REPORT NO 79/04

ANGUS COUNCIL

INFRASTRUCTURE SERVICES COMMITTEE

22 JANUARY 2004

REGULATION OF UTILITY COMPANY ROADWORKS - CONSULTATION

REPORT BY THE DIRECTOR OF ROADS

ABSTRACT
This report details the consultation by the Scottish Executive on the Regulation of Utility Company Roadworks issued in October 2003 and proposes the Council’s response.

1 RECOMMENDATION

1.1 It is recommended that the Committee agree to note the consultation document and approve the proposed response.

2 DETAILS

2.1 Works by Utility Companies (gas, electricity, telecom services etc.) are currently regulated by the New Roads and Street Works Act 1991 (NRSWA) supported by several Codes of Practice.

2.2 Scotland has a national electronic notification system whereby advance notice of planned road works is sent to inform both the appropriate Roads Authority and other Utility Companies of the location, start date, duration, etc of each job.

2.3 Whilst the regulations have been in place for some 12 years there are concerns over the adequate functioning of the legislation and the disruption to traffic which can be created by Statutory Undertakers’ roadworks.

2.4 Major traffic disruption as a result of roadworks is thankfully rare in Angus due to relatively low traffic flows and public acceptance that the services provided – gas / electricity / telecom etc are essential for the residents, businesses, schools, hospitals etc of Angus.

2.5 However, there are recurring problems originating from a lack of effective control within the legislation with little or no financial incentive for Utility Companies to take responsibility for carrying out their roadworks effectively and efficiently. Members will be aware of Report No 1354/03 presented to the Infrastructure Service Committee on 27 November 2003 detailing the performance of Utility Companies in Angus in respect of their reinstatements.

2.6 There have also been major changes over the last 12 years for Utility Companies, with privatisation, changes in technology and centralisation to control costs/maximise profits. Similarly there are now 32 Scottish Roads authorities and 2 Private
Contractors acting as agents for the Scottish Executive’s trunk road network compared to 7 Regional Councils which also served as agent authorities for the Scottish Executive in 1991.

2.7 The Consultation document seeks to gain views from Utility Companies, Roads authorities and a wider range of consultees on possible changes to the existing arrangements. A copy of the Consultation document has been placed in the Members’ Lounge.

2.8 There are two main proposals set out in the Consultation document which are detailed below:

2.9 **What is your view on the 2 proposals set out in paragraphs 20 and 21?**

**On Proposal ONE**

2.9.1 Do you see Community Planning as an effective route for addressing the roadworks issue?

2.9.2 Would further guidance on the Local Government in Scotland Act and how its powers can be used to address roadworks be useful? If so, what form should this take?

2.9.3 Would strengthening existing NRSWA Codes of Practice be sufficient to improve matters?

2.9.4 What are your views on Forward Plans for Roadworks?

**On Proposal TWO**

2.9.5 Do you think new primary legislation is required, and why?

2.9.6 Are there existing powers under NRSWA which are under-used, or could be strengthened?

2.9.7 What would be the most effective way of applying charges for roadworks? For example, would charges for overstaying simply lead to over-estimated timescales for completing roadworks?

2.9.8 Do you think making all NRSWA Codes of Practice statutory would be helpful? If so, what type of sanctions do you think should apply for non-compliance with the Codes?

2.9.9 How do you think training for all those involved in roadworks could be improved?

2.9.10 Do you see any adverse indirect impacts in what is proposed? For example, would increased charges simply lead to increased administrative workloads for roads authorities?

2.9.11 In what ways do you think an independent arbitrator would be helpful? Do you have any suggestions for the extent of his/her role?
2.9.12 The Director of Roads has considered the consultation document in light of the Roads Department’s experience in applying the legislation and has consulted with other sections of the Council where noted. The Director of Roads has compiled a proposed response which is attached to this report (appendix A).

2.9.13 Whilst the consultation document indicates responses are required by 20 January 2004, an agreement has been reached with Scottish Executive representatives for an extension of time given the Committee cycle.

3 FINANCIAL IMPLICATIONS

3.1 There are no financial implications as a direct result of this report. The exercise of the Roads Authority’s powers under the NRSWA forms a considerable part of the Council’s obligations and financial costs for statutory duties.

4 HUMAN RIGHTS IMPLICATIONS

4.1 There are no human rights implications arising from the proposals in this report.

5 CONSULTATION

5.1 The Chief Executive, the Director of Law and Administration and the Director of Finance have been consulted in the preparation of this report.

Ronnie McNeil
DIRECTOR OF ROADS

NOTE:
No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

IAC/JSG
2 December 2003
REPORTS/utility.regs
APPENDIX A

REGULATION OF UTILITY COMPANY ROADWORKS

A CONSULTATION – OCTOBER 2003

ISSUED BY SCOTTISH EXECUTIVE
TRANSPORT SCOTLAND CONSULTATION

RESPONSE ON BEHALF OF ANGUS COUNCIL

Introduction

This document is the formal response by Angus Council in respect of the above consultation and seeks to give responses to the specific questions posed in Section G, 26-29 of the consultation document along with supplementary comments.

The background of the consultation is the existing legislation, the New Roads and Street Works Act 1991 (NRSWA) which has been in force for some 12 years. This legislation replaced the previous Public Utility Street Works Act 1951 (PUSWA).

Background

In the last 12 years there have been various changes in circumstances which include:-

- Increase in traffic volumes.
- Privatisation of previous Public Utilities (such as telecom, gas and electricity).
- The removal of the Water Authority from local Council control.
- A significant increase in the number of Utility Companies with new services and new technologies (cable television for instance) partly as a result of privatisation.
- Local Government Reorganisation in 1996 increasing the number of Roads authorities from 7 to 32.
- Public demand for services and empowerment of the public through the Citizens Charter.
- Changes in how such services are delivered particularly within the privatised Utility Companies where costs and responsibility to shareholders in very competitive commercial markets have risen in priority against previous delivery of public services objectives. This has resulted in centralisation of customer services through Call Centres, and customer led service demands. Outsourcing of the contracting role including secondary sub-contracting has extended the lines of communication and control of roadworks.
- A decline in infrastructure funding for local roads authorities resulting in limited ability to maintain the existing asset value of the road network.
Similarly, regulatory bodies control some utilities charges and thereby limit income with the introduction of competition into the essential services market.

Local Authorities as Roads authorities provide and maintain the road network essential for transport, ranging from pedestrians and private cars to bus services and heavy goods vehicles carrying freight. Road Authorities’ aims are to maintain the infrastructure with minimum disruption to the free flow of traffic.

Utility Companies provide essential services in respect of power, water, sewerage and telecommunications for all consumers including residential, commercial, health, educational, social and business properties.

The Utility Companies commonly use the road network as a route to supply these services with only limited services being supplied across private property (high voltage electricity/oil pipelines etc).

Both the Utility Companies’ apparatus and the road infrastructure require regular maintenance and periodic replacement. Service delivery (whether roads or Utility Companies) also occasionally requires upgrading to increase capacity or comply with new legislation (eg sewer outfall upgrades). These various works will inevitably be required at different times. Works are therefore inevitable and indeed are in the public interest, albeit there is consequential traffic disruption.

Since the Utility Companies’ apparatus is traditionally installed within or below the road (carriageway, footway verges or bridges), carrying out the respective roles of service delivery will undoubtedly lead to conflicting interests and priorities between Utility Companies and Roads authorities.

The separation of Utility Companies’ apparatus from the road network is of course now economically impossible and it is therefore essential that adequate rules and regulations are in place to preserve the interests of all parties.

Regulations – Part of the Problem? – (Part response to Consultation Question 26.1)

These regulations are currently set out in the NRSWA. The consultation document states that “Poorly managed Utility Company roadworks cause a range of problems, most visibly traffic congestion, for all of us”. However given that the parties involved, Roads authorities or Utility Companies, can only work towards their respective aims and priorities within the regulations, the regulation must be clear, unambiguous and allocate responsibilities.

The current regulations are supplemented by Codes of Practice some of which have recently been updated. At the time of updating Angus Council expressed concern over some of the minor details of the proposed Codes. The current regulations have limitations:-

- There is ambiguous and ill-defined terminology. Current legal cases in England are continuing to determine the interpretation of the Act (albeit on recently introduced sections of the Act). Such legal action is prohibitively expensive for the parties involved and therefore clarity of the many regulations is essential.
• The existing regulations lack ‘teeth’. Non-compliance to the regulations and Codes of Practice carry only minor sanctions or financial consequences which are difficult to enforce, and not commensurate with the commercial advantage gained by their breach; or require the involvement of the Procurator Fiscal. The latter action is neither practical nor in the public interest.

• The regulations are flawed in that they empower the Utility Companies to undertake their own reinstatements (unlike PUSWA) but fail to make the Utility Companies fully responsible for the work. Roads authorities are required to inspect the works with respect to safety and compliance with the relevant specification, yet whilst the number of inspections are limited to 30% of the total works, the Roads Authority must adopt all the reinstatements at the end of the guarantee period.

• The acceptable pass rate for these inspections is 90%. Whilst any defects must be rectified, and 100% defects-free works is unrealistic, the idea that in 30% of inspections, 10% defects is acceptable fails to encourage adequate site supervision, site practices or site safety by the Utility Companies.

• Given that roadworks, irrespective of the originator, are covered by the Health and Safety at Work Act 1974 it is questionable whether the defects procedure is the correct mechanism to rectify inadequate safety provision such as signing and guarding.

• The defect charges set within the regulations have proved an insufficient deterrent to ensure compliance with the Regulations, rectification of the defect or cover the administrative cost of dealing with the defect to the Roads Authority. There is no incentive on Utility Companies to undertake the works adequately and little incentive for Roads authorities to enforce the regulations.

• Given that the defect charges fail to cover the direct costs, they also fail to cover the true costs of congestion and disruption. Whilst disruption is a necessary part of maintenance, upgrading etc, when it is as a result of inadequate workmanship requiring remedial works, it is unnecessary.

• There are numerous operational problems which were not predicted or adequately legislated for at the time of drafting the NRSWA. These include:-

  - Remoteness of Utility Companies operational centres. Often in reporting defects the contact numbers are very remote from the area of defect and those receiving the information cannot process the defect without a postcode. Dealing with such matters, late at night, on a remote Glen road miles from the nearest house makes these arrangements impractical.

  - Utility Companies fail to take responsibility for sub-contractors’ work. Repeatedly, utility call centres deny their responsibility for sub-contractors or term contractors which they employ and require the roads authority to deal directly with their contractors.

  - Utility Companies fail to deal with urgent repairs which endanger the road user. Whilst the roads authorities have power to act in these circumstances, those undertaking the works should be made responsible for their own acts or omissions.
There have been instances where Utility Companies apparatus has been installed incorrectly. Whilst appropriate consultation and co-ordination takes place prior to roads authorities’ projects taking place – the late discovery of the unexpected position of the Utility Companies’ apparatus has resulted in substantial delays to the roads authority’s project. On one occasion this was on the main A90 Dundee – Aberdeen trunk road and on two occasions in town centres resulting in disruption to traffic and the retail sector.

Scottish Executive’s Questions

26 To what extent do you think disruption from Utility roadworks is causing problems for Scotland’s transport network?

26.1 What are the most common types of problem? (If you can give us examples, that would be helpful).

26.2 What do you think is causing the problem?

26.3 Are there ways in which the current electronic notification system could be improved? If so, what are they?

The Council’s View

26.1 Some examples of problems are given above. Others include:-

- Failure of Utility Companies to reinstate specialist surface treatments (anti-skid/coloured surfacing).

- Failure of Utility Companies to properly reinstate specialist environmental treatments (natural stone slabbing, blockwork, etc).

- Failure of Utility Companies to notify roadworks adequately or at all. Whilst the existing electronic notification system works reasonably well, (see below) it is dependent on the parties involved entering information. There have been repeated incidents of Utility Companies failing to use the system.

- The time lapse between commencement of works and permanent reinstatement can be considerable.

- Road infrastructure suffers significant deterioration due to disturbance by Utility Companies which shortens the life of the road, requiring further roadworks. However the regulations do not allow the Roads authorities to require reinstatement beyond the limits of the Utility Companies’ works.

Traffic congestion and disruption is not a common problem within the Angus area due to its rural nature. Traffic congestion is more often generated by general roadworks and specifically works on the trunk road or principle road network.
26.2 General comments regarding the cause of the problem are given above but specifically considered to be:

- Different aims and priorities of the parties involved, with Utility Companies being commercial organisations motivated by profit which conflicts with Local Authorities endeavouring to deliver public service.

- Poor legislation lacking clarity, allocation of responsibility to Utility Companies and lacking adequate sanctions to ensure compliance.

- Lack of consideration of whole life costs for roads infrastructure.

26.3 The current notification system is excellent compared to a paper system. However there are inevitable problems and the system is being continually improved to work better. Whatever system is used, it is only as good as the information entered into it. Repeated failures by Utility Companies to enter information, enter correct information or update existing information results in excessive administration burdens on the Roads authorities including abortive inspection visits.

There are limited sanctions in the Codes of Practice for failure to adequately notify/use the system. Introduction of monetary cost incentives to ensure compliance would see either an improvement in the system or financially impact on those who are failing to use the system.

Scottish Executive’s Question

27 What is your view on the 2 proposals set out in paragraphs 20 and 21?

On Proposal ONE:

27.1 Do you see Community Planning as an effective route for addressing the roadworks issue?

27.2 Would further guidance on the Local Government in Scotland Act and how its powers can be used to address roadworks be useful? If so, what form should this take?

27.3 Would strengthening existing NRSWA Codes of Practice be sufficient to improve matters?

27.4 What are your views on Forward Plans for Roadworks?

Council’s View

Proposal ONE Response

27.1 Angus Council and its public, voluntary, and community sector have made significant progress with regard to Community Planning but Community Planning has not reached sufficient maturity to deal with issues such as disruption due to
roadworks. However there is perhaps a role for the Environment forum to begin
discussions with the utility companies.

Moreover Community Planning in Angus currently operates at the city/region
level, Angus wide level, thematic level as well as the local level based on a local
authority area. Utility Companies on the other hand cross authority boundaries
and sometimes national boundaries. Therefore it would be extremely onerous for
such organisations to deal with local issues – particularly given their
organisation’s remoteness from the communities. As an example within the
Tayforth RAUC area, the Utility Companies have sought the removal of local
agreements due to the difficulties these have created for them. This included
agreements under which roads authorities, including Angus, were prepared to
relax national standards (traffic sensitivity criteria for example). The Utility
Companies preferred the more stringent but nationally common regulations.

In addition it should also be acknowledged that the Scottish Executive acting
through their agent contractors are also a Roads Authority (for the trunk road
network). To take measures under Community Planning would require input from
the Scottish Executive.

27.2 Following its introduction in April 2003, Local Authorities are developing their
own priorities for utilising their new powers under the Local Government in
Scotland Act 2003. However the use of the Power to Advance Wellbeing is
constrained in that it cannot be used to permit the Council to act where it is legally
prohibited to do so by other legislation. Therefore, Roads authorities would be
prevented from altering the existing NRSWA to answer the problems previously
highlighted.

The take up of such powers would vary from Council to Council and would, as
detailed above, generate different criteria in different Council areas again creating
problems for national Utility Companies. Authorities might also find themselves
open to (expensive) legal challenge and are unlikely to pursue such challenges at a
risk to the public purse.

27.3 Amending the existing flawed legislation is considered a far more practical
approach rather than trying to rectify the problems segmentally with
supplementary processes of Community Planning or Power to Advance
Wellbeing.

The areas that need to be addressed are discussed above. However any alterations
must be adequately consulted on and be legally enforceable. Any changes should
not constrain or constrict the provision of services by either Roads authorities or
Utility Companies but should control these activities and impose financial
sanctions – equating to the cost to society – for non-compliance.

27.4 Forward planning is in the main working successfully in the Angus area. There
are limitations which include:-

- Uncertain budgets for Roads authorities and Utility Companies alike, although
  3 year budgeting for Local Authorities has assisted in this.
• Consumer led demand for Utility services, new housing developments or changes in commercial demand result in Utility Companies being unable to programme major works.

• Most roadworks (by both parties) are relatively minor as there is limited provision of new infrastructure. Major new infrastructure projects take years to promote and are well co-ordinated – examples are the A92 dualling between Dundee and Arbroath and Montrose Bridge.

• Unfortunately the examples of failures to co-ordinate within the Angus area have included examples from the Scottish Executive’s agents for the trunk road network.

Scottish Executive’s Question

On Proposal TWO:

27.5 Do you think new primary legislation is required, and why?

27.6 Are there existing powers under NRSWA which are underused, or could be strengthened?

27.8 What would be the most effective way of applying charges for roadworks? For example, would charges for overstaying simply lead to over-estimated timescales for completing roadworks?

27.9 Do you think making all NRSWA Codes of Practice statutory would be helpful? If so, what type of sanctions do you think should apply for non-compliance with the Codes?

27.10 How do you think training for all those involved in roadworks could be improved?

27.11 Do you see any adverse impacts in what is proposed? For example, would increased charges lead to increased administrative workloads for Roads authorities?

27.12 In what ways do you think an independent arbitrator would be helpful? Do you have any suggestions for the extent of his/her role?

Council’s View

Proposal TWO Response

27.5 The NRSWA has been utilised with mixed success for 12 years. Roads authorities and Utility Companies have structured some of their staffing and operational activities based on the Act. Replacing the Act with a radical change of new legislation is likely to require changes by all parties at considerable cost. The new legislation may also generate court action at significant cost to all parties. It is therefore Angus Council’s view that fundamental new legislation is not required.
Adjustment of the existing legislation to take cognisance of the changes detailed above and solve the problems generated, on the other hand, would be welcomed.

27.6 There are several areas of the existing NRSWA legislation which are underutilised as there is no incentive to do so – in particular the cost to Roads authorities in doing so is greater than the cost that would be recovered.

Areas that require strengthening have been highlighted above.

27.8 Section 74 of the NRSWA which introduced charges for occupation in England has met with difficulties including legal issues. Introduction of such proposals (through Section 138 in Scotland) is likely to meet similar difficulties. Roads authorities are not suitably placed to determine the length of time for utility work and over-estimating of timescales is indeed possible. Once legal precedents have been established in England it may be feasible to introduce lane rental practices in Scotland.

27.9 Removing the discrepancies and ambiguities within the Codes of Practice would be required prior to making them statutory. Whilst some of the codes have recently been amended it is understood that further amendments are anticipated on a 2 year basis. This may not be feasible for statutory instruments and would consequentially inhibit progress and technological advances.

Current sanctions for defects and failures to rectify are limited and legislation to improve this situation would be welcomed. Since it is imperative that Utility Companies are able to continue to deliver their services only financial penalties could be applied. However Health and Safety infringements should be dealt with by the Health and Safety Executive, including criminal prosecution where necessary.

27.10 Compulsory periodic training of roadworks operatives would help to maintain a better standard of site safety and road reinstatements. Previous coring programmes have revealed recurring errors, and whilst Utility Companies’ management undertakes to make improvements this commitment does not seem to be adequately translated into training and action at site level.

27.11 If the proposals adequately address the problems of poor notification (opening/closing etc), poor work standards on site (safety/reinstatement) and thereby reduce the number of defect works, then the overall burden on Roads authorities would be reduced. There would be a consequential increase in administration work for the Utility Companies albeit that it is their failure to currently comply which is causing some of the problems. Overall, reducing defects must be a positive advantage for all Roads authorities, Utility Companies and the travelling public.

If the sanctions requested above are applied, then Utility Companies who fail to comply will incur additional costs. Similarly for Section 138 proposals Utility Companies may seek to pass on these costs to their customers but this may be subject to the regulator’s control. However if the Utility Companies took the opportunity to improve, the financial burden would not be significant.
Concerns over the introduction of additional Performance Indicators are detailed below.

Legal action has been taken as a result of charges in England. The substantial costs to the parties involved is a direct impact of changing the legislation. For smaller Councils these legal costs may well prevent them taking action and therefore restrict the benefits of any changes to the existing Act.

27.12 The NRSWA already allows for arbitration. There is no perceived benefit in changing this position.

Scottish Executive’s Question

If you favour any of these proposals over the other, please tell us why.

Council’s View

The Council is in favour of Proposal TWO and in particular by strengthening existing legislation rather than starting again with untried/untested legislation. Whilst the existing NRSWA is not perfect, with 12 years of use in the industry it forms a substantial building block for improvement.

Scottish Executive’s Question

28 How do you think successful co-ordination and quality control in roadworks should be measured?

28.1 Are the suggested Performance Indicators set out in paragraph 22 the right ones?

28.2 Would you suggest any others?

28.3 How should Roads authorities be asked to report on Performance Indicators?

Council’s View

28.1 The Performance Indicators set out in paragraph 22 have already been superseded and the first three detailed have not been compulsory for the last 18 months.

Whilst the percentage of road network resurfaced is still a realistic Performance Indicator the others are being replaced by the Scottish Road Maintenance Condition Survey (SRMCS) results. However, none of the above are relevant to Utility Companies and the SRMCS does not measure road patching. It is therefore unclear as to why these are included in the consultation.

Roads authorities currently produce non-statutory quarterly reports on the number of inspections undertaken and the percentage of defects found for Utility Company works. Whilst these figures are reported at co-ordination meetings they are not published externally.
In addition coring programmes have been undertaken and the number of defects reported again through co-ordination meetings and also through Angus Council committee reports and as a result through the press. These measures are currently adequate but could be improved.

The suggestions in paragraph 24 need to be SMART measures and would produce questionable statistics.

- Total number of roadworks – this has no meaning as it will simply reflect the demand for services, Angus results will not be comparable with, for example, Edinburgh.

- Type of Works – as above.

- Number of roadworks defined as overrun – this would require introduction of start/finish date monitoring as well as establishing means of determining the correct timescale. How would legitimate extensions be justified? Under-running contracts would not be recorded.

- Number of inspection failures – already measured. However measuring specific safety defects and including inspection by the HSE may improve site safety.

- Number of road openings – there are various practical and safety reasons why Utility Companies cannot use a single trench. If a gas main needs to be renewed it is unlikely that the water main/electricity cables etc. actually need to be renewed at the same time and are the same priority to the other companies. This indicator is not realistic.

- Number of complaints – this is a difficult item to measure. If no one complains is the disruption due to utility works non-existent? Given that most utility works are to provide or maintain a service the number of complaints about roadworks would have to be compared to the number of complaints over lack of utility services. If the power/water/sewerage/telecom service to a property has a fault should the need to rectify it really be measured by the complaints by road users?

28.2/28.3 The existing Performance Indicators for Statutory Undertakers Works monitor the position relatively well. However they are somewhat unpublicised. Whilst Roads authorities can publish the results periodically there is only a small press outcry and the matter is quickly forgotten. This is unlikely to change however Roads authorities present the data.

Perhaps making Utility Companies publish the number of defects and the associated financial costs (including re-doing the work) and the number of improvement notices received as a statutory report in their annual accounts and reports to shareholders would focus the Companies on the actual cost of reinstatements and costs involved. If this included the number of safety defects with the risk of HSE involvement perhaps Chief Executives of Utility Companies or their Boards would ensure the problems are adequately addressed.
Other Performance Indicators could include:-

- Number of times Utility Companies fail to respond to a reported emergency defect report within a set time.
- Number of insurance claims and costs as a result of roadworks by Utility Companies.

Again a statutory duty to report these performance indicators could be placed on the Utility Companies.

Scottish Executive Question

29 Do you have any other suggestions for reducing problems caused by roadworks?

Council’s View

29 The problems due to roadworks undertaken by Utility Companies were described at the start of this response. Proposals ONE or TWO address some of these areas. However, there are other areas which would still need to be addressed. These include:-

Whole Life Costs of Road Surfacing

Utility Companies works, digging up and reinstating small areas of carriageway decreases the service life of the carriageway or footway dramatically, even when the works are carried out diligently. Currently these costs are borne by the Roads authorities. If Utility Companies had to contribute to the actual costs incurred as a result of their works this would at least rebalance the situation and make the ‘user’ pay. This would redress the problem of the general public effectively paying for Utility Companies’ profits, as the current situation means that a Utility, gaining more income by provision of a service, does not meet the true costs of installing that service where it reduces the life of the road construction.

This problem is well illustrated where a particular Utility Company has installed a mains renewal requiring longitudinal tracks over say $\frac{1}{7}$ of the carriageway but also transverse connections at very regular spacing. Whilst all the reinstatements may be within tolerance the overall effect is that a substantial proportion of carriageway has been affected and adjacent properties often suffer from vibration caused by traffic running over this multitude of patches. As a consequence the Roads Authority receives complaints and requests for (expensive) resurfacing. This has certainly been Angus Council’s experience in several areas.

As a solution Utility Companies could be required to pay for the detriment caused or in certain conditions resurface the whole road surface area affected.
Improperly Installed Apparatus

Where Utility Companies or their sub-contractors have installed apparatus at sub-standard depths etc, this may go undetected by their own management or the Roads authorities (given only 30% of work is inspected at the Utility Company’s cost). Whilst this may not be an issue at the time, there have been occasions where subsequent road resurfacing works have revealed the problem and Utility Companies have wished to reinstall their equipment. This is despite no requirements having been indicated during the co-ordination/notification procedures. To allow the Utility Companies to carry out these works there have been substantial delays in the roadworks with consequential contractual costs. These costs should be allocated to the Utility Company through legislation.

Transport Scotland

It is also noted that the Scottish Executive’s consultation document does not recognise their proposals for a “Transport Scotland” Authority.

Conclusion

The existing NRSWA has been used for 12 years and should be the foundation to any changes.

The majority of roadworks which are carried out by Utility Companies every year are done so in a timeous, professional, safe manner and cause minimal disruption to road users whilst providing essential services to the wider community.

There is however a smaller number of Utility Company roadworks which do not comply with the standards expected.

To improve this situation the response from Angus Council to the current consultation document suggests that:-

- Utility Companies be made more responsible for their actions, with realistic sanctions when they fail to do so.

- Utility Companies pay the true costs of their works, rather than being subsidised in effect from the public purse.

- That any proposals for change must be implemented at National level.