

ANGUS COUNCIL

ROADS COMMITTEE

22 NOVEMBER 2001

WINTER MAINTENANCE POLICY
AND SERVICE PROVISION FOR 2001/02
SUPPLEMENTARY REPORT

REPORT BY THE ACTING DIRECTOR OF ROADS

ABSTRACT

This report discusses the current policy of not carrying out snow clearing on unadopted roads. The report also discusses the possibility of Council resources being made available to assist in the provision of winter services on the A90 Trunk Road if requested by BEAR Scotland.

1 RECOMMENDATIONS

It is recommended that the Committee agree:-

- (i) to note the legal and financial issues surrounding the provision of snow clearing on unadopted roads;
- (ii) that the existing policy remains unchanged in respect of snow clearing on unadopted roads;
- (iii) to note the issues with regard to snow clearing on the A90 Trunk Road;
- (iv) to approve, in principle, the provision of assistance to BEAR Scotland in clearing snow from the A90, if requested, conditional on the Council priority routes taking precedence;
- (v) that the operational decision to assist BEAR Scotland be made at Officer level taking into account all the prevailing circumstances.

2 DETAILS

Unadopted Roads

The Council's Winter Maintenance Policy was reported to Committee on 27 August 2001 in Report No 930/01. At this meeting the issue of clearing snow from unadopted roads was raised. This issue has now been explored by the Acting Director of Roads.

The Council is empowered under the Roads (Scotland) Act 1984 to "take such steps as they consider reasonable to prevent snow and ice endangering the safe passage of pedestrians and vehicles over public roads". (Section 34).

The Council therefore is not legally empowered to carry out winter maintenance on private roads (ie roads not on the list of public roads).

There are more general powers relating to private roads under Section 15 of the 1984 Act which allow the Council to carry out work in relation to a private road if in their opinion “work in relation to a private road is necessary because circumstances constituting an emergency have arisen”. The Council could therefore clear snow from unadopted roads but only in an emergency.

The Council’s current winter maintenance budget, particularly for snow clearing, is set on the basis of the agreed Policy. A proposal to clear snow from the various unadopted roads throughout the Council area would require an increase in this budget.

In undertaking snow clearing on unadopted roads the Council would be exposed to claims for compensation for accidents (vehicle or pedestrian) as for public roads.

In addition, the Council would be liable for any damage to the private road. Given that there is no record of the condition of these roads and that some of them have unbound surfaces the Council would have difficulty refuting claims for damage for which they were not responsible.

It is therefore proposed that there be no change to the existing policy in that the Council will not provide winter maintenance on private or prospective public roads.

However, in the event of an emergency, the Council could act, in co-operation with the emergency services, to clear snow from unadopted roads to allow access as required, as empowered by the Roads (Scotland) Act. It is proposed therefore that, in these exceptional circumstances, such assistance be provided if requested by the Police.

Trunk Road Winter Maintenance

The responsibility for winter maintenance on the A90 Trunk Road through Angus rests with the Scottish Ministers and their requirements are now contracted out to their contractor BEAR Scotland Ltd.

Tayside Contracts are currently sub-contracted to provide winter maintenance services to BEAR Scotland. Tayside Contracts also undertake the vast majority of winter maintenance services on the Council roads (with the remainder being provided by farmers’ vehicles and self help). A meeting was recently held at Forfar Police Station involving BEAR Scotland, the Roads Authorities, Tayside Police and the Scottish Executive.

The Council was asked to consider the circumstances in which the Council would allow resources dedicated to Council roads to be temporarily allocated to the Trunk Road.

There have in the past been times, including the snow events of Feb/March 2001, when the A90 has been closed due to the amount of snow and drifting snow on

particular stretches of the road. Despite the best efforts of Tayside Contracts, through the previous Tay Premium Unit, the conditions prevailed over the resources available.

It is predictable that during the current 5 year Trunk Road Maintenance contract similar events may occur. In such circumstances BEAR Scotland may request the provision of additional resources from Angus Council. These resources are provided for use by the Council by Tayside Contracts in accordance with the policy and level of service approved by the Roads Committee prior to the start of winter and are the minimum deemed necessary to provide that level of service on the Council's own roads.

In considering whether such a request should be met the Committee is asked to consider the following issues:-

- The A90 is the main national arterial route through Angus and is the main route to Stracathro Hospital/Ninewells Hospital/route for emergency services;
- Closure of the A90 would have serious implications for traffic movement through and across Angus, particularly as it splits the Council area;
- Public perception of the road network does not always distinguish between Trunk roads and Council roads. As a consequence the Council may be criticised for failure to clear the A90 (albeit that it is not the Council's responsibility);
- Tayside Contracts as sub-contractor (and by implication the three Councils which Tayside Contracts serves) may be criticised for failure to clear the route;
- In the past the closure of the A90 has placed extra demand on the Council's own road network (A92 coast route in particular);
- Closure of the A90 often leaves vehicles stranded at the closure points or caught in snow drifts along the length of the closed section. Such events would lead to an emergency response through the Council's emergency procedures. In the past Social Services have been involved in the provision of accommodation and welfare after such events.

It would be illogical to respond to any request from BEAR Scotland to provide resources to assist on the A90 if the Council's own priority routes were not clear as this would only result in similar issues to the above arising on Council's own priority routes.

Meeting any such requests for resources would obviously have to include an agreement by BEAR Scotland to pay for the use of the resources.

It should be noted that any such arrangement would include a reciprocal agreement that BEAR Scotland would release resources to assist Angus Council if circumstances permit to clear Angus Roads, if necessary, in extreme conditions.

The decision as to whether to respond to any request for resources would be dependent on all the circumstances at the time. Therefore, it is recommended that the

Committee agree in principle to assist BEAR Scotland. It is also recommended that the Committee allow the operational decision to be made at Officer level, taking into account all the prevailing circumstances, and conditional that the Council's priority routes take precedence.

3 **FINANCIAL IMPLICATIONS**

Unadopted Roads

The costs of providing occasional assistance in emergency situations would have to be contained in the overall Revenue Budget for Winter Maintenance.

A90 Trunk Road

Any resources provided for snow clearing on the A90 would be conditional on BEAR Scotland agreeing to pay for the use of these resources. These arrangements would therefore be cost neutral.

4 **HUMAN RIGHTS IMPLICATIONS**

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

5 **CONSULTATION**

The Chief Executive, the Director of Law and Administration, the Director of Finance, the Chief Constable and the Managing Director of Tayside Contracts have been consulted in the preparation of this report.

6 **CONCLUSION**

The Council has no statutory powers to provide normal winter maintenance services on unadopted roads. There would be financial costs both from undertaking such operations and meeting possible claims arising as a result of the operations. It is therefore proposed that there be no change to the existing policy. An appropriate response would however be provided in the case of genuine emergency.

Whilst BEAR Scotland are responsible for winter services on the A90, the Committee are asked to approve the provision of resources to assist, if required.

R W McNeil
ACTING DIRECTOR OF ROADS

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 930/01 – Angus Council Roads Committee – 23 August 2001.

IAC/JSG
26 October 2001
REPORTS/wint.maint.supp