

## **EAST AYRSHIRE COUNCIL**

### **DEVELOPMENT SERVICES COMMITTEE - 13 MARCH 2002**

## **SCOTTISH EXECUTIVE CONSULTATION REPORT ON REDUCING DISRUPTION FROM UTILITIES ROADWORKS**

### **Report by Director of Development Services**

#### **1 PURPOSE OF REPORT**

- 1.1** To seek approval of responses to the Scottish Executive Consultation on reducing disruption from utilities roadworks which have been submitted to the Scottish Executive to meet the consultation deadline.

#### **2 BACKGROUND**

- 2.1** Street works by Utilities inevitably cause disruption to road users where the carriageway is reduced or the footway obstructed by the works. This leads to congestion and delay for traffic, additional pollution and inconvenience to pedestrians.
- 2.2** Utility companies have a statutory right to carry out street works as part of providing the public with services such as electricity, gas, telecommunications and water that are regarded as essential in a modern society.
- 2.3** The Scottish Executive consultation document on reducing disruption from Utilities' roadworks seeks the views of Road Authorities, Utility Companies operating in Scotland and other interested parties, on new legislative measures to improve the level of control of Utilities activities. The date for submission of consultation was 22 February 2002. A submission was made by the Head of Roads & Transportation. There will be an opportunity to make supplementary observations if the Committee so wish.

#### **3 RESPONSE TO CONSULTATION DOCUMENT**

- 3.1** The key proposals are options for charging utility companies as a means of reducing disruption. There are two charging options for consideration:
- a) Section 133 of the existing New Roads and Street Works Act 1991: charging Utilities for overstaying expected finish times (existing legislation);
  - b) Lane rental scheme (road possession): daily occupation charge for duration of works (would require new legislation).
- 3.2** Option a) has already been operational in England since April 2001 and was found to be difficult to enforce as it uses up vital council resources on policing overrunning Utilities contractors. Improvements to Public Utility notifications

for works would also require to be tightened. Fixed start and finish dates for works would be required, and notifications would require to be much more accurate than at present.

- 3.3** Option b) would reduce unnecessary occupation of the road and footway by providing an incentive for Utilities to better plan and manage their works in order to complete them in shorter period of time and thereby reduce the adverse effects on the travelling public. It would also charge Utilities for having to reoccupy roads/footways to attend failed reinstatements. This should be an incentive to Utilities to ensure that reinstatements are completed correctly to specification first time.
- 3.4** This system is already being trialed in the London Borough of Camden and Middlesborough and information suggests that this is the best way of holding Utilities accountable for the major disruptions they cause. It also provides stiff financial incentives to co-ordinate works, optimise performance and minimise the timescale of the works.
- 3.5** Initial consultations with other Roads Authorities indicate that they are all in favour of a lane rental scheme, with the charges being retained by the Roads Authorities.
- 3.6** Feedback from the Utilities suggests that they will resist any form of charging. The Utilities led by the National Joint Utilities Group, energy regulator Ofgem and water regulator Ofwat claimed in October 2001 that the estimated costs to Utilities in England alone would be £1.2bn, with the cost being “shunted” straight on to the customers.
- 3.7** The consultation response indicates a strong preference for charging option (b) a “lane rental” charge for occupation of the road throughout the period of roadworks. Detailed comments are set out in an Annex.

## **4 LEGAL IMPLICATIONS**

- 4.1** The Roads Authorities and Public Utilities are governed by the New Road and Street Works Act 1991. The introduction of a “lane rental” scheme as supported in the consultation response would require new legislation.

## **5 FINANCIAL IMPLICATIONS**

- 5.1** The introduction of a Lane Rental scheme could provide the Roads Authority with a source of income to cover administration costs.

## **6 RECOMMENDATIONS**

- 6.1** It is recommended that the Committee approve the attached response to the Scottish Executive’s consultation on reducing disruption from public utilities roadworks.

**Stephen Chorley**  
**Director of Development Services**

SC/JMcR/JR/YK  
12 February 2002

### **BACKGROUND PAPERS**

- 1. Scottish Executive 'Reducing Disruption from Utilities Road Works – Consultation Document.**

For further information on the contents of this report, please contact John McRobert, Roads & Transportation Division, on 01563 576310

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## **Annexe – Detailed Response to the Consultation Document**

### **SECTION 1 – OPTIONS WITHIN EXISTING LEGISLATION – CHARGES FOR OVERSTAYING**

#### **Procedures for applying Section 133 regulations for changing utilities for overstaying the expected duration of works (paras 1-6)**

- The Undertaker has to give notice of the expected duration of the works under current procedures. To apply the new procedures appropriate details would have to be supplied to enable roads authorities to determine if the expected duration is a reasonable assessment or if the utility is over estimating in order to avoid charges.
- Reaching agreement on extensions may in practice be difficult to achieve before works are completed.
- If powers to waive or reduce charges are discretionary, as proposed, variations between roads authorities are likely to emerge. This could result in protracted justifications to the Utilities.

#### **Effectiveness of charges for overstaying (paras 7-9)**

- The present noticing system under Susiephone provides insufficient information. Basic information such as relevant contact names and telephone numbers are generally not provided. Estimated start and finish dates results in abortive inspection visits by roads authority personnel. To make a charging system effective the quality of information provided would have to be improved. Start and finish dates should be fixed, not estimated.
- There are no spare resources within roads authorities to adequately address the level of monitoring required to monitor actual start and finish dates or to determine the “normal” time to undertake different types of work. With respect to extensions of time, these are unlikely as Utilities may over estimate (err on safe side) the time to be taken for works. This may actually prolong the duration of the works.
- Flexibility as suggested would be open to abuse. Utilities could submit numerous re-start dates to coincide when works actually begin.

#### **Should charges for overstaying extend to remedial work?**

- Agreed.

### **Relating the charge to the physical extent of the works (paras 11-13)**

- Charging should be on the basis of “inspection units” (defined as a single excavation up to 200 metres, or a group of small excavations). Notices would require to be improved to give sufficient detail.
- Any refinements that are added to any system, such as varied rates depending on location within the roadway, would add to the difficulties of monitoring and recording. More resources would be required.

### **Time units for charging (para 14)**

- Charges should commence the day following the prescribed finish date and for each day thereafter. To try to administer a charge for a part of a day is not practical and would be difficult to monitor.

### **Different types of road (paras 15-18)**

- Agreed that “traffic sensitive” roads should be charged at a higher rate. Consideration should be given to linking charges to traffic volumes.
- All roads are already classified in terms of traffic volumes eg Types 1, 2, 3 or 4. These could be used as a basis for different charges.
- A table of charges could easily be determined on Road Type linked to the type of works ie Standard, Minor, Urgent, Emergency or Non-excavatory works.

### **Minimum period before overstaying charges are made (paras 19-21)**

- Agreed that a minimum period should be set – preferably less than one week as proposed.
- Non traffic sensitive roads can carry substantial traffic volumes. One week is too long. In any event, no works should be left unattended (dormant), from Friday until Monday.
- Agreed that minimum periods should not apply to traffic sensitive roads.

### **Scale of charges (para 22)**

- Agreed that charges of £500 per day for traffic sensitive roads and £100 per day for other roads would be reasonable – but refer to comment on different types of road.

### **Use of proceeds (paras 23-25)**

- Experience has shown that Utility works generally leave the road network in a poorer condition, with the expense of repairs some years down the line (out with the guarantee period) falling to the roads authority. Charges should be used by the road authorities to rectify this and to cover administration.

### **A requirement to hold separate accounts**

- Would increase the administration charge to the road authorities (operation of a separate finance system). A claw back after 3 years would result in a reduction in monies available to for that financial year. A clear system of fair charges levied initially would be ensure no generated surpluses.

### **Emergency works (paras 26-27)**

- Emergency works should **not** be exempt from charges. A period of grace could be considered before charges kick in.
- Any further road occupation required to address faulty or inferior workmanship should be subject to charges.

### **Implications for notices (paras 28-31)**

- Fixed start and finish dates should be supplied by the Utilities. This would demonstrate proper programming and co-ordination of works and act as an incentive to complete on time, or before, when applying a lane rental type charging system. This should not compromise the standard of reinstatement.
- Actual start date would be required.
- Susiephone system could be tailored to meet any new requirements but there would be financial implications.

### **Daily Whereabouts Lists (paras 32-33)**

- A daily whereabouts list is unnecessary provided that accurate information is detailed on the notice. Where a fixed start date is ignored and an inspection visit is carried out, an abortive charge should be levied.
- If Section 133 was to be introduced with Utility fixed start dates, daily whereabouts list would not be necessary.

### **Skips and scaffolding (para 34)**

- Charges for prolonged occupation of roads for skips and scaffolding would be welcomed. Again this cost would cover inspections/admin etc.

## **SECTION 2 – OPTIONS REQUIRING NEW POWERS – LANE RENTALS**

### **Principles of a Scheme paras 35-36)**

- This is the preferred option
- The application of charging regulations would limit the road occupation time and encourage Utilities to better manage their works.
- Refer Para 17 to 22 above. A table of charges should be kept simple. A start point could be the model being applied for the pilot schemes in the Borough of Camden, London and Middlesborough.

### **Use of Proceeds (paras 37-38)**

- Refer Para 23.
- All administrative costs would have to be identified, including salaries of finance and engineer staff, before surpluses could be identified. Any surpluses, which should be small if the level of charges are fair, should be retained by the road authorities for spending on improving the road network. The identification of administrative costs would also demonstrate if the charges set were covering actual costs incurred.

### **Possible Effects (paras 39-41)**

- Charging should be based on the start date until the finish date. Any revisits would incur same charges.
- Agreed that system would eliminate difficulties in agreeing reasonable times and accuracy of notices.
- Very short period works to access equipment could be excluded. Lane rentals would encourage utilities to locate equipment away from heavily trafficked carriageways and footways.

## **SECTION 3 – OTHER OPTIONS**

- No suggestions for other options.
- The introduction of a voluntary code of practice would not be seen as being effective. We already have problems with some utility companies not adhering to codes of practice already in place, for example, 'Specification for the Reinstatement of Openings in Highways'.

**AGENDA**