

ANGUS COUNCIL

INFRASTRUCTURE SERVICES COMMITTEE

25 AUGUST 2009

STATUTORY UNDERTAKERS PERFORMANCE IN ANGUS  
2007/2008 AND 2008/2009

REPORT BY THE DIRECTOR OF INFRASTRUCTURE SERVICES

**ABSTRACT**

This report details the performance of Statutory Undertakers operating in Angus in 2007/2008 and 2008/2009 based on inspections of their street works as required under the New Roads and Street Works Act 1991 and also provides an update on the status of the Transport (Scotland) Act 2005 Part 2 – Road Works.

**1 RECOMMENDATIONS**

1.1 It is recommended that the Committee:

- (i) notes the performance of Statutory Undertakers in Angus during 2007/08 and 2008/2009 based on the inspection regime undertaken by Roads staff and
- (ii) notes the status of the Transport (Scotland) Act 2005, Part 2 – Road Works, different parts of which came into force on 1 April 2008 and 1 October 2008.

**2 INTRODUCTION**

2.1 The Committee will be aware that Statutory Undertakers (previously called Public Utilities) such as gas suppliers, electricity suppliers, telecommunication companies, Scottish Water and cable television companies are empowered under the New Roads and Streetworks Act 1991 (NRSWA) and Transport (Scotland) Act 2005 (T(S)A) to carry out works to place, maintain or repair their apparatus in public roads.

2.2 As part of the Regulations and Codes of Practice governed by NRSWA and T(S)A the Roads Authority may monitor works carried out by the Statutory Undertakers.

2.3 There are two types of monitoring of Statutory Undertakers carried out in Angus. The first is a visual inspection made during or after completion of the Statutory Undertakers' works. The second is through a coring programme where 100mm diameter cores are taken from reinstatements in all local authority areas in Scotland and analysed against the approved specifications biennially. The last coring programme was undertaken in 2008/09.

2.4 This allows assessment of the work practices of the Statutory Undertakers operating in Angus. The results of the visual inspections are shown in the Appendices 1 & 2 and coring results are detailed in Appendices 3 & 4 to this report and are discussed below.

**3 DETAILS**

**3.1 Visual Inspections**

3.1.1 Statutory Undertakers are required (as per NRSWA and T(S)A) to fund a 30% sample of inspections of their works. However many more inspections are undertaken following complaints by service users in particular through the Angus Council Accessline. In 2007/08 the Roads Service inspected 51% of Statutory Undertakers works and in 2008/09 46%. Where defects were found the inspection costs are rechargeable and are therefore recovered from Statutory Undertakers.

- 3.1.2 Appendix 1 details the results of the sample inspections of each Statutory Undertaker's works in Angus. The results for 2007/08 have been included for comparative purposes. The minimum required pass rate is 90% based on a random inspection regime and this was achieved by all Statutory Undertakers working in Angus in 2007/08 and 2008/09. The pass rate for the Tayforth area (which encompasses the former Tayside, Fife and Central Regional Council successor authorities) is also shown in Appendix 1. If utilities fall below 90% Roads Authorities are able to issue Improvement Notices whereby Utilities must prove that they are taking steps to improve their performance.
- 3.1.3 The sample inspections can identify defects out of specification reinstatement materials used during the works or defects in the finished surface for up to 2 years (3 years in the case of deep excavations i.e. greater than 1.5 metres). The Statutory Undertakers involved are required to rectify these defects when so notified.
- 3.1.4 Appendix 2 details the types of defects found as a result of the random inspections summarised in Appendix 1 and additional inspections carried out by officers in response to reports by both the public and other third parties.
- 3.1.5 From Appendix 2 it can be seen that there has been a decrease in defects in all categories of defect found during inspections and defects raised via third parties. Inspection numbers however had mostly fallen. The worst defect category is "reinstatement, signing, excavation, backfill etc" and the poorest performing Statutory Undertaker was Scottish Water. Most defects related to poor ironwork or to sites where the Statutory Undertakers had failed to backfill excavations and signing and guarding had fallen into disrepair through adverse weather or vandalism.
- 3.1.6 The survey results are as normal being used to identify those Statutory Undertakers requiring to make improvements in their practices.

### **3.2 Coring Results**

- 3.2.1 The latest coring results for Angus are shown in Appendix 3 and for the Tayforth area in Appendix 4. In Angus the core results were just below the Tayforth average for Scottish and Southern Electric and British Telecom, and above for Scottish Water and Scottish Gas Networks. The core failures in Angus are being monitored by the Roads Authority and may need to be replaced if deterioration occurs.
- 3.2.2 The overall average pass rate for Angus was 83% which was well above the Scottish average of 64%. The previous pass rate in Angus in 2006 was 56%.
- 3.2.3 To continue to monitor the performance of Statutory Undertakers' reinstatements on a national basis, it has been recommended to Road Authority Utility Committee (Scotland) [RAUC(S)] by the National Coring Working Group to carry out another National Coring Programme starting April 2010, coring samples of reinstatements completed between 1 April 2009 and 31 March 2010.

### **3.3 Transport (Scotland) Act 2005**

- 3.3.1 The changes enacted through the Transport (Scotland) Act 2005; Part 2 reported to the Infrastructure Services Committee on 25 August 2005 (Report No 986/05) have now been progressed.
- 3.3.2 The Transport (Scotland) Act 2005 received Royal Assent on 5 August 2005. Part 2 of the Act dealing with Roadworks amends some sections of the New Roads and Street Works Act 1991 and Roads (Scotland) Act 1984 with the aim of improving quality and coordination of roadworks. The changes included:
- establishing a Scottish Road Works Commissioner to monitor the quality of road works carried out on all roads by Roads Authorities and Statutory Undertakers, promoting improvements and imposing penalties on all for continual poor performance.

- improving coordination of roadworks by making the use of the Scottish Roadworks Register a statutory requirement and placing more stringent duties on Roads Authorities and Statutory Undertakers to cooperate, coordinate, plan, notify and register their works through the Register.
- introducing in 2010/11 new provisions on resurfacing parts of the roads by Statutory Undertakers.
- giving Roads Authorities new powers to issue fixed penalty notices for a limited number of notification offences.

3.2.3 New Regulations and Codes have come into force to implement the provisions of Part 2 of the Act.

3.2.4 The fixed penalty regime has yet to be implemented in Angus and consideration is currently being given to this within the Roads division although a significant staff resource is likely to be needed and which will probably cost more than the revenue raised by the penalties likely to be issued.

#### **4 FINANCIAL IMPLICATIONS**

4.1 There are no financial implications arising directly as a result of the recommendations contained in this report. The costs of inspections are recharged to the utility companies in accordance with the New Roads and Street Works Act. In the event that these costs, which mainly relate to staff time, cannot be recharged to the utility company in accordance with the Act the cost will require to be contained within the Roads Division revenue budget.

#### **5 HUMAN RIGHTS IMPLICATIONS**

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

#### **6 EQUALITIES IMPLICATIONS**

6.1 The issues dealt with in this Report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

#### **7 SINGLE OUTCOME AGREEMENT**

7.1 This report contributes to the following local outcome contained within the Single Outcome Agreement for Angus

- Communities in Angus are safe, secure and vibrant

#### **8 CONSULTATION**

8.1 The Chief Executive, the Director of Corporate Services, the Head of Finance and the Head of Law and Administration have been consulted in the preparation of this report.

#### **9 CONCLUSION**

9.1 This report updates members on the situation with regard to the performance of Statutory Undertakers operating in Angus and the ongoing work in seeking year-on-year improvements from the organisations concerned. An update is also presented in terms of the implementation of the requirements of the Transport (Scotland) Act 2005.

**ERIC S LOWSON**  
**DIRECTOR OF INFRASTRUCTURE SERVICES**

NOTE:

The following 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 this Report:-

Report No 986/05 – Transport (Scotland) Act 2005, Infrastructure Services Committee, 25 August 2005.

Roads/JG/JDH

## APPENDIX 1

## Summary of Statutory Undertakers Performance based on sample inspections conducted during 2007/2008 &amp; 2008/2009 - Angus Council

Statutory Undertaker	Annual Agreed No of Inspections		Sample inspection Pass Rate per Quarter				Total	Angus Annual Pass Rate	Tay Forth Area Pass Rate
			1st	2nd	3rd	4th			
BT	based on average over last 3 years								
	101	2007/08	27/27	30/33	14/14	13/14	84/88	95%	79%
	88	2008/09	15/16	4/4	6/6	17/17	42/43	98%	89%
S+S Electric	47	2007/08	24/24	20/21	11/11	7/7	62/63	98%	92%
	45	2008/09	19/19	14/14	7/8	18/18	58/59	98%	90%
Scottish Water	146	2007/08	32/34	46/46	51/51	36/36	165/167	99%	83%
	139	2008/09	26/26	16/16	23/23	26/26	91/91	100%	85%
Gas (Transco)	129	2007/08	27/27	31/31	40/40	28/28	126/126	100%	92%
	137	2008/09	22/22	15/15	11/11	21/21	69/69	100%	91%

Note - pass rate criteria - number of inspection passes divided by number of inspections carried out

## APPENDIX 2

**Defects in Statutory Utility works found during all Roads division inspections conducted in Angus during 2007/2008 & 2008/2009**

<b>Causes of defects</b>	<b>Year</b>	<b>During Inspections</b>	<b>Third Party Reports</b>
<b>Trips</b>	2007/08	30	3
	2008/09	19	
<b>Depressions</b>	2007/08	10	1
	2008/09	2	
<b>Crowning</b>	2007/08		
	2008/09		
<b>Other (reinstatement, signing excavation,backfill etc)</b>	2007/08	420	24
	2008/09	239	10
<b>Total</b>	2007/08	<b>460</b>	<b>28</b>
	2008/09	<b>260</b>	<b>10</b>
<b>Statutory Undertaker Responsible</b>			
<b>BT</b>	2007/08	94	11
	2008/09	43	3
<b>S+S Electricity</b>	2007/08	71	3
	2008/09	58	1
<b>Scottish Water</b>	2007/08	172	14
	2008/09	91	6
<b>Gas (Transco)</b>	2007/08	123	
	2008/09	68	
<b>Total</b>	2007/08	<b>460</b>	<b>28</b>
	2008/09	<b>260</b>	<b>10</b>

Reports/Stat undertakers

## APPENDIX 3

## Roads Authority: Area Summary

## Angus Council

## Tayforth Area Rauc

## National Coring Programme 2008

ROADS AUTHORITY ANGUS COUNCIL	CORE		PASS	FAIL – MONITOR (AGREED)					FAIL – REPLACED (AGREED)						
	No.	No.	%	Com- Paction	Layer s	Material	Others	TOTAL		Com- Paction	Layer s	Material	Others	TOTAL	
								No.	%					No.	%
S&S Electric	5	4	80%			1		1	20%						
BT	7	4	57%			3		3	43%						
Scottish Water	10	9	90%		1			1	10%						
Gas (Transo)	8	8	100%												
<b>TOTALS</b>	30	25	83%		1	4		5	17%						

## APPENDIX 4

Tay Forth Rauc

National Coring Programme 2008

STATUTORY UTILITY	CORE		PASS		FAIL-MONITOR – All Agreed					FAIL-REPLACE – All Agreed					
	No.	No.	%	Com-paction	Layer s	Materials	Others	TOTAL		Com-paction	Layers	Materials	Others	TOTAL	
								No.	%					No.	%
BT	44	26	59	1	1	5		7	16	1	7	3		11	25
Gas (Transco)	91	76	83	2	4	3		9	10		3	2	1	6	7
SP Energy Networks	38	27	71	1		2		3	8	2	5	1		8	21
S & S Electric	21	17	81		1	1		2	9.5		1	1		2	9.5
Scottish Water	94	64	68		3	3		6	6	4	13	6	1	24	25
Virgin Media (Telewest)	13	10	77			1		1	8				2	2	15
Thus	5	3	60		1	1		2	40						
<b>TOTALS</b>	<b>306</b>	<b>223</b>	<b>73</b>	<b>4</b>	<b>10</b>	<b>16</b>	<b>0</b>	<b>30</b>	<b>10</b>	<b>7</b>	<b>29</b>	<b>13</b>	<b>4</b>	<b>53</b>	<b>17</b>

Reports/Stat undertakers