



**LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

**AGENDA – REVISED**

**8th Meeting, 2007 (Session 2)**

**Tuesday 27 March 2007**

The Committee will meet at 2 pm in Committee Room 6.

1. **Petitions PE875, PE896, PE961:** The Committee will consider a letter from the Deputy Minister for Finance and Public Service Reform on the issue of common good.
2. **Petition PE855:** The Committee will consider a paper by the Clerk on Petition PE855 on the issue of the maintenance of local authority roads, pavements and footpaths.
3. **Subordinate legislation:** The Committee will consider the following negative instruments—
  - the Local Government (Allowances and Expenses) (Scotland) Regulations 2007, (SSI 2007/108);
  - the Valuation Appeal Committee (Electronic Communications) (Scotland) Order 2007, (SSI 2007/124);
  - the Licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007, (SSI 2007/128);
  - the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007, (SSI 2007/162);
  - the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007, (SSI 2007/170);
  - the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, (SSI 2007/183);
  - the Gambling Act 2005 (Premises and Provisional Statements) (Scotland) Regulations 2007, (SSI 2007/196);
  - the Gambling (Premises Licence Fees) (Scotland) Regulations 2007, (SSI 2007/197);

the Firefighters' Compensation Scheme (Scotland) Amendment Order 2007, (SSI 2007/198);

the Firefighters' Pension Scheme (Scotland) Order 2007, (SSI 2007/199);

the Firefighters' Pension Scheme Amendment (Scotland) Order 2007, (SSI 2007/200);

the Police Pensions (Scotland) Regulations 2007, (SSI 2007/201);

the Valuation Appeals Panels and Committees (Scotland) Amendment Regulations 2007, (SSI 2007/212);

the Council Tax (Discounts) (Scotland) Amendment Regulations 2007, (SSI 2007/213);

the Council Tax (Discounts) (Scotland) Amendment Order 2007 (SSI 2007/214);

the Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2007, (SSI 2007/215); and

the Non-Domestic Rates (Levying) (Scotland) Regulations 2007, (SSI 2007/216).

*Not before 3.30 pm:*

**4. Subordinate legislation:** Fergus Ewing to move S2M-5784—

Fergus Ewing: The Business Improvement Districts (Scotland) Regulations 2007— That the Local Government and Transport Committee recommends that nothing further be done under the Business Improvement Districts (Scotland) Regulations 2007 (SSI 2007/202).

Martin Verity  
Clerk to the Committee  
T3.40, Scottish Parliament, Edinburgh, EH99 1SP  
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## Agenda Item 1

Letter from the Deputy Minister for Finance and Public Service Reform [LGT/S2/07/8/1](#)

## Agenda Item 2

Paper from the Clerk [LGT/S2/07/8/2](#)

## Agenda Item 3

Covering note on the Local Government (Allowances and Expenses) (Scotland) Regulations 2007, (SSI 2007/108) [LGT/S2/07/8/3](#)

[The Local Government \(Allowances and Expenses\) \(Scotland\) Regulations 2007, \(SSI 2007/108\)](#) [LGT/S2/07/8/4](#)

Covering note on the Valuation Appeal Committee (Electronic Communications) (Scotland) Order 2007, (SSI 2007/124) [LGT/S2/07/8/5](#)

The Valuation Appeal Committee (Electronic Communications) (Scotland) Order 2007, (SSI 2007/124) [LGT/S2/07/8/6](#)

Covering note on the Licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007, (SSI 2007/128) [LGT/S2/07/8/7](#)

[The Licensing \(Appointed Day and Transitional Provisions\) \(Scotland\) Order 2007, \(SSI 2007/128\)](#) [LGT/S2/07/8/8](#)

Covering note on the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007, (SSI 2007/162) [LGT/S2/07/8/9](#)

[The Disabled Persons \(Badges for Motor Vehicles\) \(Scotland\) Amendment Regulations 2007, \(SSI 2007/162\)](#) [LGT/S2/07/8/10](#)

Covering note on the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007, (SSI 2007/170) [LGT/S2/07/8/11](#)

[The Representation of the People \(Absent Voting at Local Government Elections\) \(Scotland\) Regulations 2007, \(SSI 2007/170\)](#) [LGT/S2/07/8/12](#)

Covering note on the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, (SSI 2007/183) [LGT/S2/07/8/13](#)

Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, (SSI 2007/183) [LGT/S2/07/8/14](#)

Covering note on the Gambling Act 2005 (Premises and Provisional Statements) (Scotland) Regulations 2007, (SSI 2007/196) [LGT/S2/07/8/15](#)

The Gambling Act 2005 (Premises and Provisional Statements) [LGT/S2/07/8/16](#)

(Scotland) Regulations 2007, (SSI 2007/196)	
Covering note on the Gambling (Premises Licence Fees) (Scotland) Regulations 2007, (SSI 2007/197)	<a href="#">LGT/S2/07/8/17</a>
The Gambling (Premises Licence Fees) (Scotland) Regulations 2007, (SSI 2007/197)	LGT/S2/07/8/18
Covering note on the Firefighters' Compensation Scheme (Scotland) Amendment Order 2007, (SSI 2007/198)	<a href="#">LGT/S2/07/8/19</a>
The Firefighters' Compensation Scheme (Scotland) Amendment Order 2007, (SSI 2007/198)	LGT/S2/07/8/20
Covering note on the Firefighters' Pension Scheme (Scotland) Order 2007, (SSI 2007/199)	<a href="#">LGT/S2/07/8/21</a>
The Firefighters' Pension Scheme (Scotland) Order 2007, (SSI 2007/199)	LGT/S2/07/8/22
Covering note on the Firefighters' Pension Scheme Amendment (Scotland) Order 2007, (SSI 2007/200)	<a href="#">LGT/S2/07/8/23</a>
The Firefighters' Pension Scheme Amendment (Scotland) Order 2007, (SSI 2007/200)	LGT/S2/07/8/24
Covering note on the Police Pensions (Scotland) Regulations 2007, (SSI 2007/201)	<a href="#">LGT/S2/07/8/25</a>
The Police Pensions (Scotland) Regulations 2007, (SSI 2007/201)	LGT/S2/07/8/26
Covering note on the Valuation Appeals Panels and Committees (Scotland) Amendment Regulations 2007, (SSI 2007/212)	<a href="#">LGT/S2/07/8/29</a>
The Valuation Appeals Panels and Committees (Scotland) Amendment Regulations 2007, (SSI 2007/212)	LGT/S2/07/8/30
Covering note on the Council Tax (Discounts) (Scotland) Amendment Regulations 2007, (SSI 2007/213)	<a href="#">LGT/S2/07/8/31</a>
The Council Tax (Discounts) (Scotland) Amendment Regulations 2007, (SSI 2007/213)	LGT/S2/07/8/32
Covering note on the Council Tax (Discounts) (Scotland) Amendment Order 2007 (SSI 2007/214)	<a href="#">LGT/S2/07/8/33</a>
The Council Tax (Discounts) (Scotland) Amendment Order 2007 (SSI 2007/214)	LGT/S2/07/8/34
Covering note on the Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2007, (SSI 2007/215)	<a href="#">LGT/S2/07/8/35</a>
The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2007, (SSI 2007/215)	LGT/S2/07/8/36

Covering note on the Non-Domestic Rates (Levying) (Scotland) Regulations 2007, (SSI 2007/216) [LGT/S2/07/8/37](#)

The Non-Domestic Rates (Levying) (Scotland) Regulations 2007, (SSI 2007/216) LGT/S2/07/8/38

Agenda Item 4

Covering note on the Business Improvement Districts (Scotland) Regulations 2007, (SSI 2007/202) [LGT/S2/07/8/27](#)

The Business Improvement Districts (Scotland) Regulations 2007, (SSI 2007/202) LGT/S2/07/8/28



## **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

### **Petitions PE875, PE896 and PE961**

#### **Common Good Assets and Funds**

#### **Response from the Deputy Minister**

1. The Committee, at its meeting of 13 February 2007 considered a paper by the Clerk on the common good petitions and agreed to write to the Deputy Minister for Finance and Public Service Reform summarising the Committee's views. Members of the Committee were of the view that the question of whether new legislation was required should be considered in the light of the Deputy Minister's response.
2. A copy of the Deputy Minister's response is attached as Annexe A. A letter from the Scottish Executive to all local authorities is attached as Annexe B. Annexe C is a copy of the letter of 20 February from the Convener to the Deputy Minister, summarising the Committee's view, which is attached for information.
3. The Deputy Minister, in his response, informs the Committee that the letter to local authorities reminds them of their responsibilities to hold records of all common good assets and to make this information available to the public if asked.
4. He addresses the points made by the Committee in the following areas: the recording of common good assets and funds; the valuation of assets; whether there should be additional guidance to local authorities; and the promotion of common good assets and funds to allow communities to have influence over their use.

#### **Recommendations**

5. **It is recommended that the Committee:**
  - **considers whether there should be new legislation in the area of common good, and**
  - **concludes consideration of the petition.**

**Martin Verity  
Clerk to the Committee**



## **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

### **Petition PE855**

#### **Maintenance of Local Authority Roads, Pavements and Footpaths**

#### **Introduction**

1. Petition PE855 by Leslie Morrison on behalf of Kirkside Area Residents calls for the Scottish Parliament to urge the Scottish Executive to review the performance of all local authorities in Scotland in respect of maintaining and repairing roads, pavements and footpaths.
2. The Committee considered this petition for the first time at its meeting on 23 January 2007. A copy of the petition was circulated for this meeting, along with relevant extracts from the Official Reports of the Public Petitions Committee which considered the petition on 22 June 2005, 22 March 2006 and 15 November 2006.<sup>1</sup>

#### **Correspondence**

3. The Public Petitions Committee, as part of its work on the petition, wrote to the Scottish Executive, the Society of Chief Officers of Transport in Scotland (SCOTS) and COSLA. The responses received by the Public Petitions Committee are reproduced as Annexes A to C.

#### **Action by the Local Government and Transport Committee**

4. The Local Government and Transport Committee has had a long-standing interest in the issue of the maintenance of non-trunk roads. For example:
  - The Committee took evidence on this subject from SCOTS as part of the budget process in March 2004.<sup>2</sup>
  - The Committee held an evidence session on the Audit Scotland report 'Maintaining Scotland's Roads' on 11 January 2005. The Committee took evidence from both SCOTS and Audit Scotland.<sup>3</sup>

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<sup>1</sup> <http://www.scottish.parliament.uk/business/petitions/pdfs/PE855.pdf>

<sup>2</sup> Link to Official Report of meeting:

<http://www.scottish.parliament.uk/business/committees/lg/or-05/lg05-0802.htm>

<sup>3</sup> Link to Official Report of meeting:

[http://www.scottish.parliament.uk/business/committees/lg/or-05/lg05\\_0102.htm#Col1755](http://www.scottish.parliament.uk/business/committees/lg/or-05/lg05_0102.htm#Col1755)

- The Local Government and Transport Committee considered the Transport (Scotland) Bill 2004 as it progressed through Parliament.
- In January 2005, SCOTS agreed to carry out an annual audit of road maintenance based on, and continuing from, the initial study carried out by Audit Scotland. The latest information 'Maintaining Scotland's Roads March 2006' was published in November 2006 and is available online<sup>4</sup>.

*Action on the petition*

5. The Local Government and Transport Committee agreed to take oral evidence from SCOTS on Petition PE855, and this evidence session took place on 6 March 2007.<sup>5</sup>

**Recommendation**

6. The petition asks that the Scottish Parliament urges the Scottish Executive to review the performance of all local authorities in Scotland in respect of maintaining and repairing roads, pavements and footpaths.
7. The Committee is invited to consider whether to write to the petitioner drawing to his attention the previous work carried out by the Committee, the latest written information which is now available from SCOTS, and the Official Report of the evidence session with SCOTS, and then conclude the petition.

**Alastair Macfie  
Senior Assistant Clerk  
March 2007**

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<sup>4</sup>[http://scots.sharepoint.apptix.net/General%20Publications/RoadMaintReportNov06%20\(2\).pdf](http://scots.sharepoint.apptix.net/General%20Publications/RoadMaintReportNov06%20(2).pdf)

<sup>5</sup> Link to Official report of the meeting:

<http://www.scottish.parliament.uk/business/committees/lg/or-07/lg07-0701.htm>

**ANNEXE A**

**Enterprise, Transport & Lifelong Learning Department**  
**E W Frizzell CB**, Head of Department

Meridian Court  
5 Cadogan Street  
Glasgow G2 6AT

Richard Hough  
Assistant Clerk to the Public Petitions Committee  
The Scottish Parliament  
Room 5.16  
Parliamentary Headquarters  
EDINBURGH  
EH99 1SP

Your ref:

Our ref:

September 2005

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Dear Richard

Thank you for your letter of 6 July 2005 seeking comments on the issues raised in this petition by Leslie Morrison, on behalf of Kirkside Area Residents, calling on the Scottish Parliament to urge the Scottish Executive to review the performance of all local authorities in Scotland in respect of maintaining and repairing roads, pavements and footpaths.

Scottish Ministers are fully aware of the backlog of repairs and maintenance on the local road network and have already taken positive steps to support local authorities' investment needs through the general local government finance settlement which has been fixed until 2008. Overall Highland Council is benefiting from substantial increases in revenue support of 5.5% (£19.6m), 4.1% (£15.4m) and 2.8% (£10.7m) over the three year period 2005/08. It is important to emphasise, however, that it is for Highland Council to determine its priorities in carrying out its statutory responsibilities and how it makes effective use of this additional funding. Scottish Ministers are not involved in determining the repair and maintenance priorities of local authorities.

More generally, the recent Scottish Spending Review announcement included the provision of an additional £60m per year in Grant Aided Expenditure for roads and bridges work across Scotland from 2006-07 and 2007-08. It should be noted this met the COSLA spending bid in full. In addition, £35m in capital funding will be available to the new Regional Transport Partnerships which will be established in 2006-07 under the provisions of the Transport (Scotland) Act 2005. We are considering how Regional Transport Partnerships may be able to support investment programmes of local and regional importance for both public transport and the roads network.

While Scottish Ministers have been active in providing additional support to local authorities it is important that we do not lose sight of the clear legal separation of responsibility between trunk roads which are the responsibility of the Scottish Executive, and local roads which are the responsibility of local authorities.

Scottish Ministers provide councils with revenue and capital allocations for expenditure on a number of services, including roads and transport, but that is the extent of the Executive's control. As local roads authorities, councils are independent corporate bodies and have a statutory duty under Section 1 of the Roads (Scotland) Act 1984 to manage and maintain local roads and for taking forward new local road developments.

In relation to the monitoring of local government performance, the position is that the Accounts Commission has a statutory responsibility to issue an annual direction to local authorities which sets out the range of performance information they are required to publish. Statutory Performance Indicators are used by Audit Scotland (on behalf of the Accounts Commission) to assess performance. As part of this, auditors look at the proportion of the road network that should be considered for maintenance treatment, defined as roads which are either in need of repair or require further investigation. The latest annual report on Environmental and Regulatory Services, which covers the proportion of the road network that should be considered for maintenance treatment, was published in February 2005.

Local Authorities, through the Society of Chief Officers of Transport in Scotland (SCOTS), are taking forward a rolling survey of the local road network. This work was precipitated by the Accounts Commission's decision to impose Best Value Performance Indicators (BVPIs) for local roads. The Executive fully supports the work being carried out by SCOTS and local authorities and an Executive official sits on the survey Steering Group.

The first year's work was directly supported by the Executive which carried this out through the Executive's survey contract for the trunk network during 2003/04. The survey will operate on a 4 year rolling cycle. All A-class roads will be surveyed annually, while a proportion of B (up to 50%), C and unclassified roads (up to 25%) will be surveyed each year, with the aim of achieving full coverage over 4 years. Over time, the survey results will provide a complete picture of the condition of all Scotland's roads.

Across Scotland, auditors compared the performance of Scottish councils over 2003-04 and found that around 45% of the road network is either in need of repair or requiring further investigation. The proportion varied widely from 23% to 62%. Ministers are fully aware of the results of Accounts Commission Statutory Performance Indicator reports and have already addressed the level of maintenance by making an additional £60m funding available to local authorities to help them in taking forward essential work.

The Transport (Scotland) Act 2005 contains several provisions relating to the way utility companies and roads authorities carry out road works. These enhance earlier provisions in the Roads (Scotland) Act 1984 and the New Roads and Street Works Act 1991 and include improved powers to co-ordinate road works, an increase in penalties

for poor workmanship and the appointment of a Scottish Road Works Commissioner to oversee the road works industry and encourage good practice.

A considerable amount of work remains to be done following the enactment of the Transport (Scotland) Act 2005 before these measures will come into effect. To ensure that this is taken forward as quickly as possible a steering group and five working groups have been set up by the Scottish Executive to advise and inform the formulation of secondary legislation and codes of practice. The steering group comprises Executive officials, the Co-chairs of the Roads Authorities and Utilities Committee (Scotland) (RAUC(S)), the Chairman of the Scottish Road Works Register (SRWR), the National Joint Utilities Group (NJUG) and SCOTS. The working groups are made up of representatives from both the roads authorities and the utility companies, with specialist advice being sought as and when required.

I hope that this information is helpful in responding to the issues raised by the Committee's deliberation of this matter.

Yours sincerely

**JACKIE McCAIG**

**ANNEXE B**

**Letter from SCOTS**

1 September 2005

Our Ref: AR/PA/SCOTS/1 00/69587

Assistant Clerk to the Public Petitions Committee  
TG.01  
Parliamentary Headquarters  
Edinburgh  
EH99 1SP

For attention of: Richard Hough

Dear Mr Hough

**Scottish Parliament Public Petitions Committee – Consideration PE855  
Kirkside Area Residents – Performance of local authorities in respect of  
maintaining and repairing pavements and roads**

I refer to your correspondence dated 6 July 2005, and am please to respond on behalf of SCOTS to your request for comments on the issues raised in the petition identified above. These comments will not relate to the specific complaint raised by the petitioner against the Highland Council but will give the professional view of how budgets are allocated and managed by local roads authorities.

All roads authorities (i.e. local authorities and the Scottish Executive) have a duty placed on them under the Road (Scotland) Act 1984 to maintain public roads. The level of maintenance provided by each authority is discretionary. Each Council will set its budget for road maintenance based on the funds provided and relevant needs of the service in relation to all other local public services being provided.

To assist in identifying road maintenance needs, local roads officers will have conducted appropriate surveys of their road network, and will recommend priority works for attention in any financial year. Local safety surveys are carried out at prescribed intervals to identify the condition and maintenance requirements of roads and footways. In addition, the overall condition of the road network is now independently surveyed by the SCOTS Scottish Road Maintenance Condition Survey (SRMCS) project. This project identifies through electronic survey methods the areas of the road network that should be investigated for consideration of further treatment.

Guidance is available to roads officers to develop standards of maintenance treatment, and can be developed further to bring forward local maintenance

regimes, having due regard to maintenance treatments, safety implications, public expectations and available budgets.

The performance of local authorities in maintaining their roads is therefore possible through the performance information submitted annually to Audit Scotland. The SRMCS project provides one indicator identifying the length of road which requires further maintenance consideration. Other factors returned indicate the lengths of carriageway which are actually treated.

In 2004, Audit Scotland conducted a value for money study of road maintenance carried out by local authorities. Their published report "Maintaining Scotland's Roads" goes a significant way to provide information suggested by the Petitioner. The study lists information against each local authority on expenditure trends, breakdowns, processes and future requirements. SCOTS supports the results of this study and continues to work with Audit Scotland to improve the information and practices relating to the maintenance condition of Scotland's roads.

I trust you find this response answers the technical aspects raised in the petition. If you wish further clarification, please contact the undersigned.

Yours sincerely

**Sandy Ritchie**  
**SCOTS Chairman**

**ANNEXE C**

**Letter from COSLA**

Dr James Johnston  
Clerk  
Public Petitions Committee  
TG.01 Parliamentary Headquarters  
Edinburgh  
EH99 1SP

18 August 2006

Dear Dr Johnston,

**Consideration of Petition PE855**

Thank you for offering COSLA the opportunity to comment on this petition, which calls for a review of the performance of local authorities in Scotland in respect of maintaining and repairing roads, pavements and footpaths.

There are many reasons why repairs and maintenance of roads, pavement and footpaths are required, and the cause of any defect will affect the type of repair required. As well as traffic quantity, unpredictable factors such as a particularly harsh winter or excessive wet weather may also increase the number of repairs that are required. Local authorities will encounter defects in a number of locations, and repairs to these must be prioritised according to the nature and location of the defect. As with any prioritisation, some defects will therefore take longer to be remedied than others. While this is perhaps unfortunate, as councils do not have sufficient funds to meet all the demands placed on them it is a necessary fact of life.

The Committee may wish to note that a not insignificant cause of defects is poor quality utility reinstatements. These occur where a utility company carries out work, but does not then repair the road or footpath to the required standards. As the law currently stands, a council must prove that a reinstatement does not meet required standards, rather than the utility company being required to prove that it has met its obligations. As a result of this, it can be particularly difficult for councils to force utility companies to rectify their errors, and there is little incentive on them to carry out work to the required standards. For your information, we include data on the performance of the various utility companies in a coring exercise carried out across Scotland. COSLA is currently considering ways in which we can work to improve the quality of reinstatements carried out by utility companies, and we would welcome the Committee's support for this exercise.

We believe that a review of councils' performance on this issue is undesirable, as any national review would inevitably lead to comparisons

across councils which would not necessarily reflect the different challenges faced on this issue by different councils. In addition, councils' performance is already monitored through a variety of audit channels, and we would not welcome any addition to this burden.

Finally, we understand that the Society of Chief Officers of Transportation in Scotland (SCOTS) has also provided a response, and we fully support their comments on this matter.

Yours sincerely,

Hannah Reeve  
Policy Officer

## **Appendix to letter from COSLA**

### **NATIONAL CORING REPORT 2005-06**

*Amended following RAUC(S) 6 December 2006*

#### **1 INTRODUCTION**

The purpose of this report is to present the findings of the National Coring Programme for 2005-06.

#### **2 PROGRAMME IMPLEMENTATION**

2.1 The National Coring Programme was developed and implemented at Area level (excluding the islands) and built on the lessons learned in the four previous programmes. A timetable for the exercise was set by RAUC(S) across the four Areas. The programme was delivered more quickly than previous programmes in some areas, however as with previous programmes, there exists further room for improvement in the delivery of the results.

2.2 The methodology and specification for the coring programme is detailed in Advice Note 3, 5<sup>th</sup> Edition, approved by RAUC(S), which formed the basis for the four Area programmes. A Lead Roads Authority was identified and a UKAS approved testing consultant appointed in each Area to deliver the Area programmes. It was agreed that the reasonable costs of the Lead Authority could be recovered from the local Roads Authorities on a pro-rata basis from the coring results. It should be noted that the costs of failed cores are borne by the appropriate Undertaker.

#### **3 RESULTS**

3.1 The results of the 2005-06 coring programme are detailed by Undertaker and by Roads Authority in Appendices A and B to this report.<sup>6</sup>

3.2 The details of the Local and Area results are discussed in greater detail at Local and Area level; this report focuses on the overall National results.

3.3 The summary results shown in Appendices A and B are compared with the results from previous coring programmes in the table below:

Year	2001/2002	2003/2004	2005/2006
Number of Cores	1,909	1,861	1,340
Pass	44%	59%	60%
Fail Monitor	15%	9%	12.5%
Fail Replace	41%	32%	27.6%

3.4 The findings of the 2005-06 coring programme have shown a slight improvement compared to previous years:

- a. The proportion of core samples meeting the specification has increased by about one percentage point over the 2003-04 programme.
- b. The proportion of core samples that failed and require monitoring has increased by just over 3 percentage points.
- c. The proportion of core samples requiring to be replaced has reduced by around 4½ percentage points, from 32% in the 2003-04 programme to 27.6%.

3.5 As in previous years, the failure to achieve required bituminous layer thickness is the most common reason for non-compliance with the specification.

3.6 There are some issues with cores taken from Scottish Water reinstatements in City of Edinburgh and in Falkirk. These issues do not materially affect the overall results of the coring programme, but do require to be resolved as soon as possible. East Dunbartonshire, among others, were unable to fully take part in the coring programme due to internal restructuring.

3.7 The overall results are shown in Figures 1 - 3 below:

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<sup>6</sup> Available on request from the Clerks

**Figure 1 Overall Results 2005 -6 Coring Programme**

<b>Overall Results 2005 -6 Coring Programme</b>	<b>%</b>
Pass	59.9
Fail – Monitor	12.5
Fail- Replace	27.6

**Figure 2 Causes of Failure (Fail-Monitor)**

<b>Causes of Failure</b>	<b>%</b>
Compaction	25.7
Layers	28.1
Material	42.5
Other	3.6

**Figure 3 Causes of Failure (Fail-Replace)**

<b>Causes of Failure (Fail-Replace)</b>	<b>%</b>
Compaction	20
Layers	59.2
Material	11.1
Other	9.7

## **4 CONCLUSIONS**

4.1 The results indicate that whilst there has been a slight improvement in the core sample compliance, a major problem continues to exist for the User Community. It is disappointing that the improvement in standards in the previous programme has not been sustained.

4.2 On the results of this coring programme, there is a definite need to continue to undertake further coring programmes.

4.3 The Coring Working Group, through their discussions, has recognised that Advice Note 3 is a dynamic document. Continued review is required to improve the consistency of implementing future coring programmes and interpretation of results. This will require further consideration by the Coring Working Group.

## 5 RECOMMENDATIONS

The Coring Group recommends that RAUC(S) discuss the content of this report and approve the following recommendations:

- 1 A sixth National Coring Programme be undertaken on reinstatements completed between 1 July 2007 and 30 June 2008.
- 2 The RAUC(S) Advice Note 3 be reviewed by the Coring Working Group, taking account of lessons learned from this coring programme.
- 3 The results of this coring programme are reported to HAUC(UK) by the RAUC(S) Co-Chairs.
- 4 ScotJUG review existing action plans to ensure that undertakers deliver an acceptable continued improvement, reporting to RAUC(S) no later June 2007 (but ideally March 2007).
- 5 Roads Authorities and undertakers liaise at local and Area level to determine what issues have been identified and what action can be taken to deliver improvements. Area RAUC Chairs are to collate local/Area issues and actions, reporting to RAUC(S) no later June 2007 (but ideally March 2007).
- 6 The RAUC(S) Co-Chairs be authorised to write to the Chief Executives of Undertakers to engage their support in ensuring the reviewed action plans are implemented.
- 7 The results of any undertaker, local roads or Area coring programmes should continue to be shared within the User Community to widen the scope of discussion on this issue.
- 8 RAUC(S) releases a press statement on behalf of the User Community and prepares an article for specialist press (eg Surveyor magazine).

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/3

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Local Government (Allowances and Expenses) (Scotland) Regulations 2007, (SSI 2007/108)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 5 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to outline the various conditions and maximum amounts which apply for the reimbursement of expenditure incurred by local authority members in carrying out their approved duties, and sets out rates for mileage allowance.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/5

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Valuation Appeal Committee (Electronic Communications) (Scotland) Order 2007, (SSI 2007/124)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 5 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to allow for non domestic rates to be submitted and withdrawn from a Valuation Appeal Committee electronically. In doing so the electronic appeals process will have the same legal status as a hard copy.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/7

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007, (SSI 2007/128)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 5 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to appoint the date (30 November 2007) by which each Licensing Board is to publish its licensing policy statement in respect of the 3 year period running from that date. It also makes various transitional provisions in connection with the implementation of the parent Act, including in particular in relation to proceedings of Licensing Boards.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/9

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007, (SSI 2007/162)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 12 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** Yes (see annex)

**Purpose:** The purpose of this instrument is to amend the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2005 to extend the eligibility criteria for the Blue Badge Scheme while also re-defining the issue period, increasing the maximum fee and providing additional security.

## **Annex**

### **The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007, (SSI 2007/162)**

The Committee asked the Executive to explain why it has not amended the definition of “disabled person” in regulation 2(1) of the principal Regulations.

In its response printed in [Appendix 9](#), the Executive thanks the Committee for bringing this error to its attention, as the definition of “disabled person” in regulation 2(1) of the principal Regulations should have been amended. While the Executive does not consider the validity of the instrument to have been affected, it will correct the definition at the next available opportunity.

**The Committee draws this instrument to the attention of the lead committee and Parliament on the grounds of defective drafting, as acknowledged by the Executive who have undertaken to correct the error.**

### **Executive Response**

On 13th March 2007 the Committee asked the Executive for an explanation of the following matter:

“The Committee asks the Executive why it has not amended the definition of “disabled person” in regulation 2(1) of the principal Regulations, given the amendment to Regulation 4 of those Regulations by regulation 5(2) of the current amending Regulations to include persons below the age of 2 years.”

### **The Scottish Executive responds as follows:**

The Executive thanks the Committee for bringing this error to our attention. The definition of “disabled person” in regulation 2(1) of the principal Regulations should have been amended in consequence of the prescribed descriptions in regulation 4 being amended to make certain categories of disabled persons under 2 years old eligible for a disabled person’s badge. Whilst we acknowledge this missed consequential amendment we are of the view that the intention behind new regulation 4(1) is sufficiently clear to the reader. However, we note the error and will correct it at the next available opportunity.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/11

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007, (SSI 2007/170)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 12 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to provide for a revised procedure on applications for absent voting (i.e. postal or by proxy) for local government elections in Scotland. These will apply from 2 May 2007. The provisions broadly replicate the existing procedures introduced by Part IV of the Representation of the People (Scotland) Regulations 2001.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/13

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, (SSI 2007/183)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 12 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** Yes (see annex)

**Purpose:** The purpose of this instrument is to make provision for the payment by local authorities to their members of remuneration from the date of the next ordinary election after May 2<sup>nd</sup> 2007. The instrument abolishes the current system of allowances paid to councillors and replaces it with a remuneration structure which will depend on whether the member is a Leader, Civic Head, Senior Councillor or Councillor of the authority (although all normal councillors are paid a standard rate). Remuneration and maximum numbers are also dependent on the banding of councils set out in the Schedule to the instrument.

## Annex

### **The Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, (SSI 2007/183)**

The Committee asked the Executive to explain the purpose of the definition of “the 2004 Act” in regulation 2(1) which does not appear to be used in the instrument.

The Executive, in its response printed in [Appendix 12](#), thanks the Committee for bringing the matter to its attention as the definition should not have appeared in the instrument. Although the Executive considers that the inclusion of the definition does not affect the validity of the instrument, it will seek to remove it in the event of a future amendment to the instrument.

**The Committee draws this instrument to the attention of the lead committee and Parliament on the grounds of defective drafting, as acknowledged by the Executive, though not such as to affect the validity of the instrument.**

### **Executive response**

On 13th March the Committee asked for an explanation of the following matter.

“The Committee asks the Executive to explain the purpose of the definition of “the 2004 Act” in regulation 2(1) which does not appear to be used in the instrument.”

### **The Scottish Executive responds as follows:**

Thank you for raising this point.

The Executive acknowledges that the definition of "the 2004 Act" in regulation 2(1) is not used in the instrument. The definition became redundant during the evolution of the draft instrument since the full title of the 2004 Act is used in the instrument where it occurs, but unfortunately the definition was not removed from regulation 2(1) when the draft was being finalised.

The inclusion of the definition does not affect the instrument itself but we will seek to remove it in the event of a future amendment to the instrument.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/15

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Gambling Act 2005 (Premises and Provisional Statements) (Scotland) Regulations 2007, (SSI 2007/196)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to make detailed provision for the procedure for applicants applying for a premises license under Part 8 of the Gambling Act 2005 in relation to the use of premises for the provision of gambling facilities. Procedure is also set out for licensing authorities who grant or reject the premises licence.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/17

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Gambling (Premises Licence Fees) (Scotland) Regulations 2007, (SSI 2007/197)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to make provision for one-off application fees, annual fees and other fees for gambling premises licenses under Part 8 of the Gambling Act 2005.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/19

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Firefighters' Compensation Scheme (Scotland) Amendment Order 2007, (SSI 2007/198)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to introduce consequential changes to the Firefighters' Compensation Scheme resulting from the new Firefighters' Pension Scheme (see SSI 2007/199).

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/21

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Firefighters' Pension Scheme (Scotland) Order 2007, (SSI 2007/199)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to provide for a new pension scheme for firefighters employed in the fire and rescue service in Scotland.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/23

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Firefighters' Pension Scheme Amendment (Scotland) Order 2007, (SSI 2007/200)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:**

The Subordinate Legislation Committee will be considering the SSI again at its meeting on the morning of 27 March 2007. Further information from the Subordinate Legislation Committee on the Instrument will be circulated to members in advance of the Local Government and Transport Committee meeting by the clerk.

**Purpose:**

The purpose of this instrument is to make consequential changes to the Firefighters' Pension Scheme resulting from the introduction of the new Firefighters' Pension Scheme to ensure parity between provisions in the two schemes.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/25

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Police Pensions (Scotland) Regulations 2007, (SSI 2007/201)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:**

The Subordinate Legislation Committee will be considering the SSI again at its meeting on the morning of 27 March 2007. Further information from the Subordinate Legislation Committee on the Instrument will be circulated to members in advance of the Local Government and Transport Committee meeting by the clerk.

**Purpose:**

The purpose of this instrument is to make provision in relation to pensions payable to police officers and others including surviving spouses and viscid partners and children of deceased officers.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/29

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Valuation Appeals Panels and Committees (Scotland) Amendment Regulations 2007, (SSI 2007/212)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to remove the age restriction provision in regulation 4(4) of the principal Regulations whereby no person is to be appointed or re-appointed to a valuation appeal panel for a term of office which commences after the person reaches the age of 70.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/31

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Council Tax (Discounts) (Scotland) Amendment Regulations 2007, (SSI 2007/213)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to amend the Council Tax (Discounts) (Scotland) Regulations 1992 to increase the threshold amount which can be earned by certain carers but disregarded for council tax purposes from £36 to £44 per week.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/33

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Council Tax (Discounts) (Scotland) Amendment Order 2007, (SSI 2007/214)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to amend the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003 to increase the gross earnings of apprentices which can be disregarded for council tax purposes from £163 to £195 per week.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/35

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2007, (SSI 2007/215)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** Yes (see annex)

**Purpose:** The purpose of this instrument is to amend the Council Tax (Exempt Dwellings) (Scotland) Order 1997. It amends the definition of prescribed housing support services accommodation, which is a type of dwelling exempt from Council Tax. The amendment aims to exempt sheltered accommodation from Council Tax.

## Annex

### **The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2007, (SSI 2007/215)**

The Committee asked the Executive 3 questions on this instrument.

#### **Point 1**

The Committee asked the Executive to explain the vires for inserting a new paragraph 25 in Schedule 1 to SI 1997/728, which prescribes a class of exempt dwelling.

In its response printed in [Appendix 17](#), the Executive considers that section 72(7) of the Local Government Finance Act 1992, which is cited in the preamble to the instrument, provides the vires.

The Committee notes the Executive's explanation but considers the power derives from section 72(6) the Local Government Finance Act 1992. The Executive should therefore have cited both sub-sections (6) and (7) of section 72 in the preamble.

**The Committee draws this to the attention of the lead committee and Parliament on the on the grounds of failure to follow legislative practice, as acknowledged by the Executive, but not as such to affect the validity of the instrument.**

#### **Point 2**

The Committee asked the Executive to explain why section 72(5) of the Local Government Finance Act 1992 had been cited as an enabling power.

In its response, the Executive acknowledges that section 72(5) is not a relevant enabling power for this instrument but believes that this does not affect the validity of the instrument.

**The Committee draws this to the attention of the lead committee and Parliament on the grounds of failure to follow proper legislative practice, but not as such to affect the validity of the instrument.**

#### **Point 3**

The Committee asked the Executive to explain the meaning of "exclusive right to use" in newly inserted paragraph 25(3) of the principal Order and in particular whether the provision means exclusive of non-residents only or of anyone.

In its response the Executive states that the provision must be read in context and "exclusive" must be given its ordinary meaning. It also states that exclusive in paragraph 25(3) is intended to mean exclusive of everyone.

**The Committee draws this to the attention of the lead committee and Parliament on the grounds that the meaning of the newly inserted paragraph 25(3) could be clearer.**

#### **Executive response**

Thank you for your letter of 13 March 2007 requesting further information on the above Order. You have asked the Executive to explain:

(a) the vires for inserting a new paragraph 25 in Schedule 1 to SI 1997/728 which prescribes a class of exempt dwelling;

(b) why section 72(5) of the Local Government Finance Act 1992 has been cited as an enabling power; and

(c) the meaning of “exclusive right to use” in newly inserted paragraph 25(3) of the principal Order, given that the exemption and its exception can apply to residences with more than one tenant or licensee. In particular, is this “exclusive” of non - residents only or exclusive of other residents too?

**Thank you for drawing these points to our attention. We would respond as follows:**

(a) The Executive considers that the vires for inserting the new paragraph 25 in Schedule 1 to The Council Tax (Exempt Dwellings) (Scotland) Order 1997 (SI 1997/728), which prescribes a class of exempt dwelling, is section 72(7) of the Local Government Finance Act 1992. That subsection is cited in the preamble to the instrument. The new paragraph 25 prescribes a class of exempt dwelling by reference to the fact that dwellings are occupied by persons of prescribed descriptions, and by reference to such other factors as the Scottish Ministers think fit, all in accordance with section 72(7).

(b) The Executive acknowledges that section 72(5) of the Local Government Finance Act 1992, which is also cited in the preamble, is not required to be cited as an enabling power for the instrument. This has arisen from following the style of a previous instrument where section 72(5) was a relevant enabling power, but inadvertently retaining this reference in this Order. The Executive acknowledges the point made by the Committee though it does not affect the validity of the instrument, and this citation in the preamble should be treated pro non scripto.

(c) The newly inserted paragraph 25(2)(c) of the 1997 Order prescribes, as a requirement for a dwelling to be exempt, the fact that it is one in respect of which every licensee, tenant and sub-tenant has the right to share the use of certain facilities, with at least one non-resident. The newly inserted paragraph 25(3) prescribes an exception to the exemption where every licensee, tenant or sub-tenant "also has the exclusive right to use" certain other facilities. The provision must be read in context and "exclusive" must be given its ordinary meaning. The Oxford English Dictionary contains the relevant meaning as: "of a monopoly or grant: excluding all other persons from the rights conferred". This means that no other person apart from the licensee, tenant or sub-tenant has the right to use the facility in question. By way of an example, every tenant in a dwelling may share the use of a kitchen with a non-resident (under paragraph 25(2)(c)), but every such tenant in the dwelling may also have an exclusive right to use separate "en suite" bathrooms in the dwelling (under paragraph 25(3)). Such a dwelling would not be exempt.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/37

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Non-Domestic Rates (Levying) (Scotland) Regulations 2007, (SSI 2007/216)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:** No

**Purpose:** The purpose of this instrument is to make provision as to the amount payable for 2007/2008 in non-domestic rates.

**Agenda item 3**

**Local Government  
and Transport  
Committee**

27 March 2007

LGT/S2/07/8/27

**SSI Cover Note For Committee Meeting**

**SSI title and number:** The Business Improvement Districts (Scotland) Regulations 2007, (SSI 2007/202)

**Type of Instrument:** Negative

**Meeting:** 27 March 2007

**Date circulated to members:** 19 March 2007

**SSI drawn to Parliament's attention by Sub Leg Committee:**

The Subordinate Legislation Committee will be considering the SSI again at its meeting on the morning of 27 March 2007. Further information from the Subordinate Legislation Committee on the Instrument will be circulated to members in advance of the Local Government and Transport Committee meeting by the clerk.

**Purpose:**

The purpose of this instrument is to regulate the various stages that a Business Improvement District project must undergo before it is established.