

PENALTIES PRESS RELEASE

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THREE UTILITY COMPANIES PENALISED FOR FAILURE TO COMPLY WITH SCOTTISH ROAD WORKS LEGISLATION

The Scottish Road Works Commissioner has issued penalties totalling £18,000 to three utility companies for systematic failure to comply with their statutory obligations when placing cables and pipes in roads.

These systematic failings were identified by the annual performance monitoring undertaken by the Scottish Road Works Commissioner. The annual performance monitoring measures all organisations undertaking road works in Scotland against a set of performance indicators.

In November 2019, the Commissioner wrote to four utility companies advising that he was considering penalising them due to their poor performance. He gave companies the opportunity to submit representations detailing any mitigating factors.

Having considered their responses, the Commissioner has issued penalties against three of the four companies. The values of the penalties are:

- **Fulcrum** **£6,000**
- **GTC** **£6,000**
- **Energetics** **£6,000**

The Commissioner has powers to issue penalties where a utility company has failed to comply with duties to co-operate with roads authorities, up to a maximum of £50,000. The value of the above penalties take into account the areas of failure, the volume of work undertaken in Scotland and levels of engagement of each organisation. Previous performance, including penalties for similar failures and the mitigation measures taken by each company, were also taken into account in determining the level of penalties applied. Particularly where recent data was able to show improvement.

The companies penalised have failed in their duties under section 119 of the New Roads and Street Works Act 1991. They have also failed to comply with a number of codes of practice and specifications.

Angus Carmichael, Scottish Road Works Commissioner said:

“Organisations with statutory powers to lay apparatus in Scotland’s roads must comply with legislation. As undertakers, these companies have statutory rights which allow them to place, inspect and maintain their apparatus in roads. However, these statutory rights come with obligations set out in the New Roads and Street Works Act 1991. Compliance with these duties is essential to protect the road network across Scotland.

The functions of the Scottish Road Works Commissioner are to monitor the carrying out of road works in Scotland, promote compliance with the New Roads and Street Works Act 1991 and to promote the pursuit of good practice. The organisations penalised have been warned that their performance is not acceptable on a number of occasions over the last 3 years and the most recent set of unsatisfactory figures have left me no option but to issue a financial penalty.

Organisations working in Scotland must comply with the relevant legislation, failure to do so is unacceptable and has a far reaching effect across Scotland, contributing to disruption and delay as well as damage to the fabric of Scotland's roads.

All organisations penalised have provided assurances that processes are being modified to demonstrate early improvement. My office will continue to scrutinise their performance closely."

Ends

NOTES FOR NEWS EDITORS

Angus Carmichael took up the post of Scottish Road Works Commissioner in September 2015 and has over 40 years experience in this sector.

The post of Commissioner was established under the Transport (Scotland) Act 2005 to improve the planning, co-ordination and quality of road works throughout Scotland. The Commissioner monitors performance and promotes good practice across both utility companies and roads authorities (Councils for local roads and Transport Scotland for the trunk road network).

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