

— THE OFFICE OF —
**THE SCOTTISH
ROAD WORKS
COMMISSIONER**



Annual Report 2010-11

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Appendix 1 – INDICATOR REPORTS published separately

Commissioner's Introduction



This is my fourth annual report and covers the period from 1st April 2010 to 31st March 2011. My two key roles are to monitor road works in Scotland and to promote compliance with both legislation and with good practice.

The main monitoring tools used are the Indicators which we obtain from the Scottish Road Works Register. These Indicators give me a picture of how well roads authorities and undertakers are managing and co-ordinating their works.

Details of the monitoring can be found within the body of the report with the Indicators being set out in more detail in the Appendix to the report. I am content that these figures provide a fair reflection of the performance of roads authorities and utility companies.

In the previous reporting year, the key strategic task undertaken was the development of performance review forms for utility companies and roads authorities, primarily based on the Indicators. Where I considered that the performance of an organisation required to be improved, the particular issues of concern were identified and improvement plans were required. The use of performance reviews is the one of the key methods used to promote compliance with legislation and good practice.

A second performance review exercise was undertaken towards the end of 2010. I am pleased to be able to say that in general, the monitoring for this year shows a trend of continued improvement in performance, although it is recognised that in some organisations the rate of improvement could be increased.

I am also pleased to be able to continue to report that there remains in Scotland a willingness on the part of both roads authorities and utility companies to work together to develop solutions to the problems which we face. Whilst this report recognises that there is still room for improvement from individual organisations, the Indicator trends suggest that in most areas we are still progressing in right direction.

A handwritten signature in black ink, appearing to read 'John Gooday'. The signature is stylized with large, flowing loops.

John Gooday
Scottish Road Works Commissioner
July 2011

Executive Summary

Business Plan

In last year's report, the business plan for 2010-11 was published. This is published again at Annex D showing the objectives which were met and those where further work is required. I am pleased to say that the vast majority of the specific objectives which we set ourselves were met.

Monitoring

This report contains two complete years worth of Indicator data and analysis. I am pleased to be able to say that overall, the trends during the year have generally shown improved performance. However, in some individual organisations the rate of change has been slower than might have been hoped and we continue to work with them to encourage further improvement.

Performance

This year, the second round of Performance Review forms were issued to roads authorities and to the main utility companies. These forms again contained selected Indicator data for each organisation and provided a textual summary of its performance over four quarters of monitoring (October 2009 to September 2010).

During the period of this report, I did not consider that the performance of any individual organisation, based on the Indicators reported in the second round of Performance Reviews, warranted the imposition of a Commissioner penalty. These Performance Reviews did not include utility company reinstatements.

Utility Company Reinstatements

In previous reports, I have mentioned utility company reinstatements as an area of performance which has been particularly problematic. The latest National Coring Programme commenced in the autumn of 2010 and the results are due to be published in July 2011. I will carefully review these results to see if the step change improvement which I have been seeking has been achieved. I will also publish a separate report on this issue once the results have been finalised and I have had an opportunity to consider the findings in detail. If the step change being sought has not been achieved then I will have to consider the use of my powers to impose penalties up to a maximum of £50,000.

The Organisation

I continue to be supported by three members of staff. They are currently:

Nisha Kharbanda **Performance Manager**

The key functions of the Performance Manager include the provision of Indicators and statistical information, oversight of the operation and performance of the Scottish Road Works Register, our Freedom of Information publication scheme, complaint handling and maintenance of the public facing website.

Raymond Elliot **Liaison Manager**

The key functions of the Liaison Manager include monitoring compliance with the 1991 and 2005 Acts and the promotion of good practice, keeping the regulations and Codes of Practice under review, issues of enforcement and dispute resolution and media handling.

Margaret Mulligan **Office Manager**

Margaret recently joined us, taking over from Wendy Blacklock. The key functions of the Office Manager include dealing with Finance and Accounts, general public enquiries (not relating to Scottish Road Works Register or legislation) and management of the diary of the Commissioner.

I would like to take this opportunity to thank my staff, past as well as present, for all of the hard work which they have put in throughout the year and for their continued enthusiasm.

Commissioner Strategy and Enforcement

The purpose of the office of Commissioner is to oversee improvements to the planning, co-ordination and quality of road works in Scotland. The strategy developed and set out in previous reports is a series of steps as follows:

1. Ensure that all roads authorities and utility companies understand their responsibilities.
2. Develop robust Indicators to measure the performance of organisations.
3. Identify those organisations operating well and those operating poorly.
4. Ascertain the reasons why organisations operate well.
5. Work with the poorly performing organisations to develop action plans for improvement.
6. Where organisations continue to perform poorly and show little sign of attempting to improve, then consider the use of Commissioner penalties.

Since taking up office, my staff and I have put a great deal of effort into engaging with both roads authorities and utility companies to ensure that they are aware of their obligations and the strategy set out above. We also continue to work closely with the community on the development of Codes of Practice and Advice Notes to ensure that the best possible advice is available to those with responsibilities for the management of road works.

In previous reports, I explained how we had worked with the community to develop a suite of appropriate and useful Indicators to allow the measurement of performance. The Indicator reports started coming on stream early in 2009 and we now have figures covering a period of 30 months. More information regarding the Indicators can be found at the Chapter entitled **Monitoring** where we indicate the overall trends in performance.

In 2009 we determined a Performance Review format, which highlights the performance to all roads authorities and major utility companies over a range of Indicators. The first round of Performance Reviews were issued over a period from mid-December 2009 to early February 2010 with those organisations where performance appeared to be poor being directed to develop action plans for improvement.

This year a second Performance Review exercise was undertaken with reviews being issued in December 2010. This review did not take into account utility reinstatements as the National Coring Programme only takes place every 2 years and no new data was available. The main issues we identified as being of concern related to the timing of advance notification of works not meeting the minimum notice periods and notices not being closed quickly enough. We also had some concerns as to whether some roads authorities were entering all of their works onto the Scottish Road Works Register (SRWR).

With regard to the entering of works by roads authorities, there is some discretion regarding the noticing of some types of works and it is for each authority to determine its policy in this regard. There are also significant variations related to budgets allocated by roads authorities for undertaking works which affect the volumes of work carried out. Following further discussions with roads authorities, I am now of the view that they are generally entering their works onto the SRWR in line with their legal obligations.

Since the Performance Reviews were issued, we have continued to monitor the advance notice and closure of works and continue to see overall improvement. We will continue to work with individual organisations to improve their performance in this area.

In relation to step 4 it has been difficult to determine why some organisations perform better than others. It is clear that it is necessary to have robust processes and procedures in place but often it seems that the enthusiasm and drive of one or two key individuals can be the determining factor in successful performance.

During the period of this report, I did not consider that the performance of any individual organisation, based on the Indicators reported in the most recent Performance Reviews (which do not cover utility company reinstatements), warranted the imposition of a Commissioner penalty.

Monitoring

Introduction

The Scottish Road Works Register (SRWR), which is described in detail in its own Chapter, is not only the central tool for the planning and co-ordination of works undertaken on Scottish roads, but is also the source of the majority of the data through which national performance on road works is being monitored.

To ensure that roads authorities and utility companies meet their obligations, the role of Commissioner includes the function of “monitoring the carrying out of works in roads in Scotland”.

The following are five key questions which we consider the monitoring of road works should try to answer:

- **Are roads authorities co-ordinating the works on their roads?**
- **Are utility companies cooperating with the roads authorities?**
- **Are works taking too long to complete?**
- **Is traffic management (the signs, cones and barriers associated with road works) to an acceptable standard?**
- **Are reinstatements (the re-filling and re-surfacing of excavations) in roads meeting the specification?**

Commissioner use of Indicators

My staff and I are often asked which of the Indicators will be used to measure performance. The answer is that they are all used to build up a picture of the performance of an organisation. The Indicators are exactly what they say - they provide an “indication” as to how an organisation is undertaking a particular element of work.

Developing the Indicators

The Indicators are used to identify trends in the performance of organisations over time. The data is extracted on a quarterly basis, as this provides a reasonable period over which fluctuations can be tracked and for organisations to review their own performance. The quarterly data can then be aggregated and annual trends identified. We now have data covering two complete years (2009-10 and 2010-11) so we can now start to identify annual as well as quarterly trends. The Indicator Reports for 2010-11 are published separately in Appendix 1 to this report.

Initially, the Indicators were very much developed from the Commissioner’s monitoring perspective. Over time, however there have been queries around the actual methodology of some of the Indicators and requests to refine some of them to

better meet the Community's requirements as well as specific changes to improve their accuracy.

In October 2010, the Indicator Working Group was created with members drawn from the South East Area RAUC. This group was tasked with refining the existing Indicators as well as creating newer ones that were deemed to be of assistance to individual organisations. This work is due to be completed around the time of the publication of this report in July 2011 with the aim of rolling them out to the Community by September 2011.

Part of this further development of the Indicators has been to improve the ease of filtering and extracting the relevant information required. There are also changes to improve the accuracy of the Indicators. Listed below are some of the changes:

- The introduction of a new parameter screen for all reports. This will allow users to filter their reports by organisations and to give the option to view up to 5 quarters at once in order to make comparisons;
- The creation of a new report detailing works under licence and permissions. Such licences and permissions will no longer be counted as roads authority works;
- Splitting actual FPNs (Report 1) into system generated and manually generated FPNs;
- A replacement report for Early Starts (Report 10) measuring only one occurrence of an Early Start agreement measured per phase; and
- The production of some requested new reports.

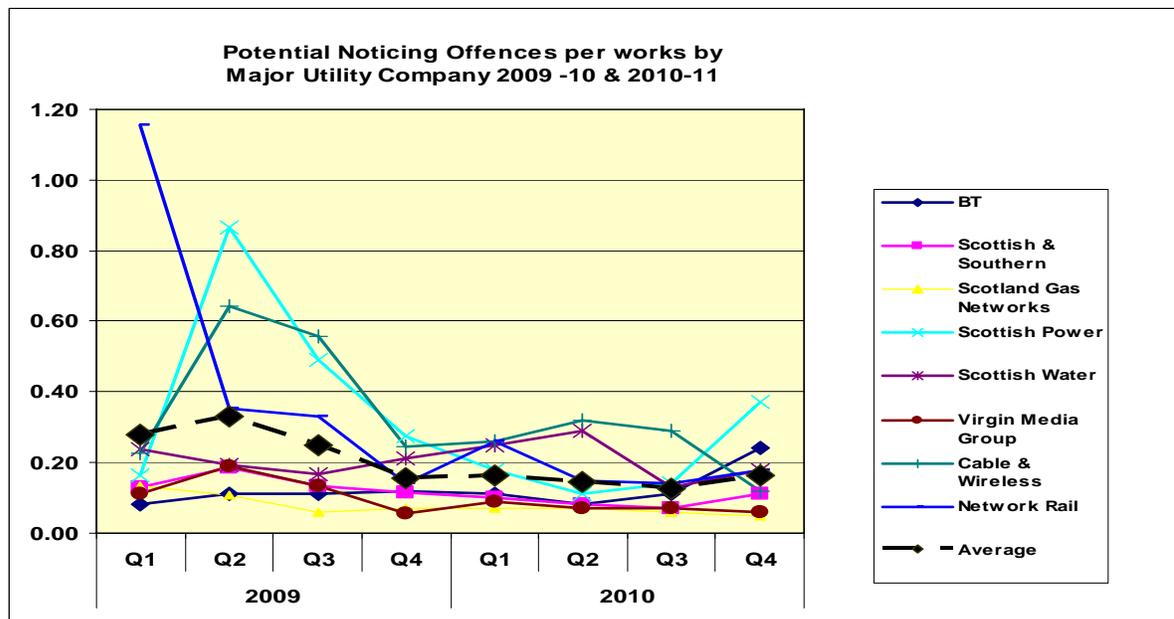
Now that we are in the third year of monitoring, it is worth noting that the majority of organisations understand how the monitoring relates to the various noticing processes and many have made significant improvements. I repeated the Performance Review exercise this year and by January 2011 all of the major utility companies and roads authorities had received an update on their performance. These provided a clear indication as to how I viewed their performance to date and where further improvement or clarification was required.

Trends from Performance Review Indicators 2010-11

The Indicator Reports are based on the Commissioner reporting year which follows the financial year. In the report the use of 2010, means from 1st April 2010 to 31st March 2011. Therefore Quarter 1 2010 is the period 1st April to 30th June 2010.

Potential Noticing Offences (Report 2b)

It is important that the information held on notices is accurate and that the appropriate timescales for providing the information are being met. This report measures the number of error messages generated by the SRWR which would flag a potential Fixed Penalty Notice (FPN) offence by a utility company. The error rate is based on comparison with the number of actual start notices which are issued.



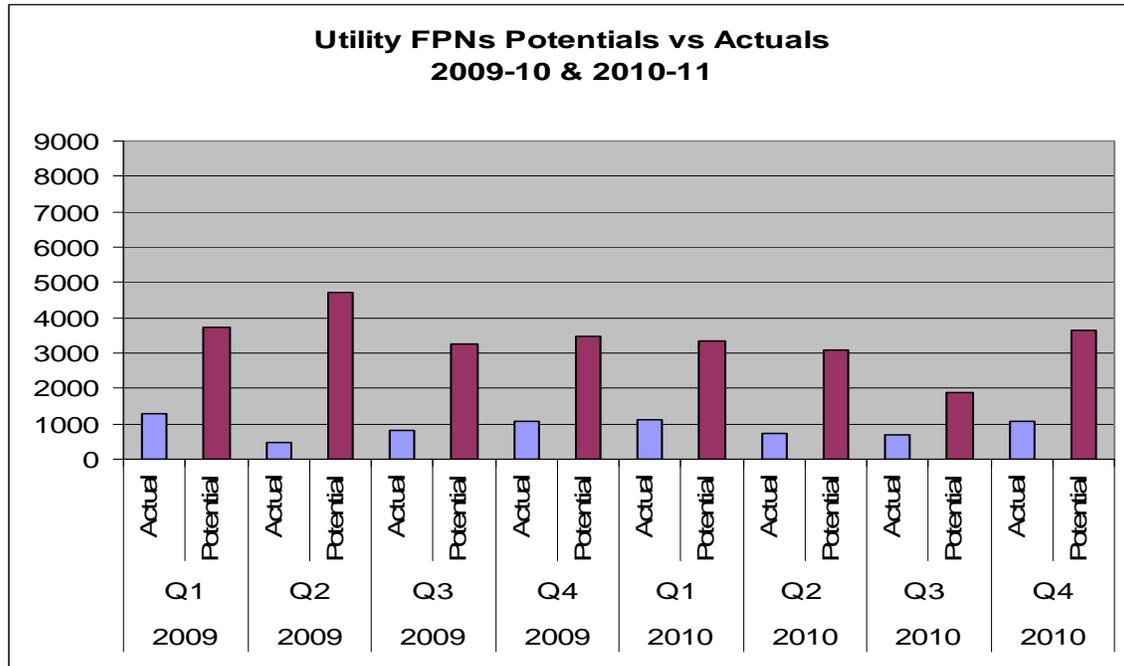
Source: Report 2b Summary

The above graph shows the quarterly trend of potential noticing offences of major utility companies over the two year period. 2009 showed greater fluctuation but by Q4 after the first Performance Review the average rate started to become steadier. By Q4 2010, potential noticing offences for utility companies were running at an average rate of about 0.16 failures per works.

Fixed Penalty Notices Received by Utility Companies (Report 1)

The following illustration shows that there is no direct correlation between the numbers of actual FPNs issued and potential FPN offences from quarter to quarter. By quarter 3 of 2010 the number of potential FPN offences had fallen to its lowest ever recorded of 1,975. However as a result of the severe winter, many of the larger utility companies had to play 'catch up' in the following quarter Q4 and input retrospective notices. This

consequently resulted in an increased number of potential FPN offences in the SRWR, but only 30% of these were issued as actual FPNs.



Source: Report 1

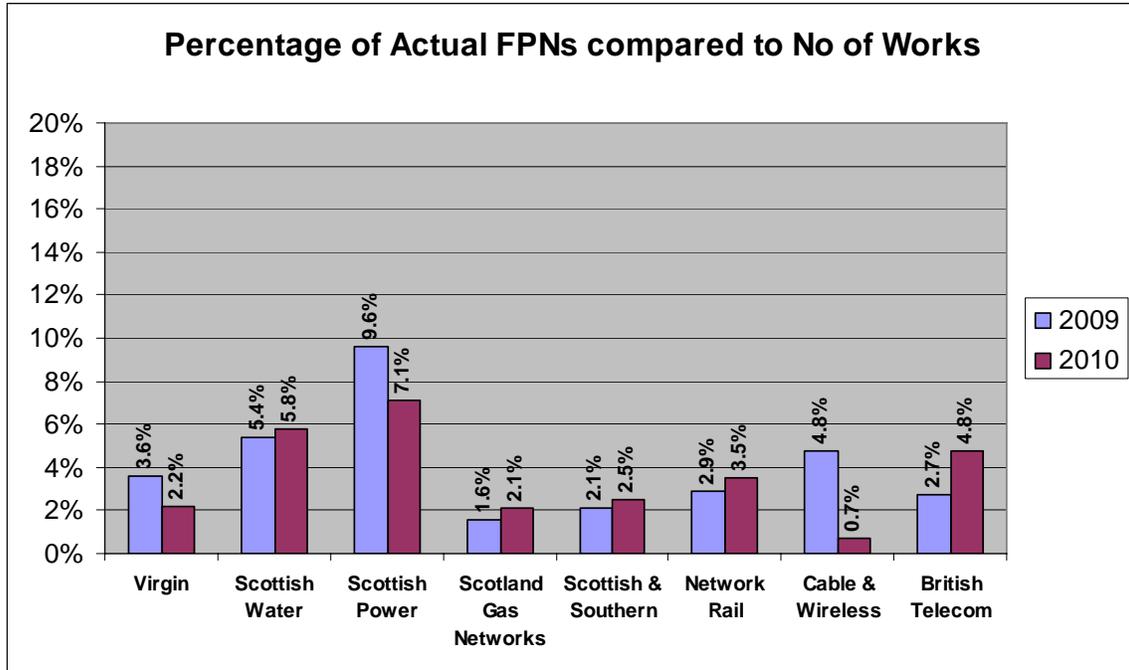
It is anticipated that the number of potential noticing offences will decrease over the coming year as the utility companies continue to improve the quality of their noticing. Measuring the actual FPNs given, provides an indication as to which roads authorities are giving them and their level of use as well as which utility companies are receiving them.

The following table shows the number of actual FPNs given to major utility companies as a percentage of the works undertaken

Organisation	2009			2010		
	Actual FPNs	No of Works	Percentage	Actual FPNs	No of Works	Percentage
Virgin	231	6,431	3.6%	179	8,168	2.2%
Scottish Water	1,717	31,967	5.4%	1,799	30,687	5.8%
Scottish Power	839	8,701	9.6%	632	8,836	7.1%
SGN	275	16,748	1.6%	343	16,642	2.1%
Scottish & Southern	55	2,649	2.1%	71	2,774	2.5%
Network Rail	11	374	2.9%	15	427	3.5%
Cable & Wireless	24	496	4.8%	4	433	0.9%
British Telecom	433	16,131	2.7%	574	12,056	4.8%
Total	3585	83,497	4.3%	3617	80,023	4.5%

Source : Reports 1 and 9a whole years

It is for roads authorities to decide whether or not to issue FPNs as a matter of policy. This year the number of roads authorities issuing FPNs rose from 14 to 16. Over the last two years, the overall number of FPNs issued and the percentage against works undertaken have remained broadly the same.

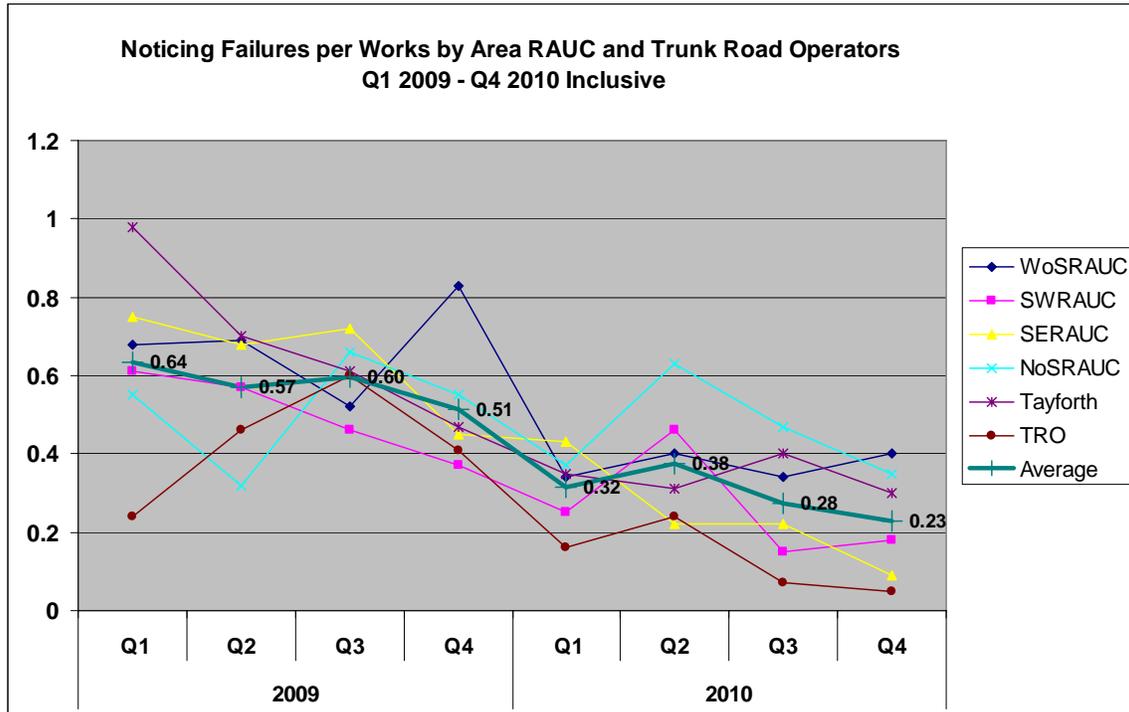


Source: Reports 1 and 9a

The following table shows the total number of FPNs given in Scotland in 2009 and 2010 and the amount which would have been received by the road authorities based on recovering £80 per notice.

Monetary value received from FPNs over the last two years			
Year	No of Roads Authorities giving FPNs	No of actual FPNs	Amount Received
2009	14	3634	£290,720
2010	16	3672	£293,760

Roads Authority Noticing Failures (Report 2a)

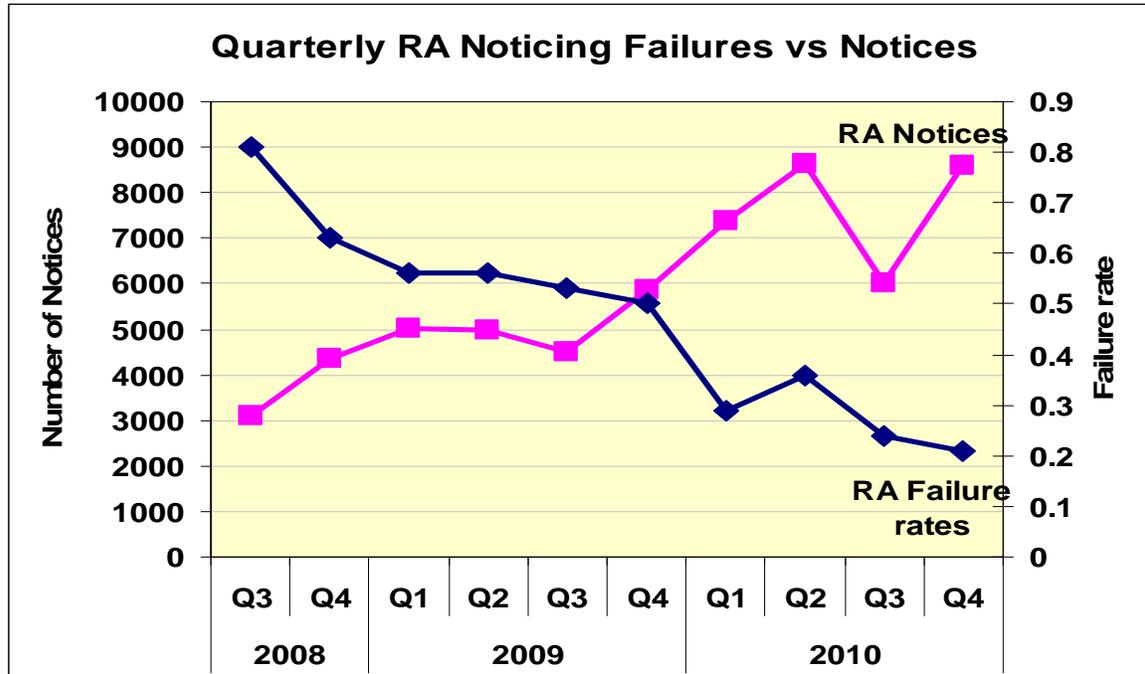


Source: Report 2a

We have developed the Indicators as far as possible on the basis of having a level playing field to compare the performance of roads authorities and utility companies. Even though roads authorities cannot give FPNs to themselves, their noticing failures (errors or omissions which would generate a potential noticing offence for a utility company) are being measured. The graph above of Report 2a can be used in conjunction with that of Report 2b to compare the noticing performance between roads authorities and utility companies. Over the last two years a distinct trend can be observed. There has been a drop from an average of 0.64 failures per works to about 0.23 failures which shows encouraging progress by the roads authorities.

Roads Authorities – Total Notices by Quarters compared to Total Noticing Failures

Following on from the previous section, the graph below shows how roads authorities have decreased their noticing failures significantly during a period when the number of notices being entered was increasing. The first Performance Reviews were issued in Q3 2009 with improved noticing procedures being shown in many roads authorities in the following quarters. An upward trend in the number of notices had already commenced and at the same time a downward trend in noticing failures can be observed. In Q3 2010 severe winter conditions meant that efficiency dipped, but the graph shows that there was a definite improvement again by Q4 2010. This provides evidence of the impact of the monitoring we are undertaking.



Source: Reports 2a and 9a

Emergency, Urgent and Remedial Dangerous Works (Report 4a)

This report allows me to keep the use of these works categories under review. The following table shows the use by utility companies of emergency and urgent works during 2009 and 2010 and the percentage against the total number of works.

UTILITY COMPANIES	2009	2010
Emergency	6,705 (8%)	6,478 (8%)
Urgent	26,588 (31%)	26,364 (33%)

During the reporting period, utility companies placed notices for emergency and urgent works amounting to 41% of all utility works. This is similar to last years' data which was 39%. Once again Scotland Gas Networks was the highest user of the emergency category and Scottish Water had the highest use of urgent. This is as we would expect given the nature of their operations.

This year a big increase in the usage by roads authorities of urgent and emergency works was evident. This can be seen in the following table:

ROADS AUTHORITIES	2009	2010
Emergency	862 (3%)	4864 (16%)
Urgent	653 (4%)	2052 (7%)

They are now up to 23% of all roads authority works compared to 7% last year. As a result of the severe winter in 2010-11 there was an increased requirement to respond quickly to potholes. Some roads authorities were deeming these as emergency or urgent repairs.

It is often suggested that organisations can designate works as emergency or urgent to circumvent proper planning and co-ordination. Given that Scottish Water are the largest user of the urgent category, an exercise was undertaken in August 2010 to investigate the works designated by them as urgent for a selected week. This identified that the works undertaken using this designation were to deal predominantly with burst pipes, leaks and defects such as damaged manholes. These were all appropriate works to be designated as urgent. The investigation also looked for any trends which would indicate the misuse of the urgent category to circumvent good practice in relation to noticing and none emerged.

Whilst there is no absolute benchmark as to what an appropriate level of use of emergency and urgent might be, we continue to monitor the use of these categories by organisations to ensure that they are being used correctly. Any misuse of these categories would be taken very seriously.

Works Over-runs (Report 6)

This report measures the number of works closed/clear notices that have been entered for each quarter where the proposed completion date entered is later than the proposed completion date on the last notice. This represents the number of works which have taken longer than specified and the proposed completion date has not been revised until after the works have been finished and the works clear/closed notice entered with the actual completion date. This can lead to co-ordination problems if other works promoters are unaware that works are still ongoing.

This year the average percentage for the major utility company overrunning works was 3.6% compared to 4.9% last year. However this overall figure would have been considerably better but for poor results from Scottish & Southern (15.3%) and Scottish Power (23.7%). This shows that in general most utility companies are good at completing within the original timescale or extending in good time if necessary.

Roads authority overruns has remained consistently low at 4.5% total overall. Last year they were at 7%. The highest % of overruns this year can be seen in Q2 when a percentage of 7% was noted.

Work Extension Notices Issued (Report 12)

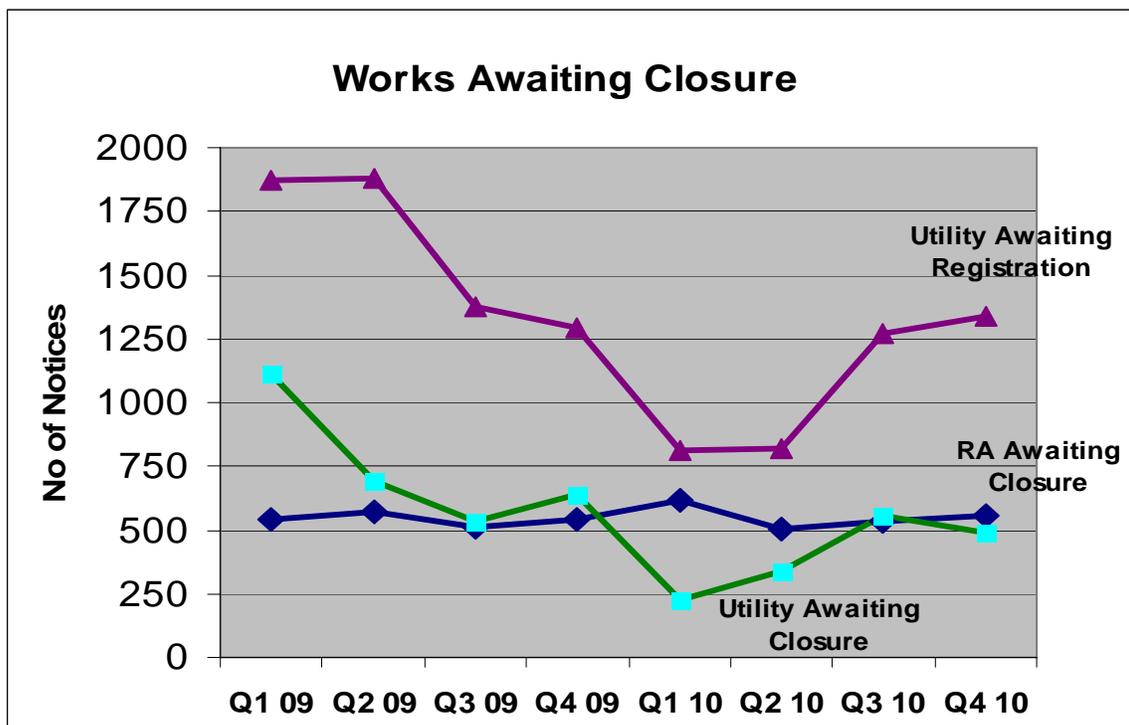
This report shows the percentage of works where the proposed completion date is extended after the works have commenced. This report should be read in conjunction with report 6 above. Where works have started and it is anticipated that they will take longer to complete than originally planned, then it is good practice to update the notice with a more accurate proposed completion date.

What I encourage works promoters to do when entering the works duration on a notice, is to place their best estimate and if the works take longer than anticipated, to revise the proposed completion date. With this Indicator, consistently very low percentages might lead me to investigate if the promoter is inserting works durations which are longer than necessary, in order to manipulate this Indicator. This would be deemed to be very bad practice as it would book road space for unnecessarily long periods. Conversely, high percentages might indicate poor pre-work planning and an overly optimistic view of the time required to complete works.

We will continue to work with the community to determine appropriate ranges for this Indicator. This is the type of Indicator where I would expect works promoters to be benchmarking themselves against similar organisations in considering their performance. The overall utility company percentage for this year was 19%. In Q3 2010 (October to December), the severe winter conditions required many organisations to extend works which is reflected in their figures as nearly 27% of utility company works were extended in that quarter. For roads authorities this figure was 18% with the Q3 2010 figure being 24%.

Work Awaiting Closure (Report 16)

This report measures the number of works which have started and the date has passed by which the works clear / closed notice should have been supplied. This report was originally introduced because the system contained large numbers of works which had never been closed down and these were clogging up the system.



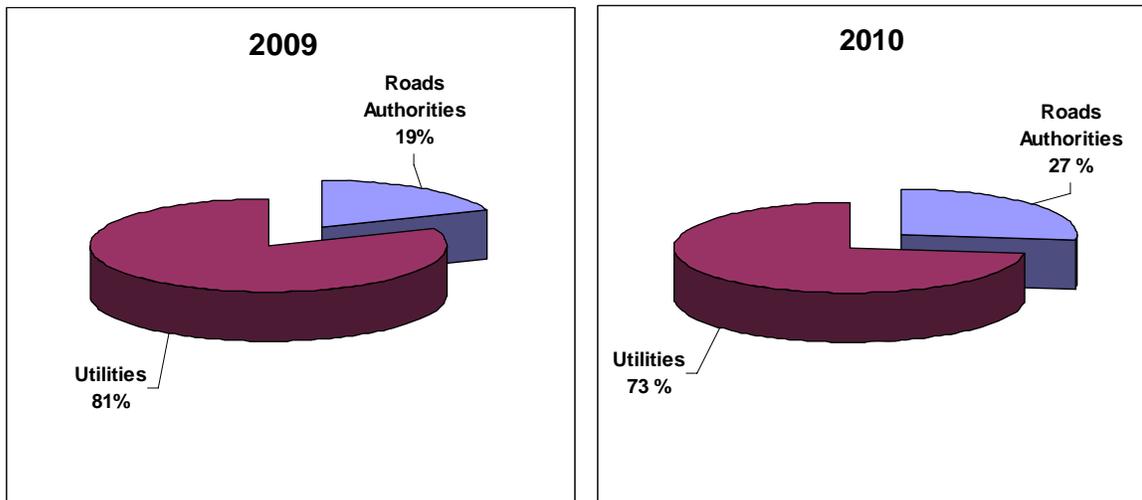
Source: Report 16 Works awaiting closure or registration

In Q1 2010 the utility companies showed an encouraging decrease in notices awaiting closure, going down to 225 from 642 in the previous quarter. Unfortunately this crept up again over the next two quarters. The roads authorities have been consistently just over 500 in each quarter over the two years. In the last two quarters, the roads authorities and utility companies were both around the 500 mark. Given that the roads authorities are only placing just over a third of the notices placed by utility companies their level of notices awaiting closure remains disappointingly high.

Registration is the submission of reinstatement details by utility companies within a prescribed timescale. As with the notices awaiting closure, this showed an encouraging decrease in Q1 2010, but has also subsequently crept back up. It is encouraging that the utility companies can get these figures down, but they then need to concentrate on retaining the improvements made.

The Number of Actual Start Dates and Actual Completion Dates entered onto SRWR (Reports 9a and 9b).

The charts below show the annual percentage split of works undertaken by roads authorities and utility companies. This is now closer to what we would expect with roads authorities undertaking 27% and utility companies 73%.



Source: Report 9a

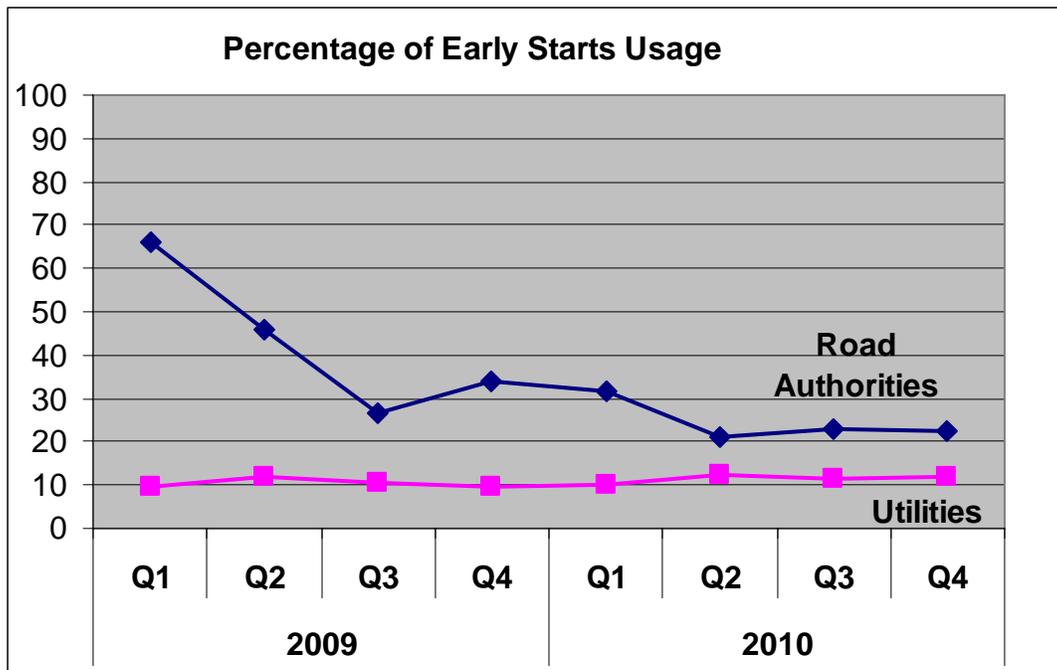
Report 9a is an important report as it contains a breakdown of all works entered into the SRWR on which an actual start date has been entered. These are used as a proxy to determine rate and percentage comparisons for many of the other Indicators e.g. the Noticing Failure Rates for both utility companies and roads authorities are analysed as the potential number of noticing offences divided by the number of actual works commenced. These give a measure based on the amount of activity undertaken by an organisation. Report 9b measures the number of works clear/closed notices entered. This is used as a cross check to compare to the number of starts in the same period.

Given overlaps across quarters, the figures will always show some differences. Earlier in the year some roads authority figures show more completions than starts due to work being undertaken to remove old notices which had never been closed down. Overall the utility companies show more starts than completions. This is due to the way in which the Indicator was originally set up whereby only works closed (final reinstatement) notices were measured and works clear (interim reinstatements) were not. The Indicators in 2010-11 now include both works closed and works clear notices.

With regard to the entering of works by roads authorities, there is some discretion regarding the noticing of some types of works and it is for each authority to determine its policy in this regard. There are also significant variations related to budgets allocated by roads authorities for undertaking works which affect the volumes of work carried out.

Early and Late Start Agreements (Report 10)

This report measures the number of early and late start Agreements entered onto the SRWR. The early and late start procedure was introduced to allow more flexibility into the planning and management of work programmes. The graph below shows the use of early starts by roads authorities and utility companies.



Source:: Report 10

The usage of early and late starts is kept under review to ensure that they are being used in an appropriate manner. Exceptionally high numbers of early starts could indicate poor works planning and forecasting whilst very low numbers might indicate that excessively long work periods are being “booked” on the SRWR.

This year the continuing trend shows that in general, roads authorities use the early

start facility more than utility companies. Currently the average percentage of early starts for roads authorities is just over 20% with utility companies generally running at about 11%.

It should be noted that the SRWR can require more than one early start notice per work if the notice for certain types of works is placed within seven days of the works commencement. This will have increased the figures for some organisations. As part of the Indicator development project, we have specified that the early start usage be counted only once per works. This should show a much lower percentage of early starts in future years.

Undue Delay in Works (Report 17E)

One of the key questions we wanted to answer when developing our Indicators was “Are works taking too long to complete?” This report shows the number of section 125(3) notices (under the New Roads and Street Works Act 1991) given by roads authorities to utility companies for “not completing works with all such dispatch as is reasonably practicable”.

This part of the Act is rarely being used by roads authorities. In 2009 242 section 125(3) notices were issued compared to only 76 this year (the majority being issued by West Lothian Council, South Lanarkshire Council and Falkirk).

Discussions with roads authorities would suggest that many do not issue such notices because they do not believe that there is a suitable sanction against utility companies which offend. Although the Act does contain sanctions:

- the perception is that Procurators Fiscal are generally unwilling to pursue offences under section 125(2); and
- roads authorities appear reluctant to use their powers under section 125(4) to “...take the necessary steps..” because of the administrative burden of taking such action and then recovering their costs.

A Commissioner Advice Paper was issued in October 2010 to remind roads authorities about the facility within the SRWR to allow the giving of section 125 notices. However it would appear that because of the aforementioned, many roads authorities are still reluctant to issue them.

I will keep the number of such notices issued to individual utility companies under review. Utility companies consistently receiving high numbers of Section 125(3) notices could be considered to not be meeting their obligation to co-operate.

There is no equivalent measure of the performance of roads authorities.

Utility Company Reinstatements

Whilst the use of Indicators as a monitoring tool is relatively new to the Scottish Road Works Community, the collection of data on the standard of utility company reinstatements has been undertaken for a considerable period by RAUC(S) under their National Coring Programmes which are carried out every two years. Although the figures reported in 2009 showed a modest 4% improvement against the previous pass rate, I stated at the time that this was not the step change improvement which I was seeking. As in previous years, the failure to achieve the required bituminous layer thickness was the most common reason for non-compliance with the specification. I have consistently taken the view that this is an issue which should be relatively straightforward to rectify by improved quality systems and inspection regimes.

When the coring results were published in both 2007 and 2009, the roads authorities and utility companies expressed their disappointment. In both cases, the utility companies also confirmed that they would:

- further develop their improvement plans;
- intensively monitor them to ensure that the improvement objectives were met; and
- continue to work with the Scottish roads authorities to improve performance in their reinstatement work.

Given these undertakings, the very modest overall improvement from such a low base was very disappointing. I stated two years ago that where improvement had been minimal or where it has fallen back, utility companies needed to be seriously reviewing their improvement plans and working with their supply chain on how to improve performance.

Last year I reported that each of the 7 major utility companies which operate in Scotland (covering 98.5% of all utility company works) were issued with Performance Reviews and in each case the quality of their reinstatements was identified as an issue of particular concern. All then submitted action plans for improvement covering this particular area. Typically the actions included:

- the introduction of in-house or contractor coring programmes;
- regular reviews of these coring results;
- working with their contractors to identify the problems in compliance;
- designating staff with responsibility for reviewing performance;
- in one case the organisation has brought the majority of work in-house to gain more control; and
- increasing the number of quality audits undertaken.

The summary results of the National Coring Programme from 1997/98 onwards are shown.

National Coring Programme Summary Results.

Year	1997/1998	1999/2000	2001/2002	2003/2004	2005/2006	2008/2009
Number of Cores	1,544	1,503	1,909	1,861	1,340	1,566
Pass	43%	38%	44%	59%	60%	64%
Fail Monitor	29%	18%	15%	9 %	12.5%	9%
Fail Replace	28%	44%	41%	32%	27.6%	26%

The table below shows the performance of the seven main utility companies undertaking works from 2001/02 onwards.

Utility Company Pass Rate over Time (includes only companies where more than 10 cores taken)

Utility Company	2001/2002	2003/2004	2005/2006	2008/2009
BT Openreach	48%	69%	62%	59%
Cable & Wireless	49%	56%	59%	64%
Scotland Gas Networks	56%	67%	66%	77%
Scottish Power	34%	46%	48%	78%
Scottish & Southern	60%	83%	65%	73%
Scottish Water	34%	48%	54%	51%
Virgin Media	34%	76%	77%	67%

The latest National Coring Programme commenced in the autumn of 2010 and the results are due to be published in July 2011. I will carefully review these results to see if the step change improvement which I have been seeking has been achieved. I will also publish a separate report on this issue once the results have been finalised and I have had an opportunity to consider the findings in detail. If the step change being sought has not been achieved then I will have to consider the use of my powers to impose penalties up to a maximum of £50,000.

Promotion of Compliance and Good Practice

Road Works Committees and Working Groups

The road works community continues to provide representatives to a wide variety of committees and working groups both in Scotland and within a wider UK context. These committees and working groups have been set up to provide advice on the development of:

- Legislation;
- Codes of Practice;
- RAUC(S) Advice Notes; and the
- Management and development of the SRWR.

The main committee in Scotland is the Roads Authorities and Utilities Committee (Scotland) [RAUC(S)] with a remit to provide support and advice to the Commissioner, with the aim of improving the planning, co-ordination and quality of road works undertaken in Scotland.

The Scottish working groups report either to RAUC(S) or, where there are legislative implications or a policy context, to the Scottish Road Works Policy Development Group. Each group consists of equal representation from both roads authorities and utility companies and there is an open invitation to the Scottish Road Works Commissioner to be represented at meetings. In addition, and to ensure parity, the role of Chair rotates between roads authorities and utility companies at regular intervals. Each group normally comprises of between 6-8 members.

To provide an insight into the extent of community engagement, the following is a list of committees and working groups which met during the reporting period.

Committee	Reports to
Roads Authorities and Utilities Committee (Scotland) (RAUC(S)) (ongoing meets quarterly)	
Area RAUC(S) (ongoing - meets quarterly)	RAUC(S)
Highways Authorities and Utilities Committee (United Kingdom) (HAUC(UK)) (ongoing - meets quarterly)	

Working Groups based within Scotland	Reports to
Scottish Government Policy Development Group (ongoing - meets quarterly)	
Resurfacing Working Group (Advice Note issued June 2011)	Policy Development Group
Scottish Reinstatement Specification Working Group (ongoing – meets monthly)	RAUC(S)
Scottish Road Works Register Management Group (ongoing - meets quarterly)	RAUC(S)
Scottish Road Works Register Gazetteer Working Group (meets 6 weekly)	RAUC(S)
Co-ordination Code of Practice Working Group (ongoing - meets 6 weekly)	Policy Development Group
Compliance Working Group (formally Coring) (Advice Note issued June 2010)	RAUC(S)
Inspections Code of Practice Working Group (issued September 2010)	RAUC(S)
Record of Underground Apparatus Code of Practice Working Group (issued March 2011)	RAUC(S)
System Assurance Team (ongoing - meets six weekly)	SRWR Management Group
Indicator Working Group. (ongoing – meets as required)	RAUC(S)
SRWR Tender Working Group (contract awarded July 2010)	Commissioner

The following table sets out those UK wide working groups with Scottish representation. These groups report to either the Department for Transport (DfT) or HAUC(UK). The Scottish representatives also report back to RAUC(S) to ensure that the Scottish community is aware of progress and any emerging issues.

UK wide Working Groups	Reports to
National Underground Asset Group	DfT
HAUC(UK) Safety at Road Works Code of Practice Working Group (ongoing – meets quarterly)	DfT
HAUC(UK) Training & Accreditation Working Group	HAUC(UK)
HAUC(UK) Reinstatement Code of Practice Working Group	HAUC(UK)

I would like to take this opportunity to thank those members of the Scottish road works community who sat on committees and working groups over the last 12 months.

I would also like to thank the employing organisations for allowing their staff the time to undertake this important work.

This participation means that when new legislation, codes of practice and advice notes are developed, organisations are able to actively contribute and influence the outcomes ensuring that legislation and guidance is fit for purpose. In Scotland there is a real sense of ownership in the material that is developed which I would wish to retain. I appreciate that these are difficult times for both the public and private sector, but I would continue to encourage organisations, where at all possible, to support such work.

Typical Working Groups

The following sets out the works carried out by a selection of working groups:

Co-ordination Code of Practice

The Co-ordination Working Group was set up to review and recommend amendments to improve the procedures contained within the Co-ordination Code of Practice and Related Matters (August 2009).

The Code provides practical guidance for roads authorities and utility companies in discharging their general duties to co-ordinate and co-operate, during the planning and execution of works in the road. The group are due to report with a final draft document to the Policy Development Group and RAUC(S) in September 2011.

Inspections Code of Practice

The Inspections Code of Practice Working Group had the aim of reviewing and updating the Inspections Code of Practice (October 2003). The Code provides guidance to roads authorities in carrying out investigatory works to check whether a utility company has complied with the duties of reinstatement of the road surface. The Code also documents the process involving the payment of a fee by undertakers to road works authorities for each inspection of works carried out. New developments included revising the method for calculating the number of units of Inspections to use the duration of works. The Code was published in September 2010.

Resurfacing Working Group

The group produced an Advice Note to give practical guidance on restrictions placed following substantial road works. The group released the Advice Note in June 2011 and this will be subsumed into the new Co-ordination Code of Practice. The other

discrete element of the work of the group dealt with resurfacing and was connected to long term damage. This work was deferred at the request of the Policy Development Group whilst research was carried out.

Best Practice

One of the key functions of the Commissioner is to promote best practice. Over this reporting period, a number of examples of such practice were identified and published on the website for dissemination to the community. The following is an example:

The Use of Internal Fixed Penalties by South Lanarkshire Council

Following the introduction of external fixed penalty notices by South Lanarkshire Council in April 2009, it was agreed that their own in house performance would also be monitored to ensure that they operated as efficiently and effectively as possible within their road network.

This involved setting-up a monitoring system, similar to that in place for utility companies involving an internal system that provided a direct financial incentive for improved performance through in house monitoring.

A financial adjustment is made to each area operations trading account with the best performers receiving the adjusted monies. No monies actually leave the operations budget and an internal transfer is undertaken.

Since the introduction of this system, performance has improved and increased focus has been placed on noticing requirements. Individual officers are now more conversant with requirements and the inclusion of this as a key work objective has assisted in meeting longer term objectives.

Scottish Road Works Innovation Award

One of the key developments in the identification of good practice during the reporting period was the creation by RAUC(S) of the Scottish Road Works Innovation Award. This award was created to assist in the identification of innovative good practice with the intention being for all short listed submissions to be converted into Commissioner Good Practice Case Studies.

NJUG Awards

I once again sat on the NJUG awards judging panel. This seeks applications from across the UK of examples of best practice within the industry. These can be found on the NJUG website at www.njug.org.uk.

Scottish Road Works Register

What is the Scottish Road Works Register and why do we need it?

Since April 2008 it has been the statutory responsibility of the Commissioner to “keep a register” and to ensure that it is available to the Scottish road works community. The Scottish Road Works Register (SRWR) is a central computerised database system for the electronic transfer, retention and management of road works data utilising internet access. Every roads authority and utility company operating in Scotland has access to SRWR and it is a statutory requirement for them to enter details of their planned road works.

The 3 main reasons for having the SRWR are as:

- a central tool for roads authorities and utility companies to use to assist them in the planning and co-ordination of works on Scottish roads;
- a source of data for Indicators to determine performance in relation to some aspects of the undertaking of works on Scottish roads; and
- an accurate source of information for the public and interested organisations regarding future, ongoing and past works on Scottish roads.

Who does what?

As already explained, the Commissioner is the “keeper” of the SRWR. The “provider” of SRWR is SUSIEPHONE Ltd (a not for profit company with directors drawn from roads authorities and utility companies) which was responsible for the creation of the register and which now operates under an agreement with the Commissioner. The current technology behind the SRWR system is supplied by a company called Symology Ltd under contract to SUSIEPHONE Ltd.

Service Supplier Contract

The original five year contract with Symology expired on 31 March 2011. A Tender Working Group consisting of members of the road works community and Commissioner staff was formed in December 2008 and since then has developed the contract documents and managed the tendering process.

A rigorous competitive tender process was undertaken, with the final assessment being carried out in May / June of 2010. This resulted in the decision to award the new contract to Symology Ltd for a five year period with an option to extend for a further two years. The contract was awarded in July 2010.

At the award of the contract an Implementation Group, consisting of some previous members of Tender Working Group and new members, was set up to ensure that the

new contract was delivered for the start date of 1 April 2011. This was successfully achieved.



**Signing of the Contract
between Susiephone Ltd
and Symology Ltd**

System Enhancements

The Scottish road works community has always recognised the need to continue to develop the SRWR to improve its functionality for the users and provide additional benefits. Prior to the introduction of the new contract in April 2011, the SRWR was enhanced with a new module enabling the entry of multi-street events and activities, such as carnivals, sporting events and parades. The inspections system was re-designed to provide improved information screens and defect monitoring facilities, as well as covering all the requirements of the new Inspections Code of Practice.

In developing the specification for the new contract, the opportunity was taken to improve the functionality which from 1 April 2011 includes:

- a dashboard, with colour-coded monitoring facilities and a highlighting expert on enquiries to enable focus on specific defined conditions;
- mapping hot-layers, to provide selective enquiry output into map-based form;
- support for the use of mobile devices for inspection purposes; and
- improvements in FPN processing.

Further functionality is being developed and will be in place by the autumn of 2011. This includes:

- agreements Register;
- historical ASD and related works enhancements;
- traffic signals application system; and
- a number of other agreed minor enhancements.

I would like to take this opportunity to thank the members of the community who served on the Tender Working Group and also on the Implementation Group. Without their hard work we would not have been able to deliver such a robust contract and to have developed a specification which provides the improved functionality for the day to day users.

I would also like to thank the SRWR Management Group which does a great deal of work to ensure that the SRWR continues to be developed to meet the requirements of the Scottish road works community and is ably supported by the Systems Assurance Team which undertakes testing of new system developments and provides assistance to the SRWR Management Group.

Third Party Access to SRWR

Since taking on the role of Commissioner, I have sought to ensure that we gain the maximum value from the data held within SRWR and from the functionality which it provides. In previous reports I have commented that work was progressing on the provision of access through the development of a suitable Agreement and last year announced that we had entered into an agreement with First Scotland East Ltd to gain access to SRWR.

Unfortunately we have not been able to enter into further agreements, however we will continue to pursue this with appropriate organisations.

During the year we have been in discussion with Tellme Scotland regarding the integration of our public facing website Scottish Road Works On-line with their information portal.

We have also been in contact with a number of councils regarding the development of a universal interface which they could use to bulk download data from the SRWR. It is proposed that this data would be used to provide information to asset management systems and for traffic control systems.

Financing of the SRWR

The intention is for the SRWR to continue to be funded by the Scottish road works community. The Transport (Scotland) Act 2005 states that “Scottish Ministers may by regulation provide that the payment to the Commissioner of the prescribed fee is a condition of access to the SRWR....”

The Scottish Road Works Register (Prescribed Fees) Regulations 2011 came into force on 28th February 2011 with invoices for the financial year 2011-12 being issued to the community soon thereafter. The estimated cost of running the SRWR for 2011-12 as set out in the 2011 Regulations is £1,017,000. This compares with the sum of £877,000 which was set in the 2010 Regulations. The chapter entitled **Financial Overview** provides a summary of running costs of the SRWR in 2010-11.

The 2011 Regulations used a fixed split of the fees element with utility companies paying 65% and roads authorities 35%. This arrangement was continued in the regulations published for 2011-12.

Value Added Tax (VAT)

I have previously reported that the Scottish Government and their legal and financial advisors consider that because the invoices issued under the Prescribed Fees and Amounts Regulations recover a statutory levy, it would not be competent to apply VAT to them. This means that VAT requires to be paid to provide and run the SRWR, but cannot be recovered. This has been reflected in the increased sums collected under the Regulations.

I continued during the year to try to establish if the office of Commissioner could be given the appropriate status to allow the recovery of VAT charged. Unfortunately the Scottish Government has ruled that the office of Commissioner cannot be classed as a Government Department for the purposes of section 41(3) of the Value Added Tax Act 1994 and as a consequence cannot gain the appropriate status.

What this means is that, placing the SRWR on a statutory footing has led to the unintended consequence of an ongoing increase in the costs to the roads authorities and utility companies which require to pay the statutory levy and which can no longer recover VAT as they could when the payment was a voluntary contribution.

VISTA Trial

The VISTA research project was initiated in 2006 to develop techniques to capture, share and reuse more effectively, record information of underground apparatus. In Scotland the ultimate concept of VISTA is to use the SRWR to seamlessly access, via the internet, a map based interface showing the underground plant information from all utility companies and roads authorities taken directly from their own systems so that it is always completely up to date. It is envisaged that this will have significant operational and safety benefits.

A Stage 1 trial was undertaken in 2009 but was limited to using data from Scottish Water, Scottish & Southern Energy, Perth & Kinross Council and Transport Scotland over a limited geographical area. This proved the concept to be operationally feasible across the different proprietary systems feeding the data into the SRWR.

Following this success, a Stage 2 trial was undertaken in September / October 2010, over a wider geographical area (the Tayforth RAUC area), and with a larger number of organisations streaming their data into the SRWR. This trial was also successful and the VISTA Trial Working Group recommended that VISTA should be rolled out nationally. A Business Case has been developed and has been endorsed by the SRWR Management Group, RAUC(S) and myself.

Legislation

The legal framework for road works in Scotland is primarily provided by the New Roads and Street Works Act 1991 as amended by the Transport (Scotland) Act 2005. These are Acts of the United Kingdom and Scottish Parliaments respectively.

A continual process of reviewing the effectiveness of legislation is undertaken through encouraging practitioners within the community to provide feedback on their practical experience of working with the legislation. This feedback is presented to the Scottish Road Works Policy Development Group for their consideration and recommendation.

Policy Development Group

The group consist of representatives from RAUC(S), SCOTS (the Society of Chief Officers of Transportation in Scotland), NJUG (National Joint Utilities Group), SRWR Management Group, Scottish Government and the Scottish Road Works Commissioner.

Examples of the types of issues considered by the group over the period of the report include possible amendments to the New Roads and Street Works Act 1991 and Transport (Scotland) Act 2005, Regulations, Codes of Practice and RAUC(S) Advice Notes. Specific areas where the group has made recommendations include, but are not limited to :

- the implementation of the EU Services Directive;
- changes to the Fixed Penalty Notice Regulations to increase the time limit for giving a FPN;
- reviewing the work of the Resurfacing Working Group;
- considering the use of early starts and Indicators;
- providing guidance on composite works; and
- discussing the NJUG/HAUC Code of Conduct.

Potential Legislative Changes

The Policy Development Group provided guidance on potential legislative changes which was expanded into a database to capture possible amendments to improve the working of both primary and secondary legislation. This database can be utilised should there be an opportunity to introduce such legislation within a future transport related Bill.

Regulations

My staff and I worked with the Scottish Government and the road works community in the development of the following regulations that were successfully implemented during the reporting period:

- The Scottish Road Works Register (Prescribed Fees) Regulations 2011 (commenced on 28 February 2011). These regulations provide the mechanism to enable the collection of the appropriate fees to fund the operation of the Scottish Road Works Register; and
- The Road Works (Inspection Fees) (Scotland) Amendment Regulations 2011 (commenced on 1 April 2011). These regulations amended the fee that roads authorities charge utility companies when conducting inspections of utility company road works and revised the method used for the calculation of units of inspection.

Future Legislation

The other legislative work that my staff and I will continue to be involved in is the development of the Road Works (Qualifications for Supervisors and Operatives) (Scotland) Regulations and the Road Works (Maintenance) (Scotland) Regulations. Depending upon the outcomes of the Scottish Roads Maintenance Review, we may also provide input for regulations giving effect to provisions relating to long term damage to roads and charges for overstaying.

Scottish Roads Maintenance Review

The central recommendation of the Audit Scotland Report “Maintaining Scotland’s Roads” published February 2011, was *“The Scottish Government should consider a national review on how the road network is managed and maintained, with a view to stimulating service redesign and increasing the pace of examining the potential for shared services.”*

The review was announced in March 2011. As part of it I was tasked by the Minister for Transport to specifically consider the way in which utility works are currently completed, the possible long term damage which utility works might cause, and the use of existing legislation to ensure utility companies contribute to the costs of making good such long term damage.

The Review outcomes and our involvement will be reported in my next Annual Report.

Financial Overview

This financial overview covers the period 1st April 2010 to 31st March 2011 which is the third full year of operation. It shows in broad terms the costs associated with running my office and providing the Scottish Road Works Register.

The Commissioner's Office

Income

The Scottish Government agreed a budget of £282,000 for the year. The actual draw down of funds was £265,000

Expenditure

Actual expenditure for the period on the activities related to the running of the office, totalled **£259,000**. This was spent on:

- **Staffing costs** **£207,000**
- **Other operating costs** **£52,000**

A breakdown of operating costs is provided below:-

Analysis of Operating Costs – 2010-11	£
General Office Expenses	£16,000
Travel & Subsistence	£3,000
Legal Advice	£13,000
Other Professional Fees Including External Audit	£20,000
	£52,000

The Commissioner's full audited annual accounts will be published later in the year.

The Scottish Road Works Register

The majority of the funding for the SRWR comes from the fees and amounts collected annually from Scottish roads authorities and utility companies. The calculation in the Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2010 showed the total payments to be made to be £877,000. The actual amount collected was £867,000.

Income - the total income to Susiephone Ltd over the year was **£883,000** consisting of:

- **Fees and amounts used in year** **£860,000***
- **Income from other sources & Interest** **£23,000**

Expenditure - the expenditure over the period totalled **£883,000**. This was spent on:

- **SRWR Contract** **£555,000**
- **Other operating costs** **£139,000**
- **Development costs** **£28,000**
- **Deferred income for SRWR tender** **£46,000**
- **Implementation costs** **£97,000**
- **Vat due, corporation tax and depreciation** **£18,000**

There was small surplus for the year of just over £500.

* All of the fees and amounts due to be collected were not used within the year. The unused income from the fees and amounts has been retained by the Commissioner for use in funding the SRWR in future years.

A breakdown of other operating costs is provided below:

Analysis of Other Operating Costs – 2010-2011	£
General office expenses including staff costs	63,000
Training	26,000
Legal advice	33,000
Other professional fees	17,000
	139,000

Full audited accounts for SUSIEPHONE Ltd for 2010-11 have already been published.

The Year Ahead

An Annual Report should not only review the previous year, but should also look forward to the coming year. I have therefore developed a Business Plan for 2011-12, which can be found in Annex E. It contains a range of strategic aims and objectives which relate to my functions of monitoring and promoting both good practice and compliance with NRSWA.

From the objectives that are set out in the 2011-12 Business Plan, the following are those which I consider are most likely to make a noticeable difference in improving the performance of those undertaking road works:

- Continue to develop the Indicators and to provide Indicator reports to allow organisations to monitor their own performance and benchmark against similar organisations;
- Undertake a third Performance Review exercise to determine the level of performance of individual organisations;
- Continue to work with the Scottish road works community to seek strategies for improvement to the standard of road reinstatements;
- Where there is deemed to be systematic failure by an organisation to comply with its statutory duties, consider the imposition of a penalty;
- Where good practice is identified within particular organisations this shall be promoted to the rest of the road works community;
- Continue to work with RAUC(S) to review Codes of Practice and Advice Notes to identify where revisions might prove beneficial;
- Contribute to the Scottish Road Maintenance Review. In particular, consider long term damage to roads due to utility trenches and a charge where occupation of a road is unreasonably prolonged; and
- Continue to work with the Scottish Road Works Policy Development Group to identify where legislative revisions or new legislation might be required.

Next year will be my final year as Commissioner and I will therefore work closely with Scottish Ministers and Scottish Government officials to assist in any way with the process of recruiting the next Commissioner to ensure a smooth transition.

Annex A

Glossary of Terms Used in This Report

Term	Definition
2005 Act	Transport (Scotland) Act 2005.
the Commissioner	The Scottish Road Works Commissioner.
FPN	A Fixed Penalty Notice that offers the opportunity to discharge liability to conviction of the offence to which the notice relates by payment of a fixed penalty amount.
NRSWA	New Roads And Street Works Act 1991.
RAUC(S)	Roads Authorities and Utilities Committee (Scotland).
reinstatement	When a road is dug up, the reinstatement is the refilling of the hole or trench with suitable compacted material and the proper replacement of the running surface.
roads authority	An authority responsible for the management and maintenance of certain roads under the terms of the Roads (Scotland) Act 1984. See the list at Annex C.
road works authority	A “roads authority” undertaking its duties under NRSWA.
Scottish road works community	The roads authorities and utility companies operating in Scotland.
SRWR	Scottish Road Works Register.
traffic management	The signs, cones and barriers associated with road works.
traffic sensitive roads	A road designated by the road authority on which works would be likely to cause serious disruption. To be designated as such, the road requires to meet certain specific criteria.
undertaker	In NRSWA an undertaker is described as “..the person by whom the relevant statutory right is exercisable to ... execute road works...” . These are utility companies responsible for a utility such as electricity, gas, water or telecommunications and are licensed by an appropriate regulator.
utility companies	Utility companies are responsible for a utility such as electricity, gas, water or telecommunications and are licensed by an appropriate regulator. Also known as “undertakers”. See the list at Annex D.
works clear	When traffic management has been removed and a temporary reinstatement used.
works closed	When traffic management has been removed and a permanent reinstatement used.

Annex B

List of Scottish roads authorities

Aberdeen City Council
Aberdeenshire Council
Angus Council
Argyll and Bute Council
City of Edinburgh Council
Clackmannanshire Council
Comhairle nan Eilean Siar
Dumfries and Galloway Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Lothian Council
East Renfrewshire Council
Falkirk Council
Fife Council
Glasgow City Council
Highland Council

Inverclyde Council
Midlothian Council
Moray Council
North Ayrshire Council
North Lanarkshire Council
Orkney Islands Council
Perth and Kinross Council
Renfrewshire Council
Scottish Borders Council
Scottish Ministers (through
Transport Scotland)
Shetland Islands Council
South Ayrshire Council
South Lanarkshire Council
Stirling Council
West Dunbartonshire Council
West Lothian Council

Although they are not legally designated as roads authorities the Forth Estuary Transport Authority and the Tay Road Bridge Joint Board have obligations which mean that they effectively act as roads authorities.

Annex C

List of utility companies operating in Scotland during the report period

Babcock
BP
BT Openreach
Business Stream (a Scottish Water Company)
Cable & Wireless
Easynet
Energetics
ES Pipelines
Fulcrum
Gamma Telecom
Gas Transportation Company
GEO Telecom
Global Crossing
H2O*
Hutchison 3G
Independent Pipelines Limited
INEOS

National Grid
Network Rail
O2
Opal Telecom
Orange Mobile
Royal Mail
Scotland Gas Networks
Scottish & Southern Energy
Scottish Power
Scottish Water
Shell
Smallworld Media
T Mobile
United Utilities
Verizon
Virgin Media Group
Vodafone

* Towards the end of the reporting period, H2O went into administration. The business and substantially all of the assets of the Company were sold to CityFibre Networks Limited on a going concern basis.

Annex D

2010-11 Business Plan Outcomes

Strategic Aim 1 - To monitor the carrying out of works in roads in Scotland

	Specific Objective	Comment	Due by	Outcome
1.1	Continue to work with RAUC(S) to develop the suite of Indicators and statistics used by the Commissioner and the road works community	These must be able to identify trends over time and which encourage the road works community to strive to improve their performance.	Ongoing	Met. A new Indicator working group was set up in October 2010 to develop and improve the current suite of Indicators. It developed revisions to Indicators and agreed additional functionality to SRWR to allow greater filtering of reports and the presentation of reports by single quarter, four quarters and five quarters.
1.2	Interrogate the Indicators and statistics to determine those organisations performing well and those where performance could be improved.		Ongoing	Met. A Performance Reviews format was developed last year and reports for 2009-10 have again been issued to roads authorities & utility companies providing them with an indication of their performance.
1.3	Continue to work with the Scottish road works community to determine the reasons for the historically poor Coring results and to seek strategies for improvement.	The next Coring report is due to be published in May/June 2011.	Ongoing	Partially Met. Performance Reviews were issued last year to utility companies requiring the submission of action plans for improvement with regard to the reinstatement of roads. Action plans were submitted. Some utility companies have indicated that their internal results show improved performance. The coring report is due to be published shortly. I will review to what improvement has been achieved.
1.4	Ensure that the Scottish Road Works Register operates in line with the contractual requirements and continue to ensure that it develops to provide added benefits to the Commissioner and the road works community.	Monitoring will be undertaken in conjunction with Susiephone Ltd. We will also work closely with Scottish Road Works Register Management Group and the Systems Assurance Team.	Ongoing	Met. During the year new versions 3.2 and 3.3 were introduced. We sit on SRWR Management Group and we are represented on the Systems Assurance Team which undertakes the testing and implementation of new versions. We also attend regular contract meetings with Symology and board meeting of Symology.
1.5	Continue to work with Susiephone Ltd on the tendering process for the next SRWR Supplier contract.	The contract to be awarded by mid Jul 2010.	July 2010	Met. The contract was awarded in July to Symology Ltd following a rigorous tendering process.
1.6	Work with Susiephone Ltd to ensure that the new version of SRWR procured from 1.5 above is in place and operating by 31 March 2011.		31 March 2011	Met. An Implementation Group, of which we are part, has been set up to monitor progress of having the new version in place for 31 March. The new system was in place prior to 31 March.

Strategic Aim 2 – To promote compliance with the New Roads and Street Works Act 1991 and the obligations imposed under it.

	Specific Objective	Comment	Due by	Outcome
2.1	Publish the Commissioner annual report for 2009-10.		End July 2010	Met. Annual report published on 30 July 2010.
2.2	As required seek advice from our solicitors on issues related to the interpretation of legislation related to road works.		Ongoing	Met. Advice sought during period: <ul style="list-style-type: none"> • Advice in relation to VAT • Further guidance/advice on wording and approach to issuing Performance Reviews • Dispute resolution • Susiephone transfer of funds
2.3	Attend RAUC(S) and area RAUC meetings to identify emerging issues and influence the direction of future work.		Ongoing	Met. OSRWC continues to be represented at all Area and main RAUC(S) meetings.
2.4	Attend HAUC(UK) in rotation with RAUC(S) co-chairs and Scottish Government to ensure that a Scottish viewpoint is represented in discussions.		Ongoing	Met. Scotland has been represented at all meetings.
2.5	Continue to assist the Scottish Government in the development of secondary legislation and CoPs.	In particular to ensure that a new Prescribed Fees Regulation is in place in good time for 2011-12.	Ongoing	Met. We assisted with the following: <ul style="list-style-type: none"> • Prescribed Fees Regulations for 2011-12 • Inspection Fees Regulations • Co-ordination Code of Practice
2.6	Continue to work with the Road Works Policy Group to identify where legislative revisions or new legislation might be required.		Ongoing	Met. The Policy Development Group meets regularly and we provide the secretariat.
2.7	Continue to meet with the community at all levels and across all organisations to ensure that they fully understand the Commissioner role and the legislative framework.		Ongoing	Met. We meet with the members of the community by our attendance at various committees, working groups and events. Various performance meetings have also been held during the year with individual roads authorities and utility companies.
2.8	Undertake a second Performance Review exercise to determine whether or not individual organisations are showing any improvement in performance.		Mid Jan 2011	Met. Performance Reviews were issued to all roads authorities and the major utility companies before the end of December 2010. 5 smaller utility companies were issued with performance Reviews in Jan / Feb 2011. Overall performance has been improving although there are individual organisation where further improvement has been sought

2.9	Where objective 2.8 indicates systematic failure by an organisation to comply with its statutory duties, consider the imposition of a penalty.		End Jan 2011	I did not consider that the performance of any individual organisation based on the Indicators reported in the Performance Reviews (which do cover coring results) warranted the imposition of a penalty.
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Strategic Aim 3 – To promote the pursuit of good practice.

	Specific Objective	Comment	Due by	Outcome
3.1	Continue to work with RAUC(S) to review COPs and Advice Notes to identify where revisions might prove beneficial.		Ongoing	<p>Met. During the year I have acted as the chairman of the group reviewing the Co-ordination Code of Practice.</p> <p>We have also assisted in the development or review of various RAUC Advice Notes and have published Commissioner Advice Papers 3, 4 and 5.</p> <p>We were involved in working groups considering issues related to the inspections that are carried out on utility company road works, the resurfacing of roads following the reinstatement activity of utility companies, the processes surrounding the recording of underground apparatus and the guidance that sets out the National Coring Programme.</p>
3.2	Continue to improve the functionality of and information contained within the Commissioner website.	Part of this will include continuous monitoring of the website to ensure the currency and relevance of the information to the road works community and the public.	Ongoing	Met. We undertake reviews on a regular basis to ensure that the information is up to date.
3.3	Undertake a review of good practice at home and abroad and develop a strategy for dissemination to the road works community.	Will only be undertaken if the pressure of other work allows.	End Dec 2010	<p>Partially met</p> <p>At Home – being met. See 3.5 below.</p> <p>Abroad - Not Met. Due to more pressing work commitments.</p>
3.4	Continue to promote to appropriate 3 rd parties the benefits of gaining access to the Scottish Road Works Register.		End Dec 2010	Not Met. A meeting with bus operators was due to take place in Dec 2010 but was cancelled due to adverse weather. It did not prove possible to re-schedule this within the reporting year.
3.5	Where good practice is identified within particular organisations this shall be promoted to the rest of the road works community.		Ongoing	Met. We have started to produce Commissioner good practice guides. The first guide covers the use of an internal fixed penalty system within a roads authority. These are published on our website.

				I was part of the judging panel for the NJUG Awards 2010. The finalist entries are promoted on our website.
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Strategic Aim 4 – To undertake a dispute resolution function as required.

	Specific Objective	Comment	Due by	Outcome
4.1	Develop a written procedure for handling dispute resolution cases.		May 2010	Not fully met. The draft version is 90% complete. This will fall to be finalised during 2011-12.

Strategic Aim 5 – To ensure the effective operation of the Commissioner’s office

	Specific Objective	Comment	Due by	Outcome
5.1	Ensure that all banking and financial management procedures are adhered to.		Ongoing	Met. Procedures were followed and a successful Audit report was received for 2009-10.
5.2	Staff to be trained appropriately to ensure the effective operation of the office.		Ongoing	Met.
5.3	Continue to develop the Commissioner’s office manual where Scottish Government guidance does not meet the needs of the Commissioner’s office.		Ongoing	Met. Work continues on the following: <ul style="list-style-type: none"> Risk register updated and owners allocated. Draft BCP continues to be developed
5.4	Publish annual accounts of 2009-10.		End Oct 2010	Met. Published in November 2010.
5.5	Ensure that all statutory returns are made by the due date.		Ongoing	Met
5.6	Ensure that Freedom of Information and any other requests are dealt with within prescribed timescales.		Ongoing	Met.

Annex E

BUSINESS PLAN FOR 2011-12

Introduction

This plan describes the work required to ensure the Scottish Road Works Commissioner:

- performs the statutory duties placed on him by the Transport (Scotland) Act 2005.
- oversees improvements to the planning, co-ordination and quality of road works in Scotland.
- ensures value for money in delivering the above.

The Office of the Scottish Road Works Commissioner was established under the Transport (Scotland) Act 2005. John Gooday was appointed as the first Commissioner in July 2007 and this is the fourth formal Business Plan which he has produced.

Our Mission

Through our monitoring and promotional role, seek improvements to the planning, co-ordination and quality of works in roads in Scotland.

Our Purpose

The purpose of the Office of Commissioner is to monitor the carrying out of works in roads, to promote compliance with the New Roads and Street Works Act 1991 (“the 1991 Act”) and to promote the pursuit of good practice all with a view to engendering improvements to the planning, co-ordination and quality of road works in Scotland.

The Commissioner is seeking the following outcomes:

- **Shorter Works Periods** – works should be continuous and take no longer to complete than is absolutely necessary.
- **Improved Co-ordination of Works** – guidance on distance between works should be adhered to. Care should be taken to ensure that there are no works on sensitive parallel routes or diversion routes.
- **Improved Traffic Management** – compliance with codes and more consideration of practical issues on, for example, traffic signal timing, pedestrian movements and the robustness of barriers.
- **Improved Reinstatements** – require to be of improved quality and to have a longer life.

Our Stakeholders

A wide range of people have a stake in how works on roads are undertaken. These include:

- Utility companies
- Roads authorities
- The public who use roads and utility services
- Scottish Government and Ministers:
- Construction companies undertaking works
- Bus companies
- Emergency services
- Freight industry

Our Resources

Staff Resources

As well as the Commissioner himself, the Office of the Scottish Road Works Commissioner consists of the following post holders who undertake the following functions:

Performance Manager

1. Operation and performance of the Scottish Road Works Register (including the gazetteer) and the promotion of good practice.
2. Provision of performance indicators.
3. Freedom of Information publication scheme.
4. Complaint handling.
5. Maintenance of the public facing website.

Liaison Manager

1. Compliance with the New Roads and Street Works Act 1991 and the Transport (Scotland) Act 2005 and the promotion of good practice.
2. Keeping the regulations and Codes of Practice under review.
3. Issues of enforcement and dispute resolution.
4. Media handling.

Office Manager

1. Finance and accounts.
2. General public enquiries.
3. Management of the diary of the Commissioner.

Budget Resources

The budget allocation agreed with Scottish Government for 2011-12 is £276,000.

STRATEGIC AIMS AND SPECIFIC OBJECTIVES

Strategic Aim 1 - To monitor the carrying out of works in roads in Scotland

	Specific Objective	Comment	Due by
1.1	Continue to develop the Indicators and to provide Indicator reports to the road works community.	These must be able to identify trends and encourage the road works community to benchmark against similar organisations and to strive to improve their performance.	Ongoing
1.2	Monitor the performance of roads authorities and utility companies using the Indicators and other data.		Ongoing
1.3	Continue to work with the Scottish road works community to seek strategies for improvement to the standard of road reinstatements.	The next national Coring report is due to be published in July 2011.	Ongoing
1.4	Ensure that the Scottish Road Works Register operates in line with the contractual requirements and continue to ensure that it develops to provide added benefits to the Commissioner and the road works community.	Monitoring will be undertaken in conjunction with Susiephone Ltd who act under an Agreement with the Commissioner to provide the register. We will also work closely with the Scottish Road Works Register Management Group and the Systems Assurance Team.	Ongoing

Strategic Aim 2 – To promote compliance with the New Roads and Street Works Act 1991 and the obligations imposed under it.

	Specific Objective	Comment	Due by
2.1	Publish the Commissioner annual report for 2010-11.		End July 2011
2.2	Attend HAUC(UK), RAUC(S) and area RAUC meetings to identify emerging issues and influence the direction of future work.		Ongoing
2.3	Continue to advise the Scottish Government in the development of legislation.	In particular: <ul style="list-style-type: none"> • Prescribed Fees Regulations • Inspection Fees Regulations • Maintenance Regulations • Qualifications Regulations 	Ongoing

2.4	Continue to work with the Scottish Road Works Policy Development Group to identify where legislative revisions or new legislation might be required.		Ongoing
2.5	Undertake a third Performance Review exercise to determine the level of performance of individual roads authorities and utility companies.		Mid Jan 2012
2.6	Where there is deemed to be systematic failure by an organisation to comply with its statutory duties, consider the imposition of a Commissioner penalty.		Ongoing

Strategic Aim 3 – To promote the pursuit of good practice.

	Specific Objective	Comment	Due by
3.1	Continue to work with RAUC(S) to review Codes of Practice and Advice Notes to identify where revisions might prove beneficial.		Ongoing
3.2	Continue to monitor the information contained within the Commissioner website to ensure that it is up to date and relevant.		Ongoing
3.3	Continue to promote to appropriate 3 rd parties the benefits of gaining access to the Scottish Road Works Register.		Ongoing
3.4	Where good practice is identified this shall be promoted the rest of the road works community.		Ongoing
3.5	Contribute to the Scottish Road Maintenance Review. In particular consider: <ul style="list-style-type: none"> • Long term damage to roads due to utility trenches • A charge for occupation of road where unreasonably prolonged. 	The Commissioner is a member of the Steering Group and the Liaison Manager is a member of the Resurfacing Working Group.	End Oct 2011

Strategic Aim 4 – To undertake a dispute resolution function as required.

	Specific Objective	Comment	Due by
4.1	Complete and publish the procedure for handling dispute resolution cases.		Sept 2011

Strategic Aim 5 – To ensure the effective operation of the Commissioner’s office

	Specific Objective	Comment	Due by
5.1	Ensure that all banking and financial management procedures are adhered to.		Ongoing
5.2	Staff to be trained appropriately to ensure the effective operation of the office.		Ongoing
5.3	Continue to develop the Commissioner’s office manual where Scottish Government guidance does not meet the needs of the Commissioner’s office.		Ongoing
5.4	Publish annual accounts of 2010-11.		End Sept 2011
5.5	Ensure that all statutory returns are made by the due dates.		Ongoing
5.6	Ensure that Freedom of Information and any other requests are dealt with within prescribed timescales.		Ongoing
5.7	Work closely with the Scottish Government to ensure the appointment of the next Commissioner and a smooth transition.		Ongoing

Annex F

List of Indicators and their definitions

Name	Description	Definition
Report 1	Utility Company Noticing Offences & Actual Fixed Penalty Notices Given	The total number of potential noticing offences for each utility company triggered during each quarter compared to the number of FPNs given by roads authorities during this period. The number of withdrawn FPNs during the period is subtracted to give the actual FPN total.
Report 2a	Roads Authority Noticing Failures	The total number of noticing failures by roads authorities. This is broadly similar to the potential noticing offences triggered for utility companies.
Report 2b	Potential Noticing Offences by Offence Type by Utility Company	The same data as in Report 1 but categorised by offence type S113(5), S114(5), S116(4), S129(6) of NRSWA.
Report 2c	Categorised Potential Noticing Offences	The same data as in Report 1 but categorised by potential offence type in each roads authority, and broken down by utility company.
Report 3	Fixed Penalty Notices (FPNs) Issued for Roads (Scotland) Act Offences	The total number of FPNs issued by roads authorities for R(S)A offences related to the placing of skips, scaffolding and materials on roads.
Report 4a	Emergency, Urgent or Remedial Dangerous Works	The total number of emergency, urgent or remedial dangerous works undertaken by roads authorities and utility companies as a subset of the total works. This is a subset of the total works as described in Report 9a.
Report 4b	Minor, Standard, Major Works	The total number of minor, standard and major works, undertaken as a subset of the total works as described in Report 9a.
Report 5	Roads Authority updating of street gazetteers	This records the roads authorities' performance in submitting revised gazetteers and associated data.
Report 6	Works phases Overrun	The number of works closed/clear notices that have been entered for the each quarter where the completion date entered is later than the end date given on the last promoter notice. This represents the number of works phases that have overrun without the promoter issuing notice of this until the submission of the works clear/closed notice. This includes Major, Standard & Minor (MSM) works only.
Report 7	Retrospective Notices	The number of notices issued retrospectively by utility companies. This is a report which the community wished to retain but which the Commissioner does not currently propose to use as an indicator of performance.
Report 8	Defect Notices issued to Utility Companies.	This information is currently recorded by roads authority area basis. The Commissioner proposes to develop a new report which aggregates the number of defect notices for each utility company nationally to allow comparisons to be made.
Report 9a	Works Commenced	The number of works by works type for which an Actual Start notice has been entered, except for urgent, emergency and remedial dangerous whereby the 'two hours after' notice is used.
Report 9b	Works Finished	The number of works by works type for which a Works Closed notice has been entered.
Report 10	Percentage of Works Early and	This shows the number of early and late starts that have been entered.

Name	Description	Definition
	Late Start Requests	
Report 11	Time Taken to Tackle Utility Company Defects	A report to measure this has still to be developed.
Report 12	Works extension notices issued	This report shows the total number of work extension notices entered.
Report 13 (Now report 17E)	Undue delay in works (Section 125)	This shows the number of Section 125 notices (under the New Roads and Street Works Act 1991) given by roads authorities to utility companies for not completing the works with all such dispatch as is reasonably practicable.
Report 14	Interim Reinstatements	This shows the number of works where interim reinstatements were used. An interim reinstatement is where a temporary surface is laid and which requires to be made permanent within six months.
Report 15	Average Time to Complete Works	This shows the average number of working days to complete works by works type.
Report 16	Works Phases Awaiting Closure or Registration	Awaiting closure counts if the works has started and the date by which a works clear/closed notice must be supplied has passed. Awaiting registration counts if the works clear or closed notice has been entered into the system but the registration notice has not been sent within the required period.
Report 17	Standard Notice Activity	This records each of the activities that make up the lifecycle of a road works notice. This will allow the Commissioner to trend year on year the level of activity within the Register.
Report 18	Interim Reinstatements Due by Utility Company	The number of works which have an interim reinstatement site that is due to be made permanent (represented by the works appearing on the 'reinstatements due' enquiry). A permanent reinstatement is overdue if a site is not made permanent within 6 months of the interim reinstatement.
Report 19	Substandard Traffic Management from Inspection Results	This includes roads authority inspection results that have the defect messages as follows: higher risk SLG inadequacy (2 hrs), lower risk SLG inadequacy (4 hrs) and rectified by the roads authority.
Report 20	Fixed Penalty Notices Accepted, Declined & Upheld	This report uses the works event history to show the numbers of FPNs accepted, declined and declined and upheld.
Report 21	Area RAUC(S) attendance	This is a register of attendance at Area and national RAUC(S) meetings and does not require to be produced from the Register.
Report 22	Total number of 'excavation' works	The number of works by works type for which an Actual Start notice has been entered, except for urgent, emergency and remedial dangerous whereby the 'two hours after' notice is used. This report does not include works for which no excavation has been carried out and differs from Report 9a in this respect. NOT INCLUDED IN REPORT APPENDIX
Report 23 – New Report issued in Q4 09	Notices Issued	This report gives an overview of certain notice activity in the SRWR. The results are broken down by promoter. This includes: three months, one day, seven day, three day, 24 hour, two hours before works start, two hours after works start, works clear and works closed. NOT INCLUDED IN REPORT APPENDIX

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