotland Consultation document and the referenced Technical Reports.

The Transport Research Laboratory (TRL) PPR386 Report, reported a 17% service life reduction based on findings in only 38 sites (across the UK), using information from an earlier TRL Report [No. 573 (c.2003)], which reviewed reinstatements completed circa.1994.

An approximate method to calculate 'reduction in service life' was adopted under the TRL 573 Report, which was derived using the Falling Weight Deflectometer (FWD) readings within the Highways Agency's Deflectograph interpretation method.

Utilities expressed reservations at the time, over relying on just 38 sites as a basis of moving forward proposals for long term damage. This was formalised in a Paper from Virgin Media's Alan Rainford presented to the HAUC(UK) National Conference of 2008. Points set out in this Paper substantially remain to be debated by the road works industry:

- This Transport Scotland Consultation has used the 17% service life reduction figure, implying that 17% of annual road maintenance spend is used to repair utility reinstatements. We wish to challenge this assumption on the basis that a) the original figure, based only on 38 sites, is highly questionable, and b) road works authorities can require utilities to put right any defective works at their own cost, and should therefore not need to use their road maintenance budgets to repair any defective utility reinstatements.
- In respect of the URS Scott Wilson Report which underpins this consultation, we would make the following comments:
 1. URS Scott Wilson consulted stakeholders to augment their desk-top review, however, no utilities were invited to participate.
 2. The Report concludes there is only limited evidence linking reduction in service life to trench reinstatements, and we would question the applicability of

- international reports, where there are many different factors affecting road longevity and the general environment is very different.
3. The Report also highlighted that all data in TRL Reports is for England only and therefore not necessarily relevant to Scotland.
 4. The Report Identified joint sealing as a key weakness, but the SROR is in place to review / strengthen this [see also footnote below].
 5. The Report recommended further research.
 - The TRL PPR651 Report (McHale) for the Scottish Road Works Commissioner:
 1. The methodology used in the Report adopted roads maintenance inspection criteria without apparent cross-reference to SROR compliance parameters – examples:
 - (i) Joint cracking (permissible crack widths – *the SROR accepts cracks up to 2.5mm before remedials are required [see also footnote below]*).
 - (ii) Step depression -we question whether the measurement was outside the SROR Intervention limits?
 - (iii) Crowning / depression - we question whether these were outside of SROR Intervention limits?
 2. We suggest that the Inspection Panel marking may therefore be unrepresentative of the standards expected under the SROR.
 3. Zone of Influence – issues:
 - (i) The only discernible visual measurement used to identify the effects of any weakness / movement in the surrounding zone of influence was a recording of cracking in the carriageway.
 - (ii) Approximately 1 in 6 sites were recorded as having some evidence of cracking in the surrounding carriageway - this low number appears to undermine the principle of a zone of influence, used under TRL PPR386 to 'inflate' the overall square metreage costs of long-term damage.
 4. TRL established an Inspection Panel – this was independent of utilities, which is regrettable (although NJUG did have some degree of representation in all TRL reports in England).
 5. The Report identified joint sealing as a key weakness - as above, the SROR is place to review / strengthen this [see also footnote below].
 6. Findings:
 - (i) The Report draws out that urban and city areas appeared worse than rural and semi-urban (should the Scottish government insist on pursuing a long-term damage contribution, this would need to be reflected, rather than a blanket approach, although we continue to strongly believe that no utility contribution towards long-term damage is warranted).
 - (ii) The Report suggests all reinstatements continue to deteriorate over time. This is not proven in the trial work. All that is shown is a snapshot of the range of reinstatement conditions for reinstatements of different ages.
 - (iii) The general condition of the existing surround carriageways remote from the reinstatements is not captured. Our experience is that the quality of the surrounding roads is often poorer than the utility reinstatement, and would therefore suggest that:
 - (a) An assessment at the time of visiting the sites would have been useful, in order to gauge whether general road maintenance was required.
 - (b) This is a key plank of the SROR, in that utilities are not expected to exceed the condition of the general surrounds at the end of the Guarantee Period as, in essence, it is a function of betterment.
 7. Additional Comments:

- (i) There is no reflection in either the URS Scott Wilson Report or this consultation, that acknowledges Audit Scotland's Reports regarding the Road Authorities preparing Asset Management Plans, i.e. utilities really do not know how well, or not, the Road Authorities are generally maintaining their assets, in order to scale the 17% figure.
- (ii) Yet the Maintaining Scotland's Roads (Audit Scotland, 2011) Report highlighted that the overall maintenance backlog on roads in Scotland is £2.25 billion, of which £1.54 billion relates to roads in local Road Authority control. No indication was given of the timeframe over which this might be expected to be recovered, but the backlog figures were compared with those reported for England and Wales by way of the annual ALARM Reports - issued by the Asphalt Industry Alliance (AIA). This comparison showed the headline backlog cost per kilometre in Scotland to be circa 40% greater than that reported for 2010 in England and Wales. Therefore, in essence, the baseline condition of roads in Scotland appears to be poorer than that in England and Wales.
- (iii) Additional earlier reporting also supports the long-term existence of a road maintenance backlog:
 - (a) Scottish Road Maintenance Condition Survey (SRMCS) reports from 2002.
 - (b) State of the Scottish Road Network Report of 2009 issued by the Society of Chief Officers for Transport in Scotland (SCOTS).

Footnotes:

1. Joint issues / cracks and related failures predominate. However, S12 of the SROR has excellent, yet under-used repair techniques. SGN believes these techniques offer a better alternative to the proposals outlined in this question of the Consultation.
2. Highway and Road Authorities have previously prevented utilities using overbanding on their reinstatements. Irrespective of skidding issues, utilities have been generally prevented from applying early-life edge protection, which TRL advocated in previous reinstatement-related research. Resolving this issue may help reduce the risk of future reinstatements failing.

Road Restrictions

Question 2: Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?

Yes. SGN agrees that the period of restriction following resurfacing should be changed. The Scottish road works community has already accepted that a 1 year restriction period is too short and has adopted a 3 year voluntary period as currently prescribed in the Code of Practice for the Coordination of Works in Roads. These measures would therefore reinforce current best practice with legislation. SGN would support this transposition to a legislative basis on the understanding that any new restriction period would continue to be subject to the exemptions already identified in the current Code of Practice for the Coordination of Works in Roads for things such as new service connections, urgent and emergency works.

Road Works Inspections

Question 3: 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?

SGN does not believe that the inspection levels for utility works that road authorities can charge for should increase. The current 30% inspection level is a very robust sample rate which gives an extremely strong indication of quality. Also roads authorities already have the ability to inspect all parts of road works if they feel it necessary.

SGN feel that a targeted approach to inspections would be more beneficial and allow roads authorities to address poor performing utilities thus ensuring an improvement in their standards.

Voluntary initiatives that have been agreed through RAUC (Scotland) with higher targets each year, have delivered a real improvement in reinstatement quality. NJUG believes this current approach should be continued in preference to any further regulatory measures.

Please also note that the inspections proposals within this consultation document ignore the current performance-based Inspections Code of Practice, which was agreed by RAUC(Scotland) and includes detailed Improvement Plans for poor performers, which involves utilities and road authorities working together to drive up standards with utilities paying for additional inspections.

Question 4: Should the arrangements for inspection fees be changed, and could this include a performance element?

Yes, SGN believes that the current arrangements for inspection fees should be changed and incorporate a reduction in the level of inspections, and therefore fees, for high performers and in turn incorporate additional inspections for those identified as poor performers.

Improvement Plans which are an important element of the current Inspections Code of Practice are already in place to promote and foster good performance amongst utilities and road authorities.

Additional regulation is unnecessary, particularly when voluntary measures already in place are proving so effective, but a change to the existing regulation (as suggested above) could deliver even greater improvements, further incentivising good performance.

Guarantee Periods

Question 5: Do you agree that such increased periods be introduced? What are your reasons for coming to this view?

No - SGN does not believe that any increase in the guarantee period after utility works are completed should be introduced. There is no evidence available to suggest that any reinstatement that has not failed after 2 or 3 years is likely to fail after 5 years or beyond. Where a reinstatement fails after 2 or 3 years it is often the case that the original reinstatement was not completed to the appropriate specification in which case the liability will remain with the utility.

Even though the likelihood of any failure after 2 and 3 years, or 5 years is small, SGN and our contractors will be forced to plan, and therefore hold funds for these liabilities regardless. Any increase in the guarantee period for utility works would therefore see a significant increase in costs for no justifiable reason. In addition, if SGN decides to pass on the liability to contractors, as is likely to happen, this will in turn be reflected in increased contractor prices and regrettably lead to increased consumer costs.

SGN, in conjunction with other utilities, would like to make the following detailed points on the 5 Year Guarantee Period:

- 1 Reinstatement design life has remained at 20-years since SROR 1st Edition (1992).
- 2 The SROR 3rd Edition Consultation called for evidence to be provided in support of an extension to the current 2 / 3 year period.
- 3 What evidence was received in the SROR Consultation responses, and could it be made available?
- 4 General Comments:
 1. The Department for Transport (DfT), by way of the SROH 3rd Edition (England) Consultation, similarly sought supporting data to justify an increase in the Guarantee Period to 5 years. A small number of responses were received, but there was no overwhelming body of evidence to justify the increase.
 2. Is there any supporting data that shows the rate of deterioration of reinstatements between end-year 2 and end-year 5, as utilities experience is that there is no deterioration of compliant reinstatements between 2 and 5 years.
 3. Is the Inspections Code of Practice to be amended?
 4. Will the annualised Sample Inspection payments to Road Authorities will be re-evaluated over the first 5 year period – i.e. a 'loss' in income to Road Authorities, through cash flow adjustments as a result of Stage C Sample Inspections (and payments) delayed to year 5. This was a key reason English Highway Authorities were against the 5 year Guarantee Period, similarly proposed under the SROH 3rd Edition (England) Consultation questions in 2009.
 5. In 2009, NJUG made a number of key points regarding the proposal for a 5 year Guarantee Period. The majority of points remain substantially unchanged and are yet to be debated by the road works industry (no new data forthcoming from Roads or Highways Authorities). Key points:
 - (i) Impact upon commercial liability - the simple question here is "if any Employer of Contractors asks for an increase to the Guarantee Period, will that affect the contracted rates?"

Accepting that sub-Contractor operating models predominate across the construction industry (roads and utilities), one 'link' in the cost-chain will bear the cost of increased contract liability arising from an increased Guarantee Period. Most probably it will be the first sub-Contractor working for the utility's main, or Tier 1, Contractor. An increase in the Guarantee Period will merely escalate costs for council tax and utility bill payers, and further impact the construction industry. Whilst an increase of the Guarantee Period may well instigate a review of working practices, there is no evidence that it would bring about any improvements, or that such improvements would outweigh the additional costs to the industry.

- (ii) What are the expected improvements provided by an increased Guarantee Period?

TIME TAKEN TO COMPLETE WORKS

Charge for Occupation Where Work is Unreasonably Prolonged

Question 6: *Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.*

SGN is of the opinion that there is no supporting evidence of works being unreasonably prolonged and believe that this is not an issue which requires additional legislation. There were only 22 formal notices issued to SGN under section 125 in the last 12 month period when approximately 13,000 works were registered.

National data shows that 98% of Utility works across the whole of Scotland were completed on time therefore SGN would question the justification and value of introducing a Section 133 overstay charge when Paragraph 2.7 of the consultation recognises that only around 2% of over-running utility works were recorded in the last 12 months.

SGN already regularly undertakes works on an extended hours basis, for example by working seven days a week on busier streets; in agreement with road authorities and taking into account environmental considerations, safety, operational, and practical requirements. SGN would also point out that, for major works or works in traffic sensitive areas, SGN and roads authorities already agree the duration of works in advance of them taking place. SGN with the detailed knowledge and expertise of their own operations, know the length of time a job will take and therefore post realistic estimates of the duration of works on the SRWR. These estimates are frequently discussed at local RAUCs meetings and dedicated site meetings where the reasons for particular duration estimates can be explained.

As there is no data to suggest that there is a problem here, there seems little gain in bringing in additional and expensive regulation which may undermine the successful cooperative process already in operation in Scotland.

Permit Schemes

Question 7: *Scottish Ministers would welcome views on the introduction of permit schemes.*

SGN believes that the existing noticing provisions in Scotland coupled with the enhanced facilities available on the SRWR provide an excellent platform which allows levels of co-operation and coordination superior to anything currently experienced in the permit schemes being run in England.

From SGN's experience of permit schemes in England there is no evidence of reduced disruption caused by road works or improved co-ordination of works (as referenced in Paragraphs 2.10 & 2.12). Instead permit schemes have resulted in considerably increased costs to utilities both in paying the permit fees and in additional administration and management time associated with running these schemes. These costs are passed on to consumers, either through direct connection quotes, or as an allowed cost by our economic regulator as permit fees become a normal cost of undertaking road works.

In some cases, in particular within London, there is a significant reduction in productivity and efficiency due to onerous conditions placed on utilities. This, in some cases, lengthens the duration of works adding to overall congestion. For example, the London Borough of Kensington and Chelsea has imposed limits on the length of gas pipes that can be inserted inside old pipes, resulting in the need for extra excavations, which increases disruption, extends the total duration of the project, increases the environmental impact, and reduces productivity by 30%.

To date, there has been no English Government review of permit schemes to assess how effective they are. Thus, SGN supports the Commissioner's decision not to recommend the introduction of permit schemes at this time.

Lane Rental Schemes

Question 8: *Scottish Ministers would welcome views on the introduction of lane rental schemes.*

SGN does not believe that lane rental will deliver any additional benefits over and above those achieved using the existing legislation, regulation and voluntary initiatives already available to manage road works. SGN's view is that greater consistency and effectiveness in implementing the existing legislative, regulatory and voluntary measures would deliver the same objectives at much less cost to utilities, roads authorities and their customers.

Current working arrangements between RAs and Utilities ensure that where works are taking part in locations susceptible to disruption e.g. roads identified as Traffic Sensitive, every effort is made to ensure that disruption is kept to a minimum by either restricting working hours, or increasing them to ensure works are completed quickly. Introducing a tax based on

the location of works is unlikely to significantly reduce the duration of these works and will only lead to an increase in costs to the end consumer for no tangible benefit.

We find it hard to envisage a situation in Scotland that would warrant the introduction of this scheme.

Offences under NRSWA

Question 9: Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?

SGN gives limited support to the proposal to extend the range of summary offences dischargeable by fixed penalty notices (FPNs). In respect of two out of three of the suggested areas to which FPNs could be extended, SGN believes that there are already suitable existing measures that roads authorities can use to address non-compliance:

Section 110 – prohibition of unauthorised road works – Section 110 allows roads authorities the ability to prosecute persons other than a road works authority, utility with a statutory right, or a person granted a Sect 109 permission who do not notify authorities of their works.

SGN has no objection to this being dealt with by an FPN.

Section 124 – signing, lighting and guarding failure – Section 124 allows road authorities to prosecute utilities for signing, lighting and guarding non-compliances. SGN feels that it would be inappropriate to allow a Utility to discharge its responsibilities for correct signing lighting and guarding by paying an FPN.

The current Code of Practice for Inspections gives excellent advice on processes for alerting SLG inadequacies and defects which are generally adhered to by utilities and which can be more readily amended to meet changing needs than the introduction of FPNs for these offences.

The number of sub-standard Traffic Management reports recorded on the SRWR last year for SGN amounted to less than 1.5% of the total works registered. Given this relatively low figure we do not believe there is a problem that needs new legislation to address.

SGN believes that once the revised Safety Code of Practice is finalised, its launch could provide a real catalyst for re-emphasising the importance of correct signing, lighting and guarding through RAUC(Scotland).

Section 130 – Not reinstating excavation in accordance with the specification – Section 130 allows roads authorities to tackle poorly reinstated excavations, and indeed the Scottish Road Works Commissioner and RAUC(Scotland) already have in place effective Improvement Plans which are delivering year on year improvements in the quality of reinstatement, with higher percentage targets set each year.

Defects may be issued for any reinstatements not meeting the Specification and the inspection charges for a defect are more onerous than those of an FPN thereby already providing the necessary drive to reinstate to Specification.

SGN therefore believes there is no value in introducing FPNs for these offences, and experience across Great Britain has shown that some authorities use FPNs to supplement income, leading to numerous challenges and negotiations over spurious FPNs. Extending the range of offences will simply exacerbate the problem, and could detract from the very positive and collaborative approach between roads authorities and utilities fostered under the guidance of the Scottish Road Works Commissioner and RAUC(Scotland).

New Offences Dischargeable by Fixed Penalties

Question 10 – Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.

Misclassification of works as urgent or emergency to circumvent longer planned work notice periods_– SGN are not aware of this being a significant issue and do not see any value in creating a further offence.

Not Noticing “actual start” notices by the due time (should actual start notices become a legal requirement)

SGN feel that issuing an actual start date notice is an important tool for effective coordination for road works and as such we would support an additional FPN for failing to do so. However, we would continue to suggest that the cut off for this notice remains at 1200 the following day, to allow notices to be sent from remote areas.

Failure to rectify a defective reinstatement within a reasonable period

SGN occasionally experiences periods of very high workload due to rapid increases in the number of reported gas escapes, for example during very cold weather. At these times our priority will always be to divert available resources to meet these demands and the repair of minor reinstatement defects may be delayed until we can release the necessary resource. We are of the opinion therefore that the issuing of FPNs for failure to repair defective reinstatements within a reasonable period would serve little purpose save to add to the cost and administrative burden associated with FPNs generally.

Roads authorities already have measures to which they have recourse, including rectifying the defective reinstatement themselves and charging the utility.

Failure to rectify defective utility company apparatus within a reasonable time

No – roads authorities already have measures to which they have recourse to encourage utilities to rectify defective utility company apparatus. Equally, it is not in a utility's interest to leave its apparatus defective for any length of time.

RUAC(Scotland) is currently considering the issue of an Advice Note detailing an agreed process for the management of Defective Apparatus which will provide a clear guide regarding timescales for repairing defects on utility apparatus to utilities and roads authorities and should preclude the need for additional legislation.

Fixed Penalty Amounts

Question 11: Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?

SGN has no major objection to an increase in the FPN charge in line with inflation, e.g. consumer price index, however there should be an increased emphasis in the quality of FPN assessment carried out by RAs prior to issuing any FPNs thereby reducing time wasted arguing over spurious FPNs. Please note that the current level of charges acts as an effective deterrent given that the quality and timeliness of noticing is at 98% compliance. There is therefore no justification for any significant increase in the FPN level above the rate of inflation as the current level is driving a high level of performance.

Question 12: 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. customer price index?

SGN has no major objection to an increase in Commissioner Penalty in line with inflation, e.g. consumer price index; however we do not believe that increasing this to £200,000 is appropriate in this case. Whilst £50,000 may not seem significant in relation to large company turnovers, SGN believes that loss of reputation is a far greater sanction than monetary value.

Definitions of Co-operate and Co-ordinate

Question 13: Do you agree that the definition of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.

No – SGN believes that the existing definitions of “co-operate” and “co-ordinate”, if used effectively, are fit for purpose. The suggested amendment is very open-ended and could be used inappropriately without suitable safeguards.

NJUG believes that any proposed change should be agreed with and through RAUC(Scotland) thus ensuring that the definitions, and the guidelines for their application and use, are understood and accepted by the community at large.

REVIEW OF CURRENT AND PROPOSED LEGISLATION

Safety at Road Works

Question 14: Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for road authorities? Please provide the reasons.

Yes - SGN strongly believes that there should be one safety standard across the UK applying to all those working on the road. The general public are not interested in who undertakes the work in the street, but they expect the works to be completed safely and in an efficient and cost effective manner.

Consistent standards for all works undertaken in the road would lead to a significant improvement in the safety and quality of works.

Apparatus Records

Question 15: 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.

Yes – SGN agrees that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus and SGN believe that VAULT would be the appropriate repository for these records. This would enhance the safety of operatives and the public and aid the planning of works.

However, SGN believes that a move towards digital records should be undertaken on a planned and phased basis, in order to allow companies and authorities that do not have digital records to meet this requirement in a cost effective manner.

Section 109 Permissions

Question 16: 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 reasons for your view.

Yes – SGN agrees with repealing S61 and revising S109(2). The final outcome of any future legislation should see enhanced digital records of all underground plant being recorded on VAULT. We believe that it is extremely important that as much relevant data as possible on

utility and authority apparatus and works is held on a common central register, irrespective of who has carried out the works.

Road Managers

Question 17: Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.

Yes – SGN supports this proposal. It is important that all works (and records) in all accessible roads are represented on the register.

CO-ORDINATION OF WORKS

Advance Notice Periods

Question 18: What are your views on the 3 month advance notice period for major works?

SGN believes that 3 months notice for major works is an appropriate advance notice period for those works that can be identified prior to this timescale, e.g. works that have been identified in an organisations annual operating plan; however there are circumstances where organisations are made aware of works within this timescale, e.g. customer driven connections where utilities may be obliged to connect customers within specified time limits. SGN believes that under these circumstances utilities should be exempt from having to give three months advance notice and perhaps only have to give one months advance notice. Therefore, a more broad-ranging option is proposed, with one month for certain types of customer-driven work and three months for long-term planned works.

The main tool for good coordination is quality advance notice of all major works and the introduction of advance notification using 'Potential Works' notices aids this by providing a process for early notification of works (location and duration) without the unnecessary limits of exact start dates (and validity periods), this informal approach earlier in the process allows for meaningful co-ordination by road authorities and flexing of works by utilities to allow for joint occupation or sequential working, thereby reducing the overall duration of works.

Question 19: 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?

SGN believes that advance notice for all major works is an important part of coordination, however a three month notice is too long in this case, and we believe that 1 months notice for "non" traffic sensitive roads would be more appropriate. The main tool for good coordination is quality advance notice of all major works and the introduction of advance notification using 'Potential Works' notices will help this coordination.

Early Start Procedures

Question 20: *Should the early start procedure be a statutory requirement?*

Yes - The RAUC(Scotland) Advice note on 'early starts' has been in operation for some years now and generally works well therefore SGN would support the early start procedure as detailed in the Advice Note being a statutory requirement. SGN would recommend that 'early starts' are recognised by all as a necessary tool in the coordination process and that roads authorities are discouraged from limiting agreements on early start based on some pre-conceived target number of agreements.

Urgent Works

Question 21: *What are your views on making noon the following day a statutory requirement for commencing urgent works?*

No – Whilst SGN agrees that by definition, there should be a degree of urgency to commence for any works defined as “urgent”, we would prefer to retain the existing definition of urgent works necessary to repair a primary network failure. There are times when temporary fixes may be required, to ensure safety of the network and the public or other temporary measures, particularly on traffic-sensitive roads, which are necessary to enable specialist materials to be obtained when they are not readily available. This does not mean that the works are not urgent, but that the excavation phase may be delayed until the permanent works can take place and be completed without delay.

The current Code of Practice for the Coordination of Works in Roads details the validity period for an urgent notice as commencing 'by noon the following day'. Whilst it is appropriate for this period to be defined in a Code of Practice, it should be recognised that there will be unavoidable situations where this can only be an aspiration. It is therefore a step too far to restrict this by legislation.

For consistency, SGN suggests that the existing definition is retained but that the importance of communicating to the roads authority when actual excavation works are due to start is stressed to all works promoters, and agreement is reached with them on the appropriate course of action (taking into account the impact on safety, vulnerable customers, and disruption to members of the travelling public).

Roads Authority Noticing Obligations

Question 22: *Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?*

Yes - This legislation would greatly aid co-ordination, enhance co-operation and enable much better data analysis to assess both existing and future legislation and voluntary initiatives.

Indeed, the general public do not differentiate between road authority and utility works, and so it would make sense for all utilities and roads authorities to be required to provide the same information to the same timescales. The more robust the information the road works community has at its disposal, the better informed the Scottish government and the Commissioner will be in formulating any future road works policy, legislation or voluntary initiatives through RAUC(Scotland).

Minor Works Involving No or Minimal Excavation

Question 23: 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?

Yes - The flexibility to not notice works involving no or minimal excavation on non traffic-sensitive roads is valuable for both utilities and roads authorities, reducing the administrative burden for both. SGN supports the approach taken in the February 2010 Commissioner Advice Note, and so SGN agrees that any regulation should provide flexibility whilst ensuring parity of treatment for road authorities and utilities.

Actual Start Notices

Question 24: Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on the Scottish Road Works Register?

Yes – SGN supports the introduction of regulations to require roads authorities and utilities to enter actual start notices on the SRWR, as this will improve co-ordination of road works.

Question 25: Is the current requirement for actual start notices to be lodged by noon the following day for all works in the road, including traffic-sensitive routes, acceptable? Please can you explain your answer.

Yes – SGN believes that the existing requirement for actual start notices to be lodged by noon the following day for all works, achieves a sensible balance between ensuring certainty that the works have commenced, and making sure information on the SRWR is as up to date as possible **and takes account of remote workers who may not have access to a reliable telephone network to communicate their start until the end of the working day.**

Of course, the noon next day deadline should act as a backstop, and, wherever possible, all works promoters should aim to confirm the actual start of works as soon as possible, and where they are working in particularly busy roads unexpectedly we would urge them to telephone the roads authority to alert them of their works before submitting the formal actual start notice.

Works Closed Notices

Question 26: *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?*

Yes – SGN believes that the existing requirement for works closed notices to be lodged by the end of the following day, achieves a sensible balance between ensuring certainty that the works have finished and all signing, lighting and guarding is removed, and making sure information on the SRWR is as up to date as possible. Of course, the close of play next day deadline should act as a backstop, and, wherever possible, all works promoters should aim to confirm that works have closed as soon as possible.

Validity Periods

Question 27 – *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?*

No, SGN does not believe that the validity period for a 'notice of expected starting date' should be reduced to a maximum of 2 days; at this time.

Given that the SRWR is now exclusively used for noticing purposes there is an argument for reducing this period to allow more efficient use of the coordination facilities available on the register. We would propose that to achieve this, the validity period be reduced to a maximum of 5 working days for non traffic sensitive roads and to 3 working days for traffic sensitive roads. This would still allow utilities and roads authorities a reasonable amount of room to manoeuvre, particularly in less congested roads, whilst still reducing the amount of 'dead time' within the SRWR.

Duration of Works

Question 28: *Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?*

No - Utilities are best placed to determine the duration of works on their networks in order to perform them safely and efficiently and taking into account network and engineering requirements and commercial constraints. Undue pressure to reduce durations to an unsustainable level with the imposition from roads authorities of 'maximum periods within which the works must be completed' (5.25) could potentially lead to decreased quality and the need to return at a later date, effectively increasing overall works durations and the resultant disruption to members of the travelling public. However, utility and roads authorities should seek to agree reasonable durations to minimise unnecessary occupation of the carriageway.

SGN carries out a significant number of emergency works on the road and if legislation was brought forward to allow imposition of maximum durations then it should not apply in these

circumstances e.g. where SGN are working to minimise risk associated with an escape. Under these circumstances it would not make sense to try and impose maximum durations.

Embargoes

Question 29: Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?

No – SGN does not believe roads authorities should be given statutory powers to impose embargoes on works for reasons other than traffic disruption. Utilities undertake road works for four main reasons – safety, security of supply, connecting new customers or enhancing existing customers' supplies or diverting apparatus for major transport or urban regeneration projects. Utilities are investing billions of pounds to deliver safe and secure utility services which underpin the UK economy. They are therefore a major contributor to economic growth in their own right and through providing essential utility services for new houses and businesses. Therefore, having statutory powers to impose embargoes on utility works could have very significant consequences.

SGN's strong preference would be for roads authorities and utilities to continue to, or start to share plans of major works and upcoming events in order to facilitate voluntary embargoes on roads when necessary. The road works community has a long and proud track record in managing the flexing of works and complying with voluntary embargoes, including during pre-Christmas and New Year periods and major events, such as the Commonwealth Games and Edinburgh festival. SGN believes that this should continue without the need for embargoes to be placed on statutory footing.

Definition of "working day"

Question 30: Do you agree with the definition of a working day given above?

Yes, SGN has been working to the agreed definition for some time and will continue to comply with the Code of Practice for Coordination.

ISSUES NOT COVERED

Issues not Covered In The Foregoing

Question 31: 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.

Community Engagement and Commitment: SGN believes that the current system and process for the coordination of road works in Scotland is the envy of many, and displays a level of cooperation and collaboration that is rarely witnessed in any other country where road works are properly managed. This did not happen by accident, it is the result of many

years of interaction, debate and eventual agreement on what worked for the community as a whole.

That is not to say that the system is perfect, there are still many problems that need to be addressed, but these problems should be surmounted through discussion and agreement as before, not necessarily through increased legislation.

Legislation is necessary to allow some processes to work, but the legislation which works best is that which follows proper debate, agreement and testing by the community through Advice Notes and amendments to Codes of Practice; properly thought out and written by working groups made up from the road works community.

To allow the continued collaboration, which has to date been so successful, it is important to retain the commitment and enthusiasm of the key players within the road works community in Scotland. To do this we believe that it is important that the community retains a sense of ownership of the Scottish Road Works Register. The Scottish Road Works Commissioner is, rightly, the Keeper of the Register, but the sense of ownership that has borne so many successes to date is in danger of being lost and is key to the engagement and commitment vital for the continuing cooperation that allows us to achieve the common goals of better coordination and reduced disruption.

SGN believes that the SRWR should continue to be managed and developed by RAUC(S) through remit to the SRWR Management Group for the benefit of the Scottish road works community, albeit that this process is overseen and governed by the Keeper of the Register.

Trial Registers: To allow innovation and development to flourish it is important that it is not stifled by a lack of willingness or flexibility within the community. There is a reluctance in some areas to adopt new techniques or materials that were not invented or trialled locally. To circumvent this it would be useful if the Commissioner's office could hold a central register of trials, trial outcomes, and any supporting evidence such as approvals. Then, when rolling out a new innovation, this evidence could be used to support the new technique or material, thus negating the need to repeat the trial procedure over and over.

Innovation

Question 32: Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.

Core and Vac: SGN has developed a suite of new and innovative techniques for excavation and reinstatement, collectively referred to as 'Core and Vac', which when used together has the potential to significantly reduce the amount of time occupying the road when carrying out works.

The three main constituents of the system are:

Core: The process uses a large diameter (600mm) diamond coring drum to cut the road surface, which is retained for use in final reinstatement.

Excavation: Excavation is carried out using a vacuum extractor and air picks which use compressed air to loosen the soil prior to the extractor removal. Work is then carried out on our apparatus using long handled tooling.

Reinstatement Compaction: A compression wave amplitude monitoring device manufactured specifically for the purpose of measuring soil compaction is used at the bottom of the reinstatement. This device measures the compression wave amplitude as compaction progresses using below ground piezoelectric transducer wave sensors and an above-ground electronic monitor. The device signals the operator of successful compaction within the core excavation. The compaction is monitored continually and records not only the excavation but also the number of lifts. The monitor clearly indicates to the operative when appropriate compaction levels have been achieved.

A more detailed explanation of the Core and Vac technique is attached as **Appendix A**

SMR: SGN is currently trialling the use of a proprietary, hydraulically bound material for backfilling excavations in several Scottish council areas. This material uses recycled material from our excavations and gives a material which outperforms Type 1 GSB.

A brief powerpoint presentation outlining the SMR process is attached as **Appendix B**

FSMR: SGN is actively investigating the possibility of using Flowable Stabilised Materials for Reinstatement (FSMR), a material similar to SMR but in a semi liquid form which also allows us to recycle all of our arisings. Due to the semi liquid nature of this material, the need for traditional compaction techniques is removed and, with a relatively short cure time, we can completely reinstate our openings in significantly shorter periods.

Financial Implications

Question 33: Please outline the potential impact of any costs.

SGN is unable to accurately quantify the costs of many of the proposals included in this consultation, as the costs would vary widely depending on the scope and scale of the eventual proposals and the way in which they are implemented.

For instance, permit schemes that apply to all works and all roads result in a far greater increase in utility and authority costs than those that have focused on just the busiest roads. Equally, those permit schemes with onerous conditions have increased costs and reduced productivity / efficiency, much more than those schemes which have fewer and less onerous conditions

The approach in which any lane rental scheme is developed will greatly vary the costs to all works promoters. A scheme which incentivises a wholesale move towards out of hours working will have higher costs than a scheme which also incorporates variations in seasons / times of year. For out of hours working SGN typically sees a 25% uplift in labour costs, which we would have to pay in order to avoid the lane rental charge if a lane rental scheme is so designed.

Also, without environmental health officers engagement in the development of any schemes, works promoters have seen the number of hours available for work each day reduced dramatically e.g. to avoid a lane rental charge in London a works promoter must not work before 8pm in the evening and yet some EHOs are preventing works after 11pm, which leaves only 3 hours to do works. This increases the duration of works exponentially.

As explained earlier in our submission, any introduction of a contribution towards long-term damage would not only increase the unit cost of works dramatically, but would reduce the volume of asset investment works we would be able to undertake within our regulatory settlements and increase the cost of new connections for businesses and domestic customers.

To fully assess the potential impact of any costs SGN would be happy to cooperate with Scottish Government in a robust cost benefit analysis of any areas they wish to consider further.

SGN are pleased to have had the opportunity to respond to this consultation and would like to reassure Scottish Government that we will continue to work with the Scottish Road Works Commissioner and RAUC(Scotland) towards improving the coordination of road works and reducing any disruption caused.

Appendix A: Core and Vac details; Document below sent separately as a PDF file.



Innovation Project
April 2013 LR Scotlan

Appendix B: SMR Powerpoint Presentation; Document below sent separately as a Microsoft pptx file.



'Innovation
Moment'.pptx

Bus and Local Transport Policy
Transport Policy

42

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk

Your ref:

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</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 2m² 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</p>



	<p>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 & resurface treatment to £35 per square metre for simple patching work.</p>
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Views Sought	
02	<p>Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?</p>
	<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>

Views Sought	
03	<p>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?</p>
	<p>Sample inspections have different purposes.</p> <p>For co-ordination purposes: 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: 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>



04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	<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>

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	<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 57th month should be introduced and be called a Cat D inspection?</p>

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	<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>



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.

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.



Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	<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>

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	<p>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.</p>

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	<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</p>



	for poor reinstatement performance.
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Views Sought	
10	<p>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</p> <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"> • Provision of reinstatement information. The reinstatement information is not always provided by Utilities and this is essential for co-ordination and location purposes. • Extensions to notices, without any discussion or agreement with the RA • 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. • 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. • 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. • 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.

Views Sought	
11	<p>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</p> <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>



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Views Sought

12	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?
	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.



Views Sought	
13	<p>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.</p>
	<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	
14	<p>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.</p>
	<p>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.</p>

Views Sought	
15	<p>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.</p>
	<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</p>



	time to digitise their records.
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Questions	
16	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.
	<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>

Views Sought	
17	Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.
	<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>

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	<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</p>



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 agree traffic management, and duration for Major Works.

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.

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

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.



19	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?
	<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>

Views Sought	
20	Should the early start procedure be a statutory requirement?
	<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>

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	<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>



Views Sought	
22	<p>Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?</p>
	<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>

Views Sought	
23	<p>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?</p>
	<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 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>

Views Sought	
24	<p>Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?</p>
	<p>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</p>



	introduced requiring them to be entered.
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25	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.
	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.

Views Sought

26	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?
	<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>

Views Sought

27	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.
	<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>



Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	<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>

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	<p>Yes. Major sporting events, Major venue concerts, Festival / Fringe, Hogmanay, visits by VIPs, long planned charity events, marches & 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>

Views Sought	
30	Do you agree with the definition of a working day given above?
	<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>



Views Sought

31 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.

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.

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.

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 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.



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

Views Sought	
33	Please outline the potential impact of any additional costs.
	No Comment



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

The City of Edinburgh Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Harding

Forename

Stuart

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3. Permissions - I am responding as...

Individual		Group/Organisation	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Please tick as appropriate	
(a)	Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)? Please tick as appropriate <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	(c)	The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site). Are you content for your response to be made available? Please tick as appropriate <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(b)	Where confidentiality is not requested, we will make your responses available to the public on the following basis Please tick ONE of the following boxes Yes, make my response, name and address all available <input checked="" type="checkbox"/> or Yes, make my response available, but not my name and address <input type="checkbox"/> or Yes, make my response and name available, but not my address <input type="checkbox"/>		
(d)	We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise? Please tick as appropriate <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p> <p>Utility interventions undoubtedly cause damage to the road surface that leads to potholing around the edges and the companies involved should therefore contribute to the cost of repair. Examination of badly pitted road surfaces often shows that the original surface is in reasonable condition and the re-instatement is the cause of wear.</p> <p>We consider that the maximum contribution of £76/ square metre (based on 17% reduction in service life) should be levied to reflect the damage caused.</p>

Views Sought	
02	<p>Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?</p> <p>The 3 year period after resurfacing should be adopted as this may encourage utility companies to work more closely together and co-ordinate activities.</p>

Views Sought	
03	<p>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?</p> <p>In view of the large variation in failure rates between companies there is a clear need to increase inspection rates from 30% of utility company works to at least 50% to act as a disincentive to poor quality work.</p>

04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	A performance element would be a desirable feature so that poorly performing companies receive more frequent inspections and also pay more so that there is an incentive to work better. In addition, companies with ongoing poor performance should be excluded from future work.

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	We agree that the period should be increased to at least 5 years.

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	An occupation charge should certainly be introduced and used by local authorities as a way of ensuring timely completion of repairs. As regards the temptation by companies to over-estimate the time required, there must surely be recognised repair durations for most routine work that could be used for comparison.



Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	We believe that permit scheme should be introduced to allow local authorities to have better control over work carried out on the road network.

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	Charges should be introduced in a targeted fashion for critical parts of the road network. Such charges could be based on the London model so that lessons and best practice can be incorporated based on their experience. Money raises in this way should be ear-marked for use by local authorities to carry out road maintenance in view of the backlog of repairs that exists within Scotland. The lane rental approach seems one way that companies would be incentivised to carry out work in the least time, assuming quality is not sacrificed in the process. Guarantee periods should, however, reduce the likelihood of this happening.

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	Fixed Penalty Notices should be extended to cover a wider range of offences and so reduce the cost to local authorities by introducing clarification of the whole process. We note that some local authorities are unwilling to carry out enforcement in order to maintain good relations with the companies involved. This should be handled, in our view, by excluding regular offenders from further work; otherwise the enforcement becomes rather futile.

Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	We agree that all of the offences listed should be added to the list of fixed penalty notices because they represent tricks by which unscrupulous companies can circumvent good practice and cause much expense and inconvenience to the public and to local authorities.

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	We agree that the amounts should be increased and should be increased substantially so that, as a very minimum, the costs of enforcement should be recovered. We cannot agree with the Commissioner's view that the original values "were set at an appropriate level" because they seem to us to be ridiculously low and unlikely to act as a disincentive to bad behaviour. In our view it should be increased to at least £250 and be index linked from thereon.

Views Sought	
12	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?
	The maximum should be increased to £200,000 as recommended by the Commissioner because there is no point in having a penalty system that is so low that companies are willing to take the hit because it is such a low figure relative to income from the work. The figure should also be indexed in line with inflation.

Views Sought	
13	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.
	The definitions should be clarified so as to make enforcement easier to carry out and reduce the wriggle room for offending companies.

Views Sought	
14	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.
	We agree that the Code should become mandatory for road authorities so that everyone works to the same standards and to enhance credibility.

Views Sought	
15	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.
	Yes, it should be mandatory for all companies to hold digital records and that these should be integrated into a suitable GIS based information system. In this way much time will be avoided looking, for example, for water pipes and during emergencies information on what infrastructure is in the area will be available in a more rapid and coherent manner.

Questions	
16	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.
	Section 109(2) of NRSWA should be revised to give clarity as to record keeping because it is clearly pointless in gathering and updating digital records unless there is an integrated and coherent manner.

Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	We agree because it is clearly a sensible move to clarify the designation of those with enhanced authority.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	We have no view on this issue.



19	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?
	In rural areas, or in lightly used roads, there does not seem any strong case for maintaining the 3 month advance notice. The benefits would be more rapid completion of work and possibly the ability to help companies maintain a work stream for their work force.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	Cannot see any reason why it should be statutory given that the current system seems to work well.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	In our view, if work is classed as "urgent" then it should be carried out as soon as possible. A maximum period of noon the next day seems entirely reasonable.

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	Yes, roads authorities should be required to provide the same information.

Views Sought	
23	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?
	The legislation should be amended.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Yes, actual start notices should be required of both roads authorities and utility companies.

25	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.
	No views.

Views Sought	
26	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?
	On busy roads, 2 working days may cause undue disruption, so a maximum of 24

	hours would be more appropriate.
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Views Sought

27	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.
	The period should be shortened to reflect improvements in communication technology. A 2 day validity period would seem appropriate.

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	Given the disruption that can be caused to traffic by major road closures, roads authorities should be given enhanced powers to impose maximum durations on utility companies for completion of work.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	Given the many considerations that local authorities have to take into account it is important that they have powers to impose embargoes for good reasons.

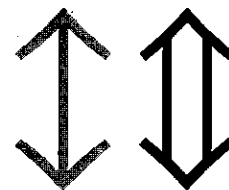
Views Sought	
30	Do you agree with the definition of a working day given above?
	Yes, the definition reflects the way modern life has developed and will allow greater flexibility.

Views Sought	
31	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.
	No views.

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

Views Sought	
33	Please outline the potential impact of any additional costs.
	No views.





STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Transform Scotland

Title Mr ☐ Please tick as appropriate

Surname

Webster

Forename

John

2. Postal Address

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Postcode EH2 2PR

Phone 0131 243 2690

Email

info@transformscotland.org.uk

3. Permissions - I am responding as...

Individual

☐

Group/Organisation

☐

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will** be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☐ YES



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RESPONSE FROM THE JOINT AUTHORITIES GROUP (UK) [JAG(UK)]

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p> <p>JAG(UK) believes that the contribution should be made on a cost/square metre basis. This would be a fairer method of for utilities to contribute as it is based on the amount of work carried out on the roads. It has been established that utility works do have an effect on the road structure and this would ensure that contributions could be clearly targeted at those roads suffering the major effects of premature maintenance.</p> <p>JAG(UK) also believes that a 10% contribution would be a fair starting level but consideration for a 17% contribution for works on more heavily trafficked roads with a higher design specification.</p>

Views Sought	
02	<p>Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?</p> <p>JAG(UK) notes that the 3 year restriction for newly resurfaced roads is working well in England and Wales and gives the road asset an additional number of years before the effects of premature maintenance as a result of trench excavation.</p> <p>JAG(UK) expects that customer connections and emergency works should be exempt, however, thought should be given to full or half width surface reinstatement.</p>

Views Sought	
03	<p>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?</p> <p>JAG(UK) notes that 10% inspections for each phase is statistically a sound assessment of the compliance of utility companies in respect to the NRSWA. However, where compliance is a problem, then either targeting (by redistribution of the percentages across the phases) or additional performance inspections could be considered: individual authorities should be able to decide when to target reinstatement</p>

	<p>inspections e.g. those carried out prior to the end of the guarantee period prior to the roads authority taking on responsibility. JAG(UK) also notes that, where failures occur in the guarantee period, there is a reasonable chance that these would be picked up by third party reports.</p> <p>JAG(UK) believes that a Roads Authority needs to be confident that the performance of a utility working on its roads does not compromise the safety of the road user or the integrity of the road asset.</p>
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04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	<p>JAG(UK) believes that the present arrangements for sample inspections should remain; however, these should be enhanced by performance inspections where a utility is found to be failing in its performance. The third edition of the English Inspections Code of Practice (presently shelved) had a procedure for these additional inspections.</p>

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	<p>JAG(UK) notes that a survey was carried out of reinstatements that were 5 years old in England and Wales a number of years ago. Results were not that conclusive as many reinstatements could not be found (due to surface dressing/overlays/resurfacing etc.) and those that were found, only a small percentage had failed to comply with the Specification performance requirements.</p> <p>JAG(UK) believes that a 5 year guarantee period could be introduced but there is an increased risk of reinstatements being subsumed/not able to be located.</p>

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	<p>JAG(UK)'s English and Welsh Authorities have experienced charging for unreasonably prolonged occupation of the road (for England this is since 2001). These are charges that are generally avoidable by a utility and utilities have systems in place to mitigate the number of times where overrun charging can be applied.</p> <p>JAG(UK) notes that the introduction of overrun charging has focused the utilities in reducing works durations and it is an opportunity to reduce the time that roads are occupied and road users disrupted.</p>

Views Sought	
07	<p>Scottish Ministers would welcome views on the introduction of permit schemes.</p>
	<p>JAG(UK) notes that permit schemes introduced in England have been beneficial to those authorities running a scheme, however, it is aware that these schemes are mainly in the larger conurbation authorities.</p> <p>JAG(UK) believes that permit schemes are useful in appropriate circumstances, however, it could be a financial burden on smaller authorities.</p>

Views Sought	
08	<p>Scottish Ministers would welcome views on the introduction of lane rental schemes.</p>
	<p>JAG(UK) is aware of the two lane rental trials currently in place in England. The main trial in London is proving very successful. JAG(UK) believes that, as with permit schemes, lane rental would only be useful in appropriate circumstances such as the most heavily trafficked roads.</p>

Views Sought	
09	<p>Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?</p>
	<p>JAG(UK) is aware of the costs incurred by an authority of proceeding with a prosecution and these are generally not fully recovered. The introduction of FPNs for noticing offences has succeeded in improving the timeliness and accuracy of noticing and if this were to be extended to signing lighting and guarding and reinstatement then there should be the respective better performance in these areas.</p>

Views Sought	
10	<p>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</p>
	<p>JAG(UK) believes that extending the range of offences over which FPNs can be given will only encourage better quality street work safety and reinstatement.</p>

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	JAG(UK) believes that FPN amounts should be reassessed on a regular basis to take into account inflation.

Views Sought	
12	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?
	JAG(UK) sees that the determination of a suitable penalty to influence the behaviour of utility companies and road authorities may prove difficult due to the size of some company turnovers. JAG(UK) believes that further consideration is required on the appropriate level of penalties.

Views Sought	
13	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.
	JAG(UK) believes that the definitions of the respective duties do need clarification with more emphasis on those parts that can be clearly identified as failure to carry out the duty.

Views Sought	
14	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.
	JAG(UK) considers that road authorities have a duty in any case to work to the Code and that, to officially make it mandatory, will enforce this. JAG(UK) does have concerns as to how this can be policed.

Views Sought	
15	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.
	JAG(UK) believes that all utilities and road authorities should hold digitised records of known and new apparatus. In the interests of safety, they should be made available to all interested parties: the

	SRWR would be an ideal mechanism for this.
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Questions	
16	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.
	JAG(UK) agrees that section 61 of the Roads (Scotland) Act 1984 should be repealed and that s109(2) NRSWA should be revised in respect to clarifying responsibilities for record keeping.

Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	JAG(UK) agrees that creating “major road managers” will help to improve coordination.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	JAG(UK) believes that the 3 month advance notice aids good coordination; this is evident in England and Wales. The process works well as road space is “booked” in advance giving time to carry out appropriate coordination.

19	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?
	JAG(UK) does not agree that advance noticing on non traffic sensitive roads should be removed. It is important that road works coordinators are given as much early information or proposed works on the whole of their road network to make the appropriate coordination decisions.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	JAG(UK) believes that the present voluntary early start procedures work and encourages good working relationships between authorities and utilities.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	JAG(UK) believes that the proposal for making noon the following day as a requirement for commencing urgent works is a sound proposal as it will encourage a more disciplined approach to commencing these works. JAG(UK) notes that it should still put the onus on utility to prove that the works are urgent.

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	JAG(UK) does not agree that roads authorities should provide the same information as utility companies and within the same timescales. Road authorities have a duty maintain the road asset and ensure public safety on the road. A majority of the works are reactive and are of such a small nature that it would be a bureaucratic ordeal to register all these works.

Views Sought	
23	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?
	JAG(UK) agrees that regulations should be rationalised to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	JAG(UK) agrees that actual start notices should be entered on the SRWR as this greatly assists in the coordination process. JAG(UK) also notes that actual start notices will be required if charging for occupation where work is unreasonably prolonged is introduced.

25	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.
	JAG(UK) agrees with this requirement, however, it would expect the notices should be lodged as soon as practicable and in any case by

	noon the following day.
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Views Sought	
26	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?
	JAG(UK) agrees with the current requirement (with the proviso noted above regarding as soon as reasonably practicable) and does not see that an alternative period for traffic sensitive roads would be of an advantage.

Views Sought	
27	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.
	JAG(UK) is concerned that any reduction in the validity period, particularly for non-minor works, to a maximum of two days will reduce the present flexibility for roads authorities for reprogramming works due to the affects of weather, responding to incidents etc.

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	JAG(UK) does not agree that road authorities should impose maximum durations on utility companies. This should be done through discussion where there are specific problems, however, if charging for occupation where work is unreasonably prolonged is introduced, then authorities may get the opportunity to challenge durations. Also powers exist to ensure that works are carried out with all such dispatch as is reasonably practical.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	JAG(UK) believes that powers already exist under s115 NRSWA and this section could be extended as necessary.

Views Sought	
30	Do you agree with the definition of a working day given above?
	JAG(UK) agrees with the revised definition.

Views Sought	
31	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.
	JAG(UK) has no further comments in this respect.

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	JAG(UK) has no further comments in this respect.

Views Sought	
33	Please outline the potential impact of any additional costs.
	JAG(UK) has no further comments in this respect.

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Joint Authorities Group (UK) [JAG(UK)]

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Culpin

Forename

Roger

2. Postal Address

c/o Durham County Council, Regeneration and Economic Development, County Hall, Durham.

Postcode DH1 5UQ

Phone 03000 267094

Email

roger.culpin@durham.gov.uk

3. Permissions - I am responding as...

Individual



Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your response to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk



45

Your ref:

Our ref:

5 April 2013

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	What contribution do you consider should be introduced? What are your reasons for coming to this view?
	N/A

Views Sought	
02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	N/A

Views Sought	
03	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?
	N/A



04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	N/A

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

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	N/A



Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	N/A

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	N/A

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	N/A



Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	N/A

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	N/A

Views Sought	
12	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?
	N/A



Views Sought	
13	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.
	N/A

Views Sought	
14	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.
	N/A

Views Sought	
15	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.
	N/A



Questions	
16	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.
	N/A

Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	N/A

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	N/A



19	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?
	N/A

Views Sought	
20	Should the early start procedure be a statutory requirement?
	N/A

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	N/A



Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	N/A

Views Sought	
23	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?
	N/A

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	N/A



25	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.
	N/A

Views Sought	
26	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?
	N/A

Views Sought	
27	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.
	N/A



Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	N/A

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	N/A

Views Sought	
30	Do you agree with the definition of a working day given above?
	N/A



Views Sought	
31	<p>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.</p>
	<p>Cycling Scotland would like to raise a few issues that are related to the aims of the consultation proposals, yet may not fit specifically into the questions above.</p> <p>Aim 1: “Improve the safety of those who use or work on roads”</p> <p>Cycling Scotland notes that the very nature of roadwork, although absolutely necessary to safeguard the condition of the roads and services, are often disruptive and cause traffic situations that compromise safety on roads, paths and pavements. Whether the works are undertaken either by a roads authority or a utility company, <i>ensuring safety of all users, particularly vulnerable road users such as those travelling by bicycle or on foot, is paramount.</i></p> <p>As such, Cycling Scotland would like to note that <i>safety for vulnerable road users must be considered throughout the process</i>, from notification through the works and on to inspection of the reinstatement and throughout the guarantee period.</p> <p><i>Notification of works is important, particularly if a cycling network or Core Path is impacted by roadworks.</i> Adequate notification is important for all road works if possible, but specific consideration of notification for key cycling and walking routes should take cognisance of how best to relay information to those cycling and walking. This may differ from current methods of notification.</p> <p>As the works are undertaken, <i>there should be consideration as to the impact on movement by bicycle through the area affected.</i> Therefore, considerations should be made for the manoeuvres necessary by those travelling by bike in order to divert around the roadworks. For example, if this is simply merging with traffic into another lane, consideration should be made to ensure that there is adequate signage for those on bicycle to allow them to merge or divert safely and with enough advance warning (in other words, not just a ‘cyclist dismount’ sign immediately before the roadworks begin, or worse, no sign whatsoever). Any works taking place on a designated cycle network (e.g., the NCN or designated local authority network) or Core Path should consider a well-signed diversionary route that is safe and as direct as possible for those on bicycle or foot. Consideration of diversions and adequate signage, temporary signalling and traffic management for vulnerable road users should not just be for larger scale works, as even minor works could make cycling or walking along an affected route difficult and require manoeuvres that are potentially unsafe.</p>

Reinstatement is also another area where vulnerable road users require specific consideration. Of course, if works are undertaken to a cycle lane or other designated cycle infrastructure, these should be returned to the same state as before the works were undertaken (e.g., adequate lining and colour). Some finishing of roadworks may not have an impact on motor vehicle users, but have a huge impact on those travelling by bike. For example, resurfacing around access hatches that, when reinstated, result in the cover not being flush with the carriageway creates a dangerous hazard for those on a bicycle.

Finally, also important to ensuring that roadworks do not adversely impact cycling is to *ensure the long lasting nature of reinstatement works*. The consultation document itself calls for an extension of the guarantee period, and this is supported by Cycling Scotland. Of utmost importance is ensuring that faults, even those that could be considered 'minor' to motor vehicles, are considered and assessed on the impact on those travelling on bicycle or foot.

Aim 2: "Minimise the disruption and inconvenience caused by works"

Cycling Scotland notes that there is a lack of dedicated infrastructure for cycling in many areas. As such, if works are roadworks are being undertaken, particularly to existing infrastructure designed to facilitate cycling, *there could be a significant amount of stress and frustration caused to those who travel by bicycle as a safe diversion is often not clear*. In addition to stress and frustration, *there is a negative impact on journey times and journey time reliability for those cycling*, particularly if they are unable to find a diversionary route and are forced to dismount and continue a portion of their journey on foot.

Therefore, it is important that cycling routes (particularly cycle paths and segregated infrastructure) due to undergo works are treated in the same fashion as on-carriageway roadworks, complete with a process ensuring proper notification, diversion and reinstatement in place and subject to the same requirements for contributions, inspections, guarantees, charges, etc.

Views Sought

32 Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.

Cycling Scotland would like to mention that, for longer term and larger, programmed work e.g., large scale utility works or road resurfacing / reinstatement, there is an opportunity to take advantage of an alteration of traffic flows to test reallocation of roadspace and alternative traffic management techniques. For example, if a lane is taken out by utility



	works, the route could be designated for cycling and walking only, with a diversion made for vehicular traffic. This could allow for testing of potential reallocation of roadspace and traffic management for the short term – similar to a 'pilot' - and would assist in assessing any impacts on general traffic flows and accessibility across the wider area.
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Views Sought	
33	Please outline the potential impact of any additional costs.
	N/A



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Cycling Scotland

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Kaczmarek

Forename

Nathan

2. Postal Address

24 Blythswood Square, Glasgow

Postcode G2 4BG

Phone 0141 229 5440

Email Nathan@cyclingscotland.org

3. Permissions - I am responding as...

Individual



Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk



440

Your ref:

Our ref:

5 April 2013

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p> <p>ENA acknowledge and accept that <i>'Scotland's roads are vital for economic prosperity...'</i> However, we have serious fundamental concerns over the accuracy of the statements made within the consultation and the value of the data which has been used to drive whether a contribution should be introduced to make good long term damage.</p> <p>Introducing this levy will have a significant impact on the industry. As a cost benefit analysis has not been provided, it is not possible to assess whether this impact is justified.</p> <p>We are concerned that for such a significant change it was deemed appropriate to commission a literature review of previous research undertaken between 10 and 20 years ago. This has not provided any new evidence nor has it been conclusive.</p> <p>The reports previously undertaken were flawed and inadequate in terms of sample size. (i.e. TRL PPR386 reviewed only 38 sites across the UK). Given the overall number of works undertaken this was insufficient to gauge a true representation.</p> <p>It is clear that the roads in Scotland are in a position of disrepair in some areas, but this issue should not be treated in isolation. All factors impacting the degradation of roads should be considered. E.g. volume of traffic, extreme weather, change in use of a road (e.g. Cat 2 changing to a Cat 1, whether the road was originally constructed to specification and the quality and frequency of road maintenance programme.</p> <p>Utilities would be faced with an unavoidable dilemma, either to increase customers' utility bills, as the cost of the activity would increase or would have to reduce the number of works completed as it would be unlikely that the regulatory settlement would increase. This would have a direct impact on the Construction Industry as Utilities would be forced to reduce their investments in capital schemes. To accommodate this reduction, construction companies would have no option but to downsize having a negative impact on economic growth.</p>

Views Sought



02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	ENA agree that the current 1 year period is insufficient and should be extended to 3 years. We understand that this has already been acknowledged within the Scottish road works community.

Views Sought	
03	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?
	<p>ENA believe that the current level of inspections is a fair sample size and provides a good indication of performance.</p> <p>No evidence has been provided to justify a change to the current level, which was agreed by RAUC(S).</p> <p>Also, Authorities already have the option of inspecting all works if deemed necessary and in accordance with the agreed Inspections Code of Practice are able to issue Improvement Plans to poor performers.</p>

04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	ENA believe that there is no requirement for additional regulation in this area. NRSWA already allows for the recovery of reasonable costs incurred by roads authorities and in addition an annual review carried out by RAUC(S).

Views Sought	
05	Do you agree that such increased periods be introduced? What are



	your reasons for coming to this view?
	<p>We do not agree that the Guarantee Periods should be increased.</p> <p>There is no empirical evidence to suggest that a trench reinstatement which has not failed after either 2 or 3 years is likely to fail thereafter.</p> <p>Transport Scotland's own inspections regime is bi-annual and they have stated that the majority of structural defects will manifest themselves within the first two years of the work being completed. This emulates the findings from the research undertaken across the UK, as detailed in the response to Question 1 above.</p> <p>Finally, consideration should also be given to the commercial and financial impact this would have on both utilities and contractors. Extending the guarantee period could increase contractual rates as liability for works could extend beyond contractual terms.</p>

Views Sought	
06	<p>Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.</p> <p>ENA do not believe the proposal to introduce a charge for occupation where work is unreasonably prolonged has been justified.</p> <p>Paragraph 2.7 within the consultation recognises that only '...2% of all works' were completed outwith their agreed end date. The consultation does ask that the cost of administering such a scheme be considered as the cost of this could outweigh any benefits assumed.</p> <p>We would like to express our concerns over some of the assumptions made within this section:</p> <p>2.3 As only 111 Section 125 notices have been issued this <i>'might be inferred that this is a limited problem'</i> What evidence is there to suggest that it is not a limited problem?</p> <p>2.4 <i>'The Commissioner considers that works are often not undertaken with all such dispatch as is reasonably practicable...'</i> What evidence has this statement been based on?</p> <p>All works durations are agreed in advance between utilities and roads authorities so we do not believe enacting section 133 will have any impact on this workable process, other than to create unnecessary financial and operational burden on all parties.</p>



Views Sought	
07	<p>Scottish Ministers would welcome views on the introduction of permit schemes.</p> <p>ENA agrees with the Commissioner's recommendation <i>'At this time, the Commissioner does not recommend the introduction of permit schemes'</i></p> <p>Permit schemes are in place across England but currently there is no evidence that their introduction has contributed significantly to a reduction in disruption caused by road works. In contrast, utilities and customers have incurred increased costs and charges for undertaking/requesting works.</p> <p>Despite previous assurances, to date a Government review of the viability of permit schemes has not been undertaken.</p>

Views Sought	
08	<p>Scottish Ministers would welcome views on the introduction of lane rental schemes.</p> <p>Whilst Lane Rental schemes are in operation across England, there is no evidence to suggest that these schemes deliver additional benefits over and above the existing regulations.</p> <p>However, if the Government decides to introduce a lane rental scheme then we believe that there should be parity between all parties i.e. the payment of the lane rental charge and conditions imposed should be applicable to both utilities and authorities alike.</p>

Views Sought



09	<p>Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?</p>
	<p>ENA do not support the proposal to extend the range of existing summary offences dischargeable by fixed penalty notices. We believe that there are already suitable measures in place for roads authorities to address non-compliance.</p> <p>Section 110 – prohibition of unauthorised road works There is no requirement to extend fixed penalty notices to S110 as starting works without a notice is already covered by S113.</p> <p>Section 124 – signing, lighting and guarding failure The Authorities already have powers under Section 124 to prosecute for poor signing, lighting and guarding. This is a Health and Safety issue so utilities should not be permitted to discharge their statutory rights through a single fine. This could encourage the wrong behaviours and impact on site safety.</p> <p>Section 130 – Not reinstating excavation in accordance with the specification Authorities already have powers to issue defect charges and impose improvement plans as per the Inspections Code of Practice so we do not believe imposing this charge is necessary.</p> <p>In summary, we believe there is no value in extending the FPN's for these offences.</p>

Views Sought



10	<p>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</p>
	<p>We do not believe it is necessary to introduce the summary offences, as per our response to Question 9 above.</p> <p>Misclassification of works as urgent or emergency to circumvent longer planned work notice periods – we do not believe that this is an issue so would welcome visibility of any supporting data.</p> <p>Not noticing ‘actual start’ notices by the due time – this is currently a legal requirement in England and Wales so we have no objection to this becoming a legal requirement.</p> <p>Failure to rectify a defective reinstatement within a reasonable period – we believe there are adequate measures under NRSWA to address this.</p> <p>Failure to rectify defective utility company apparatus within a reasonable time – we believe that there are adequate measures under NRSWA to address this.</p>

Views Sought	
11	<p>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</p>
	<p>ENA do not support an increase in the current fixed penalty charges as no evidence has been provided to justify the change. We believe that the current level of charge is demonstrating that it is an effective deterrent and only 2% of the total notices attracted an FPN.</p>

Views Sought	
12	<p>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?</p>
	<p>ENA believe that the existing level of penalty is sufficient to influence the behaviour of utility and roads authorities who do not comply with their duties.</p>



Views Sought	
13	<p>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.</p>
	<p>ENA agrees with the proposed definitions:</p> <p><i>'any duty under the NRSWA and supporting regulations' and</i></p> <p><i>'any requirement in a statutory code of practice'.</i></p> <p>However, we believe that:</p> <p><i>'such practice as appears to the Scottish Road Works Commissioner to be desirable.'</i> Is subjective which could lead to disputes. We believe that the definitions should be clear and not open to misinterpretation.</p> <p>Any changes should be agreed through RAUC(S) to ensure commitment and understanding by all.</p>

Views Sought	
14	<p>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.</p>
	<p>Yes we agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities.</p> <p>Parity for all works by all works promoters is essential. The impact and risk to the road users, pedestrians and the workforce is the same irrespective of who is undertaking the work. It will also reduce confusion for those contractors who work for both utilities and roads authorities.</p> <p>In summary, we fully support having the Code of Practice for Safety at Street Works and Road Works as a mandatory code for all.</p>

Views Sought	
15	<p>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.</p>
	<p>Yes we agree.</p> <p>VAULT is already in operation in Scotland and could be used as a national platform.</p>



Questions	
16	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.
	ENA agree that repealing Section 61 of the Roads (Scotland) Act 1984 and Section 109 (2) of NRSWA revised to provide more clarity as to where responsibility for record keeping apparatus should lie.

Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	We support the proposal to establish a designation of ‘major road managers’ However, we believe that there should be a clear definition to what this refers. E.g. minimum road length, minimum number of works undertaken in a calendar year etc.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	<p>ENA recognises that advanced notice enables the roads authorities to provide effective co-ordination of all works. However the requirement to give 3 months' advanced notice for certain types of works, can restrict flexibility.</p> <p>We believe that the provision of a more informal approach of sharing plans in advance would allow for a more meaningful co-ordination and should allow the formal notice period to be reduced from 3 months.</p>



19	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?
	<p>No we do not agree.</p> <p>ENA believe that advance notice should remain as a requirement on all roads to allow the community to co-ordinate their works. Failure to notify works on a non traffic sensitive road could have a major impact on traffic flow. E.g. this could be a diversion route for other major works on a strategic route.</p>

Views Sought	
20	Should the early start procedure be a statutory requirement?
	Yes we support the early start procedure being a statutory requirement provided this is based on the agreed RAUC(S) Advice Note.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	<p>ENA believe that the existing arrangement is adequate as it allows for flexibility, i.e. a known urgent situation, but where customers aren't directly impacted at the time the situation arose.</p> <p>We agree that by definition, there should be a degree of urgency to commence any works defined as "urgent". However, there are occasions when temporary fixes may be necessary to enable specialist materials to be obtained, where they are not readily available. This does not mean that the works are not urgent, but that any further phase may be delayed until the permanent solution can take place and be completed without delay.</p>

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	ENA agree that there should be parity within the noticing requirements and to the same timescales. We also believe that the same parity should be applied the application of works in terms of onsite performance, quality and should be subject to the same inspection regime and penalties. The public do not differentiate between works and so it is reasonable to apply the consistency through the same rules and penalties.



Views Sought	
23	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?
	ENA agrees.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Yes ENA supports the introduction of regulations to require roads authorities and utility companies to enter actual start notices onto the Scottish Road Works Register.

25	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.
	ENA supports this requirement.

Views Sought	
26	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?
	ENA believes that the existing requirement for works closed notices is adequate.

Views Sought	
27	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.
	<p>ENA does not agree that the validity period should be reduced to 2 days as there could be a variety of reasons why works is unduly delayed. (e.g. site conditions, specialist materials, availability of materials and resources diverted onto urgent works).</p> <p>The validity period allows utilities to manage work schedules and to utilise resources effectively. Flexibility in terms of starting works is required to allow for slippage. Without this the noticing process would be more onerous with cancellations followed by the raising of new notices delays and multiple requests for early start notices to be issued.</p>

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	<p>No – We believe that the roads authorities not best placed to make these decisions as often other factors have to be taken into consideration to allow utilities to undertaken their works safely and efficiently. (e.g. Location, surface type, any engineering difficulties, customer requirements and possibly any commercial constraints.</p> <p>Roads authorities have sufficient powers under section 125 of NRSWA. We also believe that undue pressure to reduce durations to an unacceptable level could potentially lead to decreased quality and could result in works not being completed first time. This would require return visits adding to the levels of disruption.</p>

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?



	<p>ENA do not believe authorities should be given statutory powers to impose embargoes on works for reasons other than traffic disruption. Voluntary arrangements work well and there is no evidence to suggest that these are not being adhered to.</p> <p>Works are undertaken for four main reasons:</p> <ul style="list-style-type: none"> - Safety - Security of supply - Connecting new customers - Diverting apparatus for major transport or urban regeneration projects <p>To achieve this effectively we believe that roads authorities and utilities should continue to share plans and plan voluntary embargoes when required. There is no evidence to justify changing this well established arrangement.</p>
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Views Sought	
30	Do you agree with the definition of a working day given above?
	Yes – we agree with the definition of a working day as detailed within the Co-ordination Code of Practice and within the Consultation.



Views Sought	
31	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.
	<p>We believe that there is an opportunity to review the following:</p> <ul style="list-style-type: none"> – Advice Note 18, (procedure for the conduct of hearings under NRSWA 1991 and The Roads (Scotland) Act 1984). This procedure is influenced by the hearing body, which is wholly made up of authority representatives only, and gives no rights to appeal. – Code of Practice for Dispute Resolution and Appeals as neither concludes in resolving the dispute or appeal. – Prescribed Fees Regulations – i.e. the method for determining the division of costs.

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	ENA have nothing further to add.



Views Sought

33 Please outline the potential impact of any additional costs.

It is not possible to quantify the true cost of the additional costs at this juncture as there is insufficient data to allow for meaningful analysis to be undertaken.

Whilst some of the proposed changes would have a minimum impact in terms of changes to process, others would result in significant cost to utilities, customers and to the construction industry.

The introduction of a contribution towards long term damage would increase costs significantly in terms of cost of works, and a reduction in the number of works carried out, in particular capital schemes. The negative impact on economic growth, reduction in labour and the overall Scottish economy would be a direct result if this were introduced.

The other proposals such as increase in inspections, introduction of permit schemes or lane rental schemes would not only carry a financial burden but would also result in operational burdens in terms of execution and management.

We would urge the government to undertake a robust cost benefit analysis and empirical research is carried out before imposing any of the proposals.



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Energy Networks Association

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Smith

Forename

David

2. Postal Address

6th Floor, Dean Bradley House, 52 Horseferry Rd, London

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David.smith@energynetworks.org

3. Permissions - I am responding as...

Individual



Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will** be made available to the public (in the Scottish Government library and/or on the Scottish Government web site)

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No





Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk



47

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Your ref:

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p> <p>ScottishPower has serious concerns in relation to the introduction of a contribution to costs of making good long term damage. Our reasons for coming to this view are detailed below:</p> <p>Inconclusive evidence We believe that there is insufficient robust evidence linking the reduction in the service life of roads to trench reinstatements.</p> <p>Whilst we recognise that the Scottish Government has commissioned both URS-Scott Wilson and TRL to undertake studies into whether utility works impact on the integrity of the roads, thus reducing their life span, we believe that these investigations have been inconclusive in their findings and do not demonstrate a correlation between trench reinstatements and the degradation of roads.</p> <p>The URS-Scott Wilson report was a desk top exercise review of previous reports issued and concluded that there was limited evidence. The main area of concern was around joint sealing. However, there does not appear to be any link to the allowances or repair of edge cracking within Section 12 of The Specification for the Reinstatement of Openings in Roads (SROR). We believe that this report does not offer anything further to the debate. It is more a summary of statements made within the other reports and a series of assumptions based on that information. This cannot be held as new evidence nor can it validate any claims made pertaining to long term damage.</p> <p>Within its executive summary, the URS-Scott Wilson report supports the Utility view that there is no 'empirical evidence' other than the time element that an excavation is left open.</p> <p>The Scott Wilson report notes that 'there is some evidence that good workmanship can eliminate or reduce the negative impact' of the reinstatement and that a 'laboratory study reported that as long as a trench is reinstated correctly and accordance with specifications sustained sound performance is likely to be achieved throughout the design life of the pavement.'</p> <p>There is also no provision of a cost benefit analysis nor guidance on how this scheme would operate, e.g. how the scheme would be administered and paid for or how disputes would be handled. The constitution of RAUC(S) prides itself on working together – we believe that the introduction of this scheme would bring disputes and animosity which would impact on the strong relationships currently in place.</p> <p>Previous Research</p>



Studies undertaken previously also support our belief that there is no evidence to conclude that trench reinstatements reduce the life span of roads.

In England, three trials were undertaken:

1. 1993 TRL Report 197 (which was supported by the National Joint Utilities Group (NJUG)) – This reviewed 2 trench reinstatements on a Cat 3 road. The trial concluded that no consequential damage had been observed or any visible deterioration to the inter-trench and control.
2. Report PR/CE/50/98 (This also had NJUG's full support) – The objective of this trial was to measure compliance of 168 sites to the SROH. At 2 years recorded that 91% of available sites within the trial were either 'very good' or 'good'
3. 2000 TRL Report 573. – The main objectives of this trial were to revisit the two earlier trial sites *"...to determine whether the condition of the adjacent highway deteriorated to such an extent that premature maintenance was required to both the reinstatement and the adjacent pavements....."*

For the two sites measured in the earlier trial, the outcome demonstrated that after c.8 years there had been no significant change in the total structural life of the individual pavement structures and there was no conclusive evidence to add to the debate of long term damage.

There were a number of findings against the 168 sites. With regard to workmanship, it was acknowledged that whilst 18% of the sites demonstrated that either the incorrect materials or depth was present, it was accepted that the works had been undertaken at the early stages within the new code being introduced and during the early stages of the operatives training. However, it was also identified that those poorly performing reinstatements had been found early within a year which suggests that if a trench is reinstated poorly the problem will manifest itself within a relatively short time.

With regard to depression, crowning, in-trench cracking – this was broadly unchanged 6years following the guarantee period and at 9 years 90% of available sites were either 'very good' or 'good'.

Given all of the above is within the public domain, it does bring into question why a desktop exercise was commissioned, and why this debate is ongoing.

Viability of the SROR

The debate seems confused between whether the issue lies with the



SROR, i.e. that the current specification is flawed or whether all works undertaken irrespective of whether works are carried out to the correct specification will still undoubtedly cause a reduction in the serviceable life of the road.

If the challenge is that the SROR is flawed, this causes concern as this is a statutory document which was jointly agreed between the Road Authorities and the Utilities as a robust method of replacing the asset.

However, if the perception is that the SROR is not fit for purpose, i.e. irrespective of its application the road will still fail, then what value or incentive is there for companies to abide by the specification?

ScottishPower believe that the imposition of such a levy could encourage the wrong behaviours and ultimately reduce the quality of reinstatements in the road.

It would seem that in posing this option, no consideration has been given to the increase in quality workmanship as demonstrated through the National Coring Programme.

Customer Funded Work

It is inevitable that such a levy would impact on customer connections and utility capital investment programmes, i.e. the regulators duty is to protect consumers by balancing how much the Utility can recover for its capital investment programmes through bills. Introducing this proposal would have a negative impact on commercial growth as unit costs would rise and could result in a decrease in the number of works undertaken. Any such reduction would inevitably have an impact on the construction industry that would be faced with a reduction in jobs within this sector. This contradicts the Governments objective to stimulate economic growth.

In summary, ScottishPower do not support the proposal to introduce this levy. Without robust and definitive evidence to support the view that trench reinstatements impact on the life span of the roads, we believe that the debate is flawed. Our counter challenge would be to suggest that this is more a result of poor maintenance and mis-directed budgets.

Views Sought

02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
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	ScottishPower agree with this statement of increasing the restriction period to 3 years, provided the exemptions agreed by RAUC(S) and contained within Advice Note remain the same.
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Views Sought



03	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?
	<p>ScottishPower believe that the existing level of 30% is an acceptable sample size of works undertaken which provides a good indication against overall performance. There is no evidence to justify the rationale behind an increase so the level should remain at 30%.</p> <p>Any increase in sample inspections would result in further cost and would pose an administrative and operational burden on both Utilities and Road Works Authorities.</p> <p>The Road Authorities currently have the option of inspecting and recording such inspections. This is a role for which they already receive funding. This should not be further funded by the Utilities.</p> <p>Imposing an increase would also bring into question the purpose of the constitution of RAUC(S) i.e. role in collectively agreeing the Code of Practice for Inspections. Any such change should be brought forward to RAUC(S) through clear evidence of the requirement to make the change where it could be reviewed collectively.</p>

04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	<p>No. ScottishPower believe that the current process within NRSWA is satisfactory and allows for reasonable costs to be recovered. The Road Works Authorities already have powers under Chapter 8 of the Code of Practice for Inspections to issue a Notice of Failure to any Utility who does not perform.</p> <p>We do not accept that additional regulation is required when there is a jointly agreed process already in place.</p>

Views Sought	
05	Do you agree that such increased periods be introduced? What are



	your reasons for coming to this view?
	<p>We do not agree that the Guarantee Periods should be increased.</p> <p>Transport Scotland undertakes bi-annual inspections. As mentioned in Q1 above, research undertaken in England identified that for the sites tested which were not performing, they had been identified as not performing within the first year following completion.</p> <p>This would suggest that if a trench is poorly reinstated it will manifest itself in a relatively short period of time. Extending the guarantee period would have no bearing on this nor has any evidence been provided that the probability of a trench reinstatement that has not failed during the existing guarantee periods (either 2 or 3 years) is likely to fail after 5 years.</p>

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.



ScottishPower do not agree with the proposal to introduce a charge for the occupation where work is unreasonably prolonged.

In Scotland we are very fortunate to have a shared register. This has proven to allow for the efficient co-ordination by all parties to ensure works are not unreasonably prolonged.

In the body of the Consultation reference is made to this being only a 'limited problem', with only 2% of works being completed outwith their agreed end date. To administer such a scheme, involving analysis, challenge and negotiation, would be costly and would outweigh any of the benefits it is believed this would bring. No cost benefit analysis has been forthcoming so it can only be assumed. It is recommended that all costs are considered before enacting Section 133.

We would also like to challenge some of the statements made within the consultation:

2.3 As only 111 Section 125 notices have been issued this *'might be inferred that this is a limited problem'* What evidence is there to suggest that it is not a limited problem?

2.4 *'The Commissioner considers that works are often not undertaken with all such dispatch as is reasonably practicable...'* What evidence has this statement been based on?

Finally, from our experience across England and Wales for Section 74 charges we have found that these charges cause deterioration in relationships and can often prove to be more onerous and create further disruption on the road.



Views Sought	
07	<p>Scottish Ministers would welcome views on the introduction of permit schemes.</p> <p>ScottishPower do not favour the introduction of permit schemes in Scotland. The existing noticing arrangement works well and given all parties have full visibility through the Scottish Road Works Register we believe permits would bring no added value.</p> <p>ScottishPower also operates across England and Wales for which there is currently 1 permit scheme in operation within our DNO area. From experience we would suggest that permit schemes create additional workload, cost and burden causing delays in works being undertaken, confusion through the numerous onerous conditions generating additional complaints as works are halted or delayed. The costs of the permit are also passed onto consumers who realistically do not receive any enhancement to the service provided, yet for an increased cost.</p> <p>There would be little benefit in changing a method of working that works well.</p> <p>Finally, the schemes in operation across England have never been reviewed formally, so there is no evidence to suggest whether or not their introduction has been successful and as such we agree with the Commissioners' view to not recommend their introduction in Scotland.</p>

Views Sought	
08	<p>Scottish Ministers would welcome views on the introduction of lane rental schemes.</p> <p>Whilst we do not have experience in working in an area currently operating a lane rental scheme, our view is that they are unnecessary.</p> <p>The existing legislation allows works to be successfully coordinated and executed. The SRWR also allows for full visibility of works allowing for effective coordination of works.</p> <p>As for permit schemes, a review of those schemes in place has not yet been completed. A trial is underway but until the findings and full cost benefit analysis have been completed, it would not be appropriate to make a judgement on such schemes.</p>

Views Sought



09	<p>Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?</p>
	<p>We do not support the proposal to extend the range of existing summary offences dischargeable by fixed penalty notices as we believe those in place are adequate. For the three suggested additional areas we believe that these are already covered within the existing legislation and as such are not required:</p> <p>Section 110 – prohibition of unauthorised road works Road Works Authorities already have the power to issue a penalty under S113 or S114 to Utilities who fail to notify their works. Therefore this is not required.</p> <p>Section 124 – signing, lighting and guarding failure The Authorities already have powers under Section 124 to prosecute for poor signing, lighting and guarding. However, this is a Health and Safety issue for which we should not be permitted to discharge our statutory rights through a single fine. This could encourage the wrong behaviour with regard to compliance and more importantly safety.</p> <p>Section 130 – Not reinstating excavation in accordance with the specification Authorities have the power to serve defect charges and impose improvement plans as per the Inspections Code of Practice so we do not believe imposing this charge is necessary.</p> <p>Also, the quality of reinstatements is checked via the National Coring Programme which has demonstrated year on year improvement.</p> <p>In summary, we can see no value introducing these additional fixed penalty notices.</p>



Views Sought	
10	<p>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</p>
	<p>As per our response to Question 9, we do not believe it is necessary to create additional summary offences.</p> <p>Misclassification of works as urgent or emergency to circumvent longer planned work notice periods – we would welcome visibility of any supporting data as we do not believe this is an issue.</p> <p>Not noticing ‘actual start’ notices by the due time – this is currently a legal requirement in England and Wales so we have no objection to this becoming a legal requirement.</p> <p>Failure to rectify a defective reinstatement within a reasonable period – we believe there are adequate measures under NRSWA to address this.</p> <p>Failure to rectify defective utility company apparatus within a reasonable time – we believe that there are adequate measures under NRSWA to address this.</p> <p>RAUC(S) encourages cooperation and we will continue to support this method of working for the good of the whole community.</p>

Views Sought	
11	<p>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</p>
	<p>Whilst in principle we do not disagree with a review of charges in line with inflation, no financial data has been provided to justify a change. i.e. cost of administering the scheme and what behaviours/benefits have been realised from the fines issued to date?</p>

Views Sought	
12	<p>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?</p>
	<p>ScottishPower believe that the existing level of penalty is sufficient. As per question 11 above, the provision of cost information has not been forthcoming to support a change.</p>



Views Sought	
13	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.
	<p>ScottishPower agrees with the proposed definitions: <i>'any duty under the NRSWA and supporting regulations or any requirement in a statutory code of practice'</i>. However, we do not agree with the final point: <i>'such practice as appears to the Scottish Road Works Commissioner to be desirable.'</i> We believe this statement is too ambiguous and could lead to disputes being raised. The definitions should be clear and concise with no room for misunderstanding or ambiguity.</p>

Views Sought	
14	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.
	<p>Yes we agree. Consistency and parity for all works by all works promoters irrespective of whether Utility or Road Works Authority is essential.</p> <p>Having one standard for all is the only way forward. Quite often contractors work for both parties and having different standards causes confusion.</p> <p>As such, we fully support having the Code of Practice for Safety at Street Works and Road Works as a mandatory code for all.</p>

Views Sought	
15	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.
	<p>Yes we agree as this would be best practice. This shouldn't be a huge step change as this could be achieved through VAULT.</p>

Questions



16	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.
	Yes we agree that repealing Section 61 of the Roads (Scotland) Act 1984 and Section 109 (2) of NRSWA revised to provide more clarity as to where responsibility for record keeping apparatus should lie.

Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	We support the proposal to establish a designation of ‘major road managers’ However, we believe that there should be a clear definition to what this refers. E.g. minimum road length, minimum number of works undertaken in a calendar year etc.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	<p>Whilst we fully support providing notice on works, in particular works within our capital programme with sufficient advance notice to allow for effective co-ordination, the three month notice does not always work in practice.</p> <p>Three months is sometimes too far in advance given all the other considerations that have to be given to actually commence the work in that timescale which often leads to requests for late or early starts. This in itself is an additional administrative burden and could lead to works being started without the appropriate permissions being served on the register.</p> <p>We would prefer to have the option of 1 month advance notice, which prior to the TSA provided much more accurate noticing and greater assistance to the overall coordination process.</p>

19	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?
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	<p>Scottishpower do not agree.</p> <p>Advance notice should remain as a requirement on all roads to allow the community to co-ordinate their works. Failure to notify works on a non traffic sensitive road could have a major impact on traffic flow. E.g. this could be a diversion route for other major works on a strategic route.</p> <p>In summary, we believe this requirement should remain.</p>
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Views Sought	
20	Should the early start procedure be a statutory requirement?
	Yes we support the early start procedure being a statutory requirement provided this is based on the agreed RAUC(S) Advice Note..

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	<p>ScottishPower believe that the existing arrangement is adequate as it allows for flexibility, i.e. a known urgent situation, but where customers aren't directly impacted at the time the situation arose.</p> <p>We believe that there is actually a gap within the noticing regime. We accept the value in planning works, and this is covered through minor, standard and major notices.</p> <p>However, sometimes work is urgent but cannot be started immediately. E.g.an activity which would prevent the loss of supply, but where customers aren't immediately affected. A planned notice does not cover this situation as the notice period would impose too great a risk, (and an early start could not be guaranteed), a minor notice does not cover this either as the duration is too short.</p> <p>A planned urgent notice which allows a delay in the start date but does not require a specified notice period would resolve this situation. This would allow Utilities to give an estimated start date but if the situation changed, they would still be permitted to go in before.</p>



Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	<p>Yes – ScottishPower agree that there should be parity within the noticing requirements and to the same timescales. We also believe that the same parity should be applied to the application of works in terms of onsite performance, quality and should be subject to the same inspection regime and penalties.</p> <p>Works are works as far as the members of the general public are concerned so the rules surrounding them should be consistent.</p>

Views Sought	
23	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?
	Yes agreed.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Yes agreed. ScottishPower believe that this process will support co-ordination of works.

25	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.
	<p>Whilst we endeavour to serve actual start notices by noon on the following working day, ScottishPower's preference would be for actual start notices to be lodged by close on the following working day for all works. The geographical areas across Scotland make it difficult for all the information to be transmitted in these timescales. This would also be in line with the requirements in England.</p>

Views Sought



26	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?
	ScottishPower agree that works closed notices should be lodged by the end of the next working day.

Views Sought	
27	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.
	<p>ScottishPower does not agree that the validity period should be reduced to 2 days. This would greatly reduce the level of flexibility and would have a direct impact on cost. Other regulations require that we provide flexibility within timescales such as those impacting on Customer Connections. However, we do agree that the validity period should apply to both Utility companies and Roads Authorities alike.</p> <p>Before any change is imposed, we would welcome visibility of any analysis undertaken to demonstrate that a reduction would be beneficial.</p> <p>It should be noted that the validity period across England and Wales is currently 5 working days.</p>



Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	<p>No – ScottishPower believes that the roads authorities are not best placed to make these decisions. There are various factors which must be taken into consideration, such as the geographical location, the network, the interconnections, the surface type, any engineering difficulties, customer requirements and possibly any commercial constraints. These are decisions that impact on the duration and can only be made by the Utility.</p> <p>The SRWR allows for co-ordination and monitoring of works and ScottishPower are not aware of issues being raised pertaining to the duration of works.</p>

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	<p>We do not agree. Embargoes are given currently and we strive to comply with the requirements. However, ScottishPower has a duty to comply with our statutory obligations so imposing embargoes could restrict our works.</p> <p>The consultation does not provide any justification or analysis to substantiate providing Roads Authorities with the statutory powers to impose embargoes on works for reasons other than traffic disruption.</p>

Views Sought	
30	Do you agree with the definition of a working day given above?
	Yes – we agree with the definition of a working day as detailed within the Co-ordination Code of Practice and within the Consultation.



Views Sought	
31	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.
	<p>We would welcome a review of the Prescribed Fees regulations. ScottishPower believe that there should be parity in the application of the fees in terms of overall useage of the SRWR, not just against the number of notices served.</p> <p>We would also welcome a review of Advice Note 18 – as there is currently no recourse for appeal.</p>

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	Nothing to add.

Views Sought	
33	Please outline the potential impact of any additional costs.
	<p>Any additional costs would have a significant impact on ScottishPower, our Contractors and our Customers. However, we are unable to identify the full impact as the full requirement of each proposal has not been forthcoming.</p> <p>For the proposal to introduce a contribution for making good long term damage, we have estimated the range of our exposure to be between £1m - £6m, depending upon the percentage applied. There would also be an impact on customers, commercially and on the economy. (as identified in our response to Question 1)</p> <p>The other proposed changes would depend on the scale of change being applied. E.g. In England there are many versions of the permit scheme. Costs vary depending on what the Authority has included within their cost benefit analysis. Without this understanding it would be difficult to forecast. Consideration should also be given to the hidden costs. E.g. Administrative burden, impact on the Roads Authorities to administer and manage the additional workload (both on site and from an administrative perspective) and also on the potential impact these changes could have on long standing, collaborative working arrangements. Our experience across England has shown that disputes and challenges are inevitable, which in turn generates additional workload.</p>



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

ScottishPower Energy Networks

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Horne

Forename

Kevin

2. Postal Address

North Cheshire Trading Estate, Prenton Way, Prenton. Wirral

Postcode

CH43 3ET

Phone 0151 609 2006

Email

kevin.horne@scottishpower.com

3. Permissions - I am responding as...

Individual



Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested/ we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will** be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your response to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate





Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk

48

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Your ref:

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

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WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

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Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	What contribution do you consider should be introduced? What are your reasons for coming to this view?
	Given that it is indicated that there is a 17% reduction in service life a 17% contribution appears appropriate. However, a number of openings are minor/limited in scope and therefore it is suggested that contribution is restricted to openings greater than 2m ² (previously the threshold considered as defining minor works).

Views Sought	
02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	Agree that period should be extended to three years, given that it is indicated in the consultation document that this period has been voluntarily adopted by the Scottish road works community.

Views Sought	
03	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?
	The current level of sample A & B inspections where a fee can be charged is considered appropriate, since this gives an appropriate sample size to monitor works in Dumfries and Galloway Council. However, sample C inspections should be increased to cover all reinstatements. This would be in line with any works carried out by/for a Roads Authority and similar to a Road Construction Consent where there is a final inspection of all sites.

04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	Yes, to allow increased inspection where areas of poor performance identified through the inspection regime, e.g. where performance by a particular utility company is poor.

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



	Yes, if there is evidence in national research of failures between the current 2/3 year and the proposed 5/6 year timescales.
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Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	It would appear appropriate to leave as is, but roads authorities should use powers to issue Section 125 notices and then the number of these can be monitored and the Commissioner could take further action as necessary.

Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	There appears to be no benefit to introducing this system in Scotland.

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	Within Dumfries and Galloway Council the current legislation enables adequate control on time occupying roads and this works satisfactorily. Therefore no particular relevance to the Dumfries and Galloway Council local road network.

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	Yes, for the reasons given in the above discussion, although this roads authority currently does not issue any fixed penalty notices.

Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	Yes, since this would help with management and safety of the road network. However, the first of the proposed new offences may well be difficult to prove.



Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	Yes, in order to cover the increasing costs of administering a fixed penalty notice system.

Views Sought	
12	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?
	If the Commissioner considers £200,000 appropriate Dumfries and Galloway Council has no reason to suggest otherwise, and any increases should be in line with inflation. However, an increase in the level of fines that could be imposed on a roads authority is possibly inconsistent with the third aim of this consultation, to protect the structure of roads, as fines are likely to be funded from roads maintenance budgets rather than from increased customer charges, in the case of a utility company.

Views Sought	
13	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.
	<p>It would appear appropriate to limit the revision of the legislation to the first two bullet points suggested, i.e. "failure to comply with any duty under the NNRSWA and supporting regulations, and/or any requirement in a statutory code of practice."</p> <p>The suggested "Failure to comply with such practice as appears to the Scottish Road Works Commissioner to be desirable" appears unnecessary in a heavily regulated area already. If the Commissioner thought that there were additional duties or requirements that were appropriate it would appear preferable for him/her to seek their alteration, rather than to have this "catch all" phrase.</p>

Views Sought	
14	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.
	Yes. In the interests of a consistent approach to works on roads and because roads authorities should be leading by example. However, any potential conflicts with Chapter 8 of the Traffic Signs Manual should be



	identified and rectified prior to any mandatory application of the code to roads authorities. Particularly in light of Health and Safety Executive use of the Traffic Signs Manual in prosecutions and the anticipated review of Traffic Signs Regulations and General Directions in the near future.
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Views Sought	
15	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.
	It would be desirable. However, it should be noted that Dumfries and Galloway Council only has readily available records for apparatus in new roads built with construction consents. Gathering/making available other data would be an expensive and time consuming task and a risk managed approach to gathering data for apparatus likely to cause harm or damage may be more cost effective.

Questions	
16	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.
	Yes. In the interests of consistency and efficient working. They should also be required to upload relevant information to VAULT.

Views Sought	
17	Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.
	This is not an issue in Dumfries and Galloway Council but if it aids co-ordination then it would appear to be beneficial.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	The three month period is appropriate and should be retained as it aids co-ordination and the early start procedure is available if required or relevant.

19	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?
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	No. Works on these roads also have the potential to cause significant disruption, e.g. lengthy diversions particularly in rural areas, so the requirement for an advance notice should remain.
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Views Sought	
20	Should the early start procedure be a statutory requirement?
	Yes. Because a statutory requirement would give greater control in the co-ordination of major works than the code of practice allows for, since its status is open to a degree of abuse.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	The current requirement to register works within 2 hours is adequate and extension to noon the following day could result in potentially significant works or traffic management taking place without the knowledge of the Roads Authority.

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	Yes. In the interests of a consistent approach by roads authorities and utility companies to planning and recording works on roads it would be desirable and also because roads authorities should be leading by example. However, the recording of some very minor works, e. g. small carriageway repairs, would be time consuming and should be exempt from recording.

Views Sought	
23	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?
	Yes. As for question 22, in the interests of a consistent approach to works by roads authorities and utility companies.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road



	Works Register?
	Yes. It would provide better information to other parties and the general public.

25	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.
	No. Given current technology it should be possible to advise on the day they start and within two hours of actual starts, allowing exceptions for urgent and emergency works.

Views Sought	
26	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?
	No. Would suggest lodge by noon the following day for all roads. For traffic sensitive streets Dumfries and Galloway Council approach is for close contact with utilities, to allow reversion to normal operation to be carried out quickly when works complete.

Views Sought	
27	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.
	Yes to reducing validity period to two days (subject to this being 2 working days) and yes to it applying to both utility companies and roads authorities. However, there would have to be some flexibility when considering performance reports to allow for problems such as weather conditions affecting programming/carrying out works, and this can be recorded on the notice.

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?



	No. Roads authorities do not have the relevant experience to determine maximum durations. The use of and monitoring Section 125 notices should suffice.
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Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	No. In Dumfries and Galloway Council the current close working relationship and voluntary agreements work well.

Views Sought	
30	Do you agree with the definition of a working day given above?
	No. The definition should be extended to include Good Friday, Easter Monday and May day, assuming that these are "standard" public holidays for the vast majority of roads authority staff, at least. Consideration should also be given to the possibility of the Commissioner (perhaps on instruction from Scottish Ministers) being able to add "events" to the "standard" non-working days (recent examples: Queen's Jubilee, Royal Weddings, state funerals).

Views Sought	
31	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.
	Consideration should be given to removal and replacement of sections 132A, 132B, 132C, 132D and 137A of the New Roads and Street Works Act 1991 (NRSWA) (which are direct extracts from England's Traffic Management Act 2004 and were added under the Transport (Scotland) Act 2005) with wording to positively encourage undertakers to trench-share and co-ordinate works with road authorities surfacing programmes.

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.



	<p>In France reinstatements have a date/utility code "stamped" into the surface. The letters are about 50mm high and appear to have been imprinted using some sort of "branding iron" (indent is about 5mm). It is therefore easy to identify at a glance when the reinstatement was undertaken and by whom.</p> <p>Greater use of current technology to give accurate grid references of reinstatements and use this as part of input to VAULT.</p> <p>As suggested at question 15, move towards Construction Consents being submitted electronically and for the information therein to be uploaded directly to VAULT.</p>
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Views Sought	
33	Please outline the potential impact of any additional costs.
	There will be a negative impact in terms of service delivery, if resource requirements are increased for roads authorities resulting in redeployment of staff/budgets. At a minimum any proposals implemented need to be cost neutral fir roads authorities.



Bx

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Director Planning and Environment Services, Dumfries and Galloway Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Speedie

Forename

Alistair

2. Postal Address

Kirkbank House, English Street, DUMFRIES

Postcode DG1 2HS

Phone 01387 260000

Email

alistair.speedie@dumgal.gov.uk

3. Permissions - I am responding as...

Individual ☐

Group/Organisation ☒

Please tick as appropriate

(a) Do you prefer to your response being made available to the public in Scotland via national library and/or on the Scottish Government website?

Please tick as appropriate ☐ Yes ☐ No

(b) Where confidentially has not requested, we will make your responses available to the public on the following basis:

Please tick ONE of the following boxes:

Yes, make my response available ☐

Yes, make my response available, and remove my name and address ☐

No, make my response and name available, but remove address ☐

(c) The name and address of your organisation will be made available to the public on the Scottish Government library and/or on the Scottish Government website.

Are you content for your response to be made available?

Please tick as appropriate ☒ Yes



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(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?


Please tick as appropriate

☒ Yes

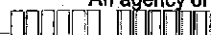


SCOTTISH EXECUTIVE

www.transportscotland.gov.uk

 SCOTTISH EXECUTIVE

An agency of



TRAFFIC COMMISSIONER FOR SCOTLAND
Joan N Aitken SSC

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Fax: 0131-229-0682

E-mail : Joan.Aitken@otc.gsi.gov.uk

11 July 2013

Ms Joanne Gray
Transport Scotland

Via email only: WorksonRoads@transportscotland.gsi.gov.uk
Joanne.gray@transportscotland.gsi.gov.uk

Dear Ms Gray

Works on Scottish roads – strategic consultation by Transport Scotland

Response from the Traffic Commissioner for Scotland

I am writing in general terms as much of the detailed response sought in the consultation is better answered by those with experience in utilities and roads management.

However part of the consultation concerns the notice which requires to be given for roads works; the timing thereof; and the impact on other road users.

My interest in this is as the licensing authority for the bus industry and in particular the regulator of local registered services – under licensing powers found in the Public Passenger Vehicles Act 1981, the Transport Act 1985 and Transport (Scotland) Act 2001.

In short compass – any operator of a local bus service must hold an operator's licence or permit issued by me and to gain such and retain such, the operator requires to operate lawfully and compliantly. Before being able to run a local bus service, particulars of that service must be registered with me – including the route and timings to be followed. There are prescribed periods for registering such routes and thereafter varying or cancelling such. 14 days notice has to be given to local authorities including SPT of such registrations or changes. There is a facility to make short notice changes but that relies on my exercising discretion to grant and must be used sparingly in the interests of having a settled public transport network and reliable public information.

An operator having registered such a local service is obliged by statute to operate that service according to the registered particulars and is liable to regulatory action should that not happen. At the worst extreme that can mean revocation of the operator's licence but most common outcome is the imposition of a financial penalty under the Transport (Scotland) Act 2001. In terms of section 6 of the Transport Act 1985 an operator can claim reasonable excuse for failing to operate.

I have to say that roadworks are cited time and again by bus operators as a principal reason for failing to operate to time, route or at all on occasions. The register maintained by the Scottish Road Works Commissioner is valuable in providing some corroboration or otherwise for this cited excuse.

However, I require that buses run to time and route and that is the expectation of the regulatory regime put in place through statute. It is also the expectation and requirement of passengers. In

passenger surveys punctuality and reliability come out top in what passengers need. Thus anything that frustrates punctuality and reliability has a direct impact on the travelling public. This must not be viewed lightly. The worth and purpose of any given journey will be particular to that passenger but will range from essential timed attendance at a destination (eg getting to work on time, school on time, hospital appointment, onward travel connection, picking up children, carer meeting the bus.....there are numerous examples which highlight why certainty of travel is important) to a leisurely excursion.

The Scottish Government in its bus policy is supportive of the bus industry and wishes there to be passenger growth with modal shift to the bus away from cars wherever possible and to maximise opportunities for those without access to cars. I do not need to rehearse these policy objectives in a response to Transport Scotland for you will know them better than I. The Scottish Government is investing in achieving quality standards for the bus industry in recognition of its critical importance to the country.

The presence, timing and management of roadworks frustrate me in my duty as the statutory regulator for I am hindered in holding operators to account as the "roadworks excuse" is played out. Much more to the point the statutory purpose of securing reliable and punctual bus services is frustrated by the way in which roadworks are conducted. I therefore wish to support the Scottish Roadworks Commissioner in anything she can achieve to mitigate the impact thereof and any powers she might need to do so.

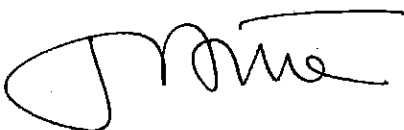
I ask that before any permissions can be given for roadworks which would have the effect of disrupting traffic flow (ie I am not referring to de minimus workings which would not impact on traffic) that an assessment be made of the impact of such on local bus services ie that there be a statutory presumption against road closure or restriction unless it can be shown that arrangements can be placed to minimise the disruption of services which could include such measures as priority to buses at roadworks (as some thoughtful contractors do put in place voluntarily). If a road is used by a bus then the timings for such roadworks should pay heed to the bus timings and the duration of the roadworks should be kept to bare minimum. In other words the whole culture of roadworks should change and become respectful of the statutory requirement for buses to be capable of running to time and route.

Short notice of roadworks, which are not genuine emergencies, should become the exception. Short or no notice of such non emergency roadworks as happens many times now – should become something of the past. Many bus operators tell me that the first they know that they cannot travel their routes is when the first bus goes out of a day and finds diversions in place – even where such roadworks are at the instance of the local authority which contracted the bus service in the first place. It is a nonsense and it impacts on passengers and the ability of bus operators to get information to passengers and plan how vehicles and drivers can be deployed to meet the changed operating conditions.

This impact of roadworks on bus services is why I asked that the Scottish Road Works Commissioner be a member of the Scottish Government Bus Stakeholder Group and which has happened and a much welcome development.

I hope the foregoing is helpful. I am content that it be included in any public record of the consultation.

Yours sincerely



Joan N Aitken

Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk



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Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Your ref:

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	What contribution do you consider should be introduced? What are your reasons for coming to this view?
	No comment

Views Sought	
02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	An element of flexibility is required for this dependent on need and local circumstances.

Views Sought	
03	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?
	No comment

04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	No comment

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	No comment

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	No comment



Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	No comment

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	No comment

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	No comment

Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	No comment

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	No comment

Views Sought	
12	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?
	No comment



Views Sought	
13	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.
	No comment

Views Sought	
14	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.
	No comment

Views Sought	
15	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.
	Yes - A mandatory requirement would provide the impetus to the industry to gather and record accurate records forming an information base and speeding the works planning process. It is acknowledged that there is not perfect knowledge at present and there will be gaps i.e records will not always provide a complete picture of utilities which are under roadways but a start needs to be made. Many of the bigger utilities are already committed to this. It is important that all involved have the same commitment if a digital approach is to be successful.

Questions	
16	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.
	No comment.

Views Sought	
17	Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.
	No comment.



Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	This would be of benefit to bus and freight operators who could better plan and publicise service disruptions. A consultation period should also be included for commercial road users impacted by major road closures. Another reason for doing this is to allow other utilities to be aware of and have the opportunity to co-ordinate works - either at the same time and location or to avoid works in the vicinity during the period. This is especially important for major works.

19	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?
	<p>No - Advance notice should remain in place for non-traffic sensitive roads. Although these roads are less busy relative to main corridors, any disruption has the potential to adversely impact on transport services such as bus services (supported and commercial), demand responsive bus services as well as freight and private transport.</p> <p>A good example of this is SPT's MyBus Demand Responsive Transport Service which operates across the entire road network of the west of Scotland providing a lifeline service for those unable to use mainstream public transport. Should advance notice be withdrawn there is the potential that MyBus may not be able to provide its comprehensive service as effectively and thereby significantly disadvantaging service users.</p>

Views Sought	
20	Should the early start procedure be a statutory requirement?
	Yes - To ensure advance notice and effective contingency plans can be put in place, particularly where bus services and other business related transport services may be affected.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	Yes, see answer at Q20.



Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	In principle yes, as this would formalise the current voluntary protocol in place, and would allow for better planning of bus and freight diversions. However, allowances should be made given the current backlog in the road maintenance programme. It may be appropriate to reflect this backlog in any legislation and set a realistic timeframe for introduction.

Views Sought	
23	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?
	Yes.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	No comment

25	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.
	<p>Potential planned disruptions, particularly along major bus corridors, should require a minimum notice period, with the period defined on a case by case basis. However, works will always require to be undertaken for emergency or other urgent reasons which would be exempt from any notice period.</p> <p>The concept of allowing start notices to be lodged well after the actual start has always been potentially problematic. Increasingly "real-time" information is now seen as the norm and road users want to know what is happening instantly and accurately. Many agencies and commercial services are engaged in collecting this information and disseminating it to assist in making better use of the road network, reducing congestion and making travel more efficient and enabling the traveller to be better informed e.g. Local Radio Stations, Traffic Scotland etc. It would perhaps be seen as counter-intuitive in today's electronic information-oriented world to provide and confirm</p>



	such information almost 24 hours late.
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Views Sought	
26	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?
	No comment

Views Sought	
27	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.
	No comment

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	Too many road works are seen to start and then left, apparently inactive and deserted, for several days whether for legitimate reasons, at the convenience of the contractor or due to poor resource planning, all the while continuing to cause congestion and displacing existing bus services. Works need to be effectively assessed beforehand and maximum times set by the local authority to ensure that road possession and the associated disruption is minimised.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	No comment

Views Sought



30	Do you agree with the definition of a working day given above?
	No comment

Views Sought

31	<p>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.</p>
	<p>Consideration needs to be given to the types of users along any one specific route e.g Is it a major bus route or freight route? What is the volume of buses / patronage and freight demand? Are there viable alternative routes? Is it an appropriate time of year for works? Is night-working more / most appropriate?</p> <p>Need also to consider traffic light phasing on diversionary routes during road works. Failure to do so can result in severe restrictions on available road space for diverted traffic.</p> <p>Need to consider carefully what else is going on in the immediate and wider vicinity when authorising "planned road works", particularly if road works are taking place close to or on viable alternative diversionary routes.</p> <p>Other general comments:</p> <p>Bus passengers and bus and freight operators would welcome any and all arrangements that would result in the minimisation of road space required for road works. Also welcome would be a more sympathetic consideration of the time of day and time of the year when road works take place. Most important of all is to consider how to minimise the length of time required for road works. Another important consideration should be ensuring the provision of, where practical, free running alternative routes (or as free as practicable) in the event where road closures are required. This should include, as necessary, altered traffic light phases on the diversionary route and providing as much clear road space as possible through temporary suspension of normal parking and perhaps loading arrangements.</p> <p>The mechanisms of how it happens are of little concern to bus passengers / operators as well as the freight industry. The diversion problems and the length of time road closures are required are of greater concern.</p> <p>The primary consideration for SPT is disruption to public transport and impacts on the wider economy, including freight, and community – on people commuting, attending health appointments, accessing education, retail, leisure and recreation. The impact is not necessarily restricted to the particular road affected but is often felt more widely.</p>



	<p>Notwithstanding the comments above about minimising the duration of road works, there are instances where more comprehensive utility works need to be undertaken rather than in a piece-meal fashion. Utility and road works planning needs to be more proactive.</p> <p>Similarly the needs of bus passengers with specific travel requirements must be addressed. Not all passengers can easily transfer their boarding / alighting point for a variety of reasons. Diversionary routes must be realistic in terms of bus operation but should also have a specific requirement to meet the needs of passengers, especially those passengers who have special requirements.</p> <p>Road closures associated with next year's Commonwealth Games may provide an opportunity to assess strategy(s) and process(s) for predicted road closures. The scale of and the predictability of the closure programme could be a suitable proxy for major road works on heavily trafficked corridors, enabling impact assessment to be undertaken, monitored and lessons drawn.</p>
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Views Sought	
32	<p>Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.</p>
	<p>Some suggestions:</p> <ul style="list-style-type: none"> • Reversed routes in morning and evening peaks if appropriate • Properly and interactively staffed sites to deal with traffic implications • Role of police to supervise traffic management • Greater use of predictive modelling to permit "what-if?" scenarios • The "keyhole surgery" road works technique being pioneered by Scotland Gas Networks (SGN) in Glasgow provides the opportunity to cut the duration of road works and has the potential to be rolled out across Scotland and by a range of utility providers

Views Sought	
33	<p>Please outline the potential impact of any additional costs.</p>



Unclear as to why there would be any significantly greater cost and benefits overall should bring efficiencies and savings.



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Strathclyde Partnership for Transport

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Kiloh

Forename

Bruce

2. Postal Address

12 West George Street, Glasgow

Postcode G2 1HN

Phone 0141-333-3740

Email

3. Permissions - I am responding as...

Individual

☐

Group/Organisation

☒

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk



51

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Your ref:

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	What contribution do you consider should be introduced? What are your reasons for coming to this view?
	<p>The contribution level will need to be acceptable to both Road Authorities and Utilities but also needs to recognise the damage already done to the network.</p> <p>The TRL report suggests 17% reduction in service life therefore this should be the initial level of contribution.</p> <p>We are supportive of a scheme that would encompass footways.</p>

Views Sought	
02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	<p>Yes - support increasing to 3 years.</p> <p>Utilities and Roads authorities should be planning major works well in advance and this should encourage and promote a coordinated approach and help protect new surfaces.</p> <p>Potential should already be logged on the Road Works Register prompting those in the road works community to better schedule their works programs</p>

Views Sought	
03	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?
	<p>The 10% of inspections during the works is insufficient. Other survey results such as the coring of reinstatements have repeatedly shown that utilities are unable to adequately perform/ manage their contractors.</p> <p>This should be increased to at least 30% though this in would be extremely difficult to resource.</p> <p>The inspection 6 months after reinstatement remains useful in identifying immediate defects and is at an acceptable level at 10%.</p> <p>Warranty Periods should continue to be calculated by date range.</p> <p>We believe that utility companies should be inspecting more of their own works and they should through supervision and monitoring be responsible for ensuring better performance from their contractors and sub-contractors.</p> <p>Findings / Results from any such Inspections should be logged on The Road Works Register</p>



04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	Poor Performance non – compliance, already carries penalties and can result in the issue of Improvement notices but continuing failures around the same issues should result in increasing levels of financial penalty

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	Yes we agree. Our experience is of a large number of reinstatements fail out with the guarantee period but within the residual life of the carriageway requiring public money to be used to carry out often significant repairs. We believe that an extended guarantee will focus utility companies on ensuring adequate durable repairs.

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	No we do not support across the entire network - because of difficulties in agreeing reasonable timescales and increased administration, however it may be appropriate for traffic sensitive roads and recognised pinch points.

Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	We do not support the use of permits. Given the relative low number of utility and road works in our authority, there is seldom a problem of accessing the road network. We consider a permit system would add to the administrative burden of the council and we are comfortable with the SRWR and its functions regards Road Works on Scottish Roads.

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	We can through the SRWR guide and Direct Utilities and Contractors on the Timings of their work and feel that the flexibility around managing works on the register promotes better quality – lane rentals are restrictive and binding with severe financial penalty for any overrun to agreed timescales – This could prove negative in terms of quality if completion of works is governed by a specific date and more so additional costs.



Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	<p>Yes – welcome an extension to summary offences.</p> <p>Penalties must be at a sufficient level to act as a deterrent and be able to cover cost of administration.</p> <p>Roads Authorities Should be able to issue FPN's for Unauthorised Road Works, Signing Lighting and Guarding failures and reinstatements that are not to specification</p> <p>Failures to provide sufficient and accurate information hampers our ability to Coordinate and such breaches should result in an FPN.</p>

Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	Agree to introducing new summary offences including failing to attend to issues that have been recorded as a defect within allotted timescales

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	Yes – increase in line with inflation

Views Sought	
12	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?
	<p>Yes - level should be increased to £200k and linked to inflation for FPN offences.</p> <p>It's thought that increasing to £200k would certainly keep the Road Works Community focused on the year on year Improvements sought by the commissioner.</p>



Views Sought	
13	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.
	Clarity would be welcomed.

Views Sought	
14	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.
	No - Road Authorities are also subject to compliance with Chapter 8 of the Traffic Signs Manual, whilst it is a guidance document, it continues to conflict with the Code of Practice for Safety at Street Works. Furthermore the Code of Practice is directed at works of an isolated excavation nature; smaller street works, it does not cover the types of work such as resurfacing/ reconstruction of roads (particularly in residential area) and therefore is insufficient in respect to road works on a larger scale often carried out by the Roads Authority or Contractors.

Views Sought	
15	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.
	Yes – agree that this should be mandatory. However there is a significant data collection exercise required and this would need to be phased in over a 3 – 5 year period.

Questions	
16	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.
	Yes – Section 61 of the Roads (Scotland) Act 1984 should be repealed to avoid the ongoing confusion between this and Section 109 of NRSWA.

Views Sought	
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17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	No comment.

Views Sought

18	What are your views on the 3 month advance notice period for major works?
	There are a number of Advantages in retaining the 3 month notice period for major works not least a chance at better coordination and the flexibility to perhaps promote a better joined up approach

19	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?
	We do not agree with the relaxation of notices for non-traffic sensitive routes as these works are often critical in the coordination role undertaken by councils, particularly in avoidance of works being undertaken by one organisation on the diversion route for other works.

Views Sought

20	Should the early start procedure be a statutory requirement?
	No – we believe the voluntary use of the non-statutory advice note to be adequate and consider that the process of agreeing early starts is a good example of the Roads Authority / utility company cooperation to coordinate road works.

Views Sought

21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	We would not agree that urgent works should be entered into the SRWR by noon the following day. At present urgent works must be ‘registered’ within 2 hours of starting whilst noon the following day would mean that there may be significant works and traffic management on going without the Roads Authorities knowledge.

Views Sought

22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to
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	the same timescales?
	<p>Road Authorities and Utilities should have to operate in the same way on the Scottish Roads Work Register. Utilities are able to plan works or respond to urgent works for their individual customers, whilst Road Authorities are tasked with maintaining the public asset and ensuring public safety whilst using the road network.</p> <p>The year on year improvement promoted by the Commissioner is only really possible if we are all adhering to the legislation and Roads Authorities have already agreed to operate in the same way as utility companies regards the SRWR.</p>

Views Sought	
23	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?
	Yes although works involving no excavation can cause disruption if it requires traffic management. The existing guidance on this matter is adequate and flexible.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Yes – Best Practice

25	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.
	Yes – the current requirements are working satisfactorily.

Views Sought	
26	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?
	Yes; no further comment.

Views Sought	
27	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.
	No – contractors and Roads Authorities 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 weather conditions, particularly snow in the winter. Both Parties really requires the degree of flexibility offered by the current validity periods

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	No – Roads Authorities cannot determine the actual time required for utility works We already have the opportunity to direct utilities regards working longer hours, overnight working etc. Through this Roads Authorities can promote best practice whilst minimising disruption.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	Yes - Planned events can be seriously disrupted by utility works. Many towns within Argyll and Bute rely on tourism and therefore major utility works and the council should have power to direct that major works be avoided during peak tourist season.

Views Sought	
30	Do you agree with the definition of a working day given above?
	Yes



Views Sought	
31	<p>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.</p>
	<p>Exploration and Trialling of Innovative materials and working methods should be supported by the Road Works Community.</p> <p>There should be the opportunity to record trials on the SRWR lead officer promoting such techniques nationally and across the Road Works Community.</p>

Views Sought	
32	<p>Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.</p>
	<p>We consider the proposals under Section 1 of this consultation to be innovative and appropriate. Income from these charges will support the efforts of councils and the Scottish Government and help improve condition of the Road Network.</p>

Views Sought	
33	<p>Please outline the potential impact of any additional costs.</p>
	<p>In this period of reducing budgets Roads Authorities will have difficulty in absorbing any additional costs resulting from legislative changes.</p>



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Argyll and Bute Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Smith

Forename

Jim

2. Postal Address

Argyll and Bute Council, Kilmory, Lochgilphead, Argyll

Postcode PA318RT

Phone 01546605522

Email enquiries@argyll-bute.gov.uk

3. Permissions - I am responding as...

Individual



Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

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Please tick as appropriate



