

Agenda Item	22
Report No	PLA 37/17

HIGHLAND COUNCIL

Committee: Places Committee

Date: 16 August 2017

Report Title: Consultation on Improving Road Works in Scotland

Report By: Director of Community Services

1. Purpose/Executive Summary

- 1.1 This report provides a response to the Transport Scotland consultation “Raising Standards and Improving the Quality of Road Works in Scotland”.

2. Recommendations

- 2.1 Members are invited to approve the responses to Transport Scotland’s consultation “Improving the Quality of Road Works”, as shown in **Appendix 1**.

3. Background

- 3.1 In 2015 the Minister for Transport and the Islands commissioned an independent review of the Scottish Road Works Commissioner's Office and functions. Whilst Scotland leads the UK in the planning and coordination of road works, it is considered there is still scope for improvement, especially in how road works are managed.
- 3.2 The resultant 'Barton Report' made several recommendations, including improvements in availability of information, measures to support improvements in the quality of road work reinstatement, improving enforcement and strengthening the existing powers available to the Scottish Road Works Commissioner and to Roads Authorities.
- 3.3 Transport Scotland's consultation seeks views on proposals for improvements to the regulation of road works in Scotland which included taking forward the accepted recommendations for the 'Barton report'.
- 3.4 The consultation, which closes on 12 October 2017, is available online on the Scottish Government's web site at:
- <https://consult.scotland.gov.uk/transport-scotland/quality-of-road-works-in-scotland/>
- 3.5 Highland Council has the largest local authority road network in Scotland. Senior Officers from Roads and Transport attend the Roads and Utilities Committee Scotland (RAUCS), and the North of Scotland (NoSRAUC); whilst area roads staff attend and chair the local Highland meeting. Officers also sit on various joint road authorities and utilities technical working groups in support of RAUCS and the Road Works Commissioner.
- 3.6 The majority of road works are either:
- utility company works to place, repair, renew or improve service pipes and cables; or
 - roads authority works to repair, renew or improve roads (includes footways).
- 3.7 The legislation under which works in the road are undertaken in Scotland is the New Roads and Street Works Act 1991 (NRSWA), or the Roads (Scotland) Act 1984 (RSA). The NRSWA was revised and updated by the Transport (Scotland) Act 2005. Under NRSWA roads authorities have a duty to coordinate their own works and those of utility companies, who are in turn obliged to cooperate with the roads authority.
- 3.8 Utility companies have statutory rights which allow them to place, repair, renew or improve their pipes or cables in roads, subject to meeting certain duties.

4. Proposed response to consultation

- 4.1 The Council's proposed response to the Consultation is enclosed at **Appendix 1**.
- 4.2 Internal consultation has been undertaken with the various road teams within Roads and Transport, and the Project Design Unit, Development and Infrastructure. The consultation response includes comments from all teams and is considered to be comprehensive and representative.
- 4.3 Transport Scotland will review the consultation and subsequently publish their proposals and implementation plan, with the majority of changes introduced through primary or secondary legislation.

- 4.4 It is anticipated that the changes will improve, over 6 years, both quality and longevity of road reinstatements and public safety through better signing, lighting and guarding of road works.
- 4.5 It is expected that improved reinstatement will lead to a reduction in the number of potholes associated with trenching occurring on the road network.

5. Implications

- 5.1 Resource – there are no resource implications.
- 5.2 Legal – there are no legal implications.
- 5.3 Community (Equality, Poverty and Rural) – there are no community implications arising from this consultation.
- 5.4 Climate Change / Carbon Clever – there are no climate change or carbon clever implications arising from this consultation.
- 5.5 Risk – no risks have been identified as arising from the consultation.
- 5.6 Gaelic – there are no Gaelic implications arising from this consultation.

Designation: Director of Community Services

Date: 4 August 2017

Author: Robin Pope, Policy and Programmes Manager

Appendix 1 – Proposed response to Transport Scotland consultation

Question 1	Should utility companies be required to produce quality plans for proposed road works?
	<p>YES</p> <p>We agreed that utilities, especially the smaller operators, rely on the road authority inspectors to approve works. Any organisation undertaking works should have full responsibility for the quality of the works delivered and not be able to use inspection by other parties as a means of transferring both responsibility and risk for quality of workmanship and materials.</p> <p>The absence of quality plans for planned road works is a significant contributor to problems of “unsafe” traffic management and poor quality reinstatements. Quality plans for reinstatement must not be too prescriptive and should take into account the nature of a road with different approaches for “Engineered” roads and non-engineered” such as single track rural roads, where reinstatement is often directed by the construction found and condition of subgrade.</p> <p>The successful use of quality plans will require inclusion as part of the formal site processes undertaken by the site supervisor/manager.</p> <p>Provision of an audit process for quality plans should also be introduced with appropriate control mechanisms. In most instances this could be through the extension of an organisations’ existing Quality Assurance procedures.</p>
Question 2	Should there be a single guarantee period offered on utility reinstatements of 6 years regardless of the depth of excavation?
	<p>YES</p> <p>A road authority when undertaking permanent repairs expects these to last until the next cycle of structural pavement maintenance, which can be over 20 years. Utilities should not be able to provide reinstatement that meets a standard for 2 years with failure occurring after 2 years e.g. due to poor compaction of backfill material in the unbound layers. A 6 year guarantee period would encourage all organisation to ensure that reinstatement was correctly undertaken to the full depth of excavation.</p> <p>The current inspection regime would need to include provision for a mid-guarantee period inspection in additional to the normal inspections.</p>
Question 3	If introduced, should the impact of quality plans be reviewed after a suitable period (perhaps 6 years), and the necessity of the latent defect process be assessed?
	<p>YES</p> <p>The latent defect process is adversarial and, due to the potential costs and resource requirements, tends to be avoided by roads authorities. If the introduction of Quality Plans are, after 6 years, found to have addressed the issue, Highland Council would support the amendment</p>

	to the latent defect process.
Question 4	Should we clarify that the scope for a code of practice on reinstatement (currently the Specification for the Reinstatement of Openings in Roads) includes all activity relating to the execution of road works e.g. signing lighting guarding, excavation, reinstatement, and guarantee period?
	<p>YES</p> <p>This would clarify the position and is to be supported. It would be beneficial especially in regard to those small sub-contractors making up the third, fourth or lower tiers of a Utilities supply chain where understanding of reinstatement requirement is often lacking. It should lessen the burden on the roads authority through reducing incidents of inspection staff having to explain to sub-contractors the need for what are industry standards of reinstatement.</p>
Question 5a	Should actual start, works cleared, and works closed notices be notified within 2 hours, or within 2 hours of the start of the next business day if out with office hours?
	<p>Yes. Within 2 hours.</p> <p>Notification of work start on site can be an issue for Utilities contractors and Highland Council's roads inspectors. As an example, a contractor traveling from the Central belt to work in the Highlands, could put the actual start on site as after 12 noon, which currently would not be reported until the following day by which time they are away to the next location making it impossible for inspection staff to undertake an inspection during the opening.</p> <p>Revised notification periods would improve the accuracy of the information available, which would allow more efficient utilisation of a road inspector's time and avoid abortive site visits. The current inspection regime is difficult for inspectors who cover a large area that is predominantly rural in nature with long single access routes. The logistics of arranging a site visit only to find no works on site is costly and time consuming to roads authorities, especially those with large rural road networks.</p>
Question 5b	Should the validity period for notices placed onto the Scottish Road Works Register in relation to planned works be reduced, the proposal being that they be set at 4 days or 2 days depending on the traffic sensitivity of the road?
	<p>NO</p> <p>We would consider that the current periods are workable and appropriate and see no benefit in shortening the validity period for notices placed onto the SRWR.</p> <p>It is recognised that this could be an issue to roads authorities having high population density and significant traffic volumes, where a reduction to 2 days could be beneficial.</p>
Question 6	Should the provision of plant information to the Scottish Road Works

	Register be made mandatory?
	<p>YES</p> <p>The absence of telecoms information causes inefficiencies and brings the operation of the system into disrepute. Equality and consistency across the systems would be welcomed. An assurance that information in the Vault is complete and accurate would be of benefit to all users. The requirement of an employer to comply with Health and Safety Regulations is challenged through the failure of another party to provide information in the SRWR. It is recognised that some utilities companies have security concerns about the use of the information stored on the SRWR, but this can be addressed by managing access to the system and the use of legislation.</p>
Question 7a	Should the obligation on the Scottish Road Works Commissioner to make the Scottish Road Works Register available for inspection be repealed?
	<p>YES</p> <p>This could be done with no impact on our operations. There is a concern about the availability of information and how this could be used by third parties. The public require information on the location duration and nature of road works, not on the utilities equipment in the road.</p>
Question 7b	Should the duty to make the Scottish Road Works Register available for inspection be replaced with a duty on the Scottish Road Works Commissioner to actively publish information relating to the location of planned and actual road works?
	<p>YES</p> <p>Publication of details of planned and actual roadworks would improve the provision of good information and is to be welcomed</p>
Question 8	Should “the Safety at Street Works and Road Works A Code of Practice” apply equally to roads authority and utility road work sites?
	<p>YES</p> <p>This would benefit all parties and ensure that there was equality and consistency across the system. Wider use of the “Red Book” should be encouraged. A roads authority is responsible for co-ordination of works in the public road and as such its own works should be undertaken to the same standards and requirement as those of third parties.</p>
Question 9	Should utility and roads authority workers be required to be qualified in the “Signing Lighting and Guarding” of a site, and also in the “Location and Avoidance of Underground Apparatus”?
	<p>YES</p> <p>This will result in an overall improvement in standards; more people trained will increase the overall awareness of a team and assist in reducing the risks and number of injuries associated with working in</p>

	<p>the public road.</p> <p>The 2017 amendment to the NRSWA regulations has made this a mandatory requirement applying to utilities companies. It is appropriate that the same requirements apply to all organisations, including road authorities and their contractors.</p> <p>Whilst Highland Council are working towards ensuring all our road operatives are qualified in Signing Lighting and Guarding plus cable avoidance to provide maximum flexibility and improve safety, we recognise that this may not be practicable for all of an organisations' operatives. We would like to see consideration given to the provision of an intermediate level for operatives who would not need to lead or supervise a team.</p>
Question 10	<p>Should the minimum legal requirement for at least 'one' operative to be qualified be increased to ensure that more operatives at each road work site hold formal qualifications for the particular work they are undertaking?</p>
	<p>YES</p> <p>The minimum requirement should be that at least one qualified person is on site at all times. This would avoid the current situation where a qualified operative can initially be on site, but then departs the site which means the work should stop, which in practice does not often happen.</p>
Question 11	<p>Do you agree with our policy proposals to revise and improve the enforcement of road works in Scotland by the Scottish Road Works Commissioner?</p>
	<p>YES</p> <p>Enforcement is needed to ensure implementation of the system in a fair and equitable way. It is preferable to provide wider scope and powers along with greater discretion to the SRWC. This would enable prompt intervention to be taken where a utility or road authority is showing signs of poor performance and may simply need some advice and guidance rather than penalising.</p> <p>The SRWC also needs to have power to escalate in those instances where serious non-compliance is occurring, such as endangering the public and/or property.</p>
Question 12	<p>Do you agree with our policy proposals to reform the use of Fixed Penalty Notices for the enforcement of road works in Scotland?</p>
	<p>YES</p> <p>Expansion of the activities for which FPN's could be issued would assist the co-ordination of works and improve the responsiveness of utility companies. We support the introduction of failures of Sample A inspections to become an FPN item. Allowing the issue of FPN's for poor signing, lighting and guarding will help to improve public safety and the public perception of roadworks.</p>

	A road authority should have the power to refer repeated failure of a utility company or other party to the SRWC rather than continue to issue FPN's.
Question 13	Do you agree with our policy proposals to enhance the role of the Scottish Road Works Commissioner?
	<p>YES</p> <p>The SRWC should have the ability to undertake inspections in their own right and review the activities of all organisations involved in the delivery of road works. This is especially so when both utilities and roads authority comply with the same reporting, monitoring and inspection requirements.</p> <p>We agree that these powers should not lead to an increase in the operational costs of the office of the SWRC but be in addition to those of a roads authority to enable the SRCW to commission inspections where an organisation's performance needs to be monitored or reviewed.</p>
Question 14	Should there be flexibility to prescribe the restricted period following substantial works through secondary legislation?
	<p>YES</p> <p>Where significant investment has been made to improve and enhance a public road there should be a means to enforce a longer period of protection of that road under a restricted period.</p> <p>Flexibility will need to be clearly supported by clear definitions, including a process to enable roads authorities to designate the period of restriction as part of a scheme's preplanning.</p> <p>Notice periods will need to be sufficient to enable utilities to reprogram renewal/replacement works in advance of road works to comply with a restricted period.</p>
Question 15	Should we clarify that a roads authority is included within those to be notified under Section 114 of the New Roads and Street Works Act 1991?
	<p>YES</p> <p>For sake of consistency and to ensure roads authorities can discharge their statutory duties to coordinate works in the road, a roads authority must be formally notified.</p>
Question 16	Should roads authorities be one of the parties that must be notified under statute to help formalise the use of early and late start consents?
	<p>YES</p> <p>For sake of consistency and to ensure roads authorities can discharge their statutory duties to coordinate works in the road, a roads authority must be formally notified.</p>

Question 17	Should Section 132 of NRSWA be repealed?
	<p>YES</p> <p>RAUCS working group confirmed section 132 of NRSWA was unenforceable and it should be repealed and replace with a workable alternative.</p> <p>The introduction of mandatory quality plans should address this issue. However there will remain a requirement for a roads authority to be able to undertake repairs directly on grounds of public safety and protection of property.</p>
Question 18	Should noticing requirements for roads authorities and utility companies be exactly the same in order to facilitate coordination and cooperation?
	<p>YES</p> <p>Equality and consistency are supported.</p>
Question 19	Should Section 61 of the Roads (Scotland) Act 1984 be revoked with savings provisions for existing agreements?
	<p>YES</p> <p>We support the removal of Section 61 in accordance with RAUC(S) Advice Note 22, "The Use of Section 109 of the New Roads and Street Works Act 1991, Replacing Section 61 of the Roads (Scotland) Act 1984" published in 2013 recommended.</p>
Business and Regulation	
Question 20	Are there any likely impacts the proposals contained within this consultation may have on particular groups of people, with reference to the 'protected characteristics' listed above?
	NO
Question 21	Do you think the proposals contained within this consultation may have any additional implications on the safety of children and young people?
	NO
Question 22	Do you think the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any sector?
	Any increase will be offset by improved efficiencies and longevity of road pavement reinstatements.
Privacy	
Question 23	Are there any likely impacts the proposals contained in this consultation may have upon the privacy of individuals?
	NO
Environmental	
Question 24	Are there any likely impacts the proposals contained in this consultation may have upon the environment?
	NO

