

**CONSULTATION RESPONSE FORM**

**PART 1 - Information about you**

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Company Name or Organisation (if applicable)	National Joint Utilities Group (NJUG)
Please tick one box from the list below that best describes you /your company or organisation.	
<input type="checkbox"/>	Small to Medium Enterprise (up to 50 employees)
<input type="checkbox"/>	Large Company
<input checked="" type="checkbox"/>	Representative Organisation
<input type="checkbox"/>	Trade Union
<input type="checkbox"/>	Interest Group
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Central Government
<input type="checkbox"/>	Police
<input type="checkbox"/>	Member of the public
<input type="checkbox"/>	Other (please describe):
If you are responding on behalf of an organisation or interest group how many members do you have and how did you obtain the views of your members: Through internal consultation	

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If you would like your response or personal details to be treated **confidentially** please explain why:

**PART 2 - Your Comments**

<p>1. Do you agree with the proposal that authorities should be free to decide which standard inspections will attract a fee from the undertaker (limited to 30%) across the five different categories as they see fit, so as to target problem areas?</p>	Yes X	No <input type="checkbox"/>
<p>If no, please give reasons:</p> <p>Yes, as agreed by the Department for Transport / HAUC(UK) Inspections Working Group.</p> <p>The even split across all relevant categories will ensure quality/safety inspections are not compromised however the proposal is unclear on how abortive inspections are dealt with.</p>		

<p>2. Should there be a set time on when authorities are allowed to amend their allocation of sample standard inspections, i.e. once a year, 6 monthly, quarterly etc?</p>	YES <input type="checkbox"/>	NO X
<p>If yes, please give reasons and indicate what period you think would be appropriate, and why:</p> <p>No, as agreed by Department for Transport / HAUC(UK) Inspections Working Group. Include in the Code a form of communication process between the authority and utility sides so all sides are aware of the allocation and frequency. Allocation is determined at start of year (frequency only amended annually). This will assist in determining trends.</p>		

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<b>3. The proposed new inspection, for which the undertaker will be obliged to pay a fee, will check that there is no unreasonably prolonged occupation of the highway (category D). This means that sites will be inspected to ensure that works have been completed on time. Is the description of this inspection category sufficiently clear?</b>	YES X	NO <input type="checkbox"/>
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If not, please give reasons:

Yes, as agreed by the Department for Transport / HAUC(UK) Inspections Working Group. However further clarity is required with regards to the following:

- i) Why this additional inspection is required.
- ii) The timescale for inspections should be included in section 2.30.
- iii) The focus of inspections should be on safety and quality (these inspections would also pick up s74 issues).

<b>4. Is the process as shown within the flow chart, as shown as appendix C2 within the code of practice, for conducting this category of inspection clear?</b>	YES X	NO <input type="checkbox"/>
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If not, please give reasons:

Yes but it is Appendix C3 (not C2). However there is room for further improvement because the flow chart is too busy and confusing. It would be also if useful if it could be highlighted in red where inspections are rechargeable with separate flow charts for each inspection category.

<b>5. Is the description of the Category E (permit conditions) inspections clear?</b>	YES X	NO <input type="checkbox"/>
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If not, please give reasons:

Yes, as agreed by the Department for Transport / HAUC(UK) Inspections Working Group.

The permit scheme proposals inferred that a scheme should be cost neutral, therefore the cost of any permit inspection should be included in permit fee.

Permit condition checks can be undertaken during the Category A inspection.

**6. Is the process as shown within the flow chart as shown as appendix C4 within the code of practice, for conducting a permit inspection clear?**

YES X

NO

If not, please give reasons:

Yes, as agreed by the Department for Transport / HAUC(UK) Inspections Working Group. However there should be a flow chart for each individual inspection category. The flow chart shown in appendix C4 is too busy and confusing and it would be useful if the chargeable inspections were highlighted in red.

**7. Do you agree with the failure percentage thresholds that determine the number of performance inspections that could take place over a 12 week period?**

YES X

NO

If no, please give reasons:

Yes, as agreed by the Department for Transport / HAUC(UK) Inspections Working Group.

However the middle column from table 5.1 (Performance Inspection percentage "P") should be removed.

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<b>8. It is proposed that failure for Category C inspections will result in additional Category B /J performance monitoring inspections taking place.</b>	YES X	NO <input type="checkbox"/>
<p>Do you agree with this proposal, if not, please suggest a working alternative:</p> <p>Yes.</p> <p>There is general support from members of the Department for Transport / HAUC(UK) Inspections Working Group, on which NJUG represents the utility industry, that failures in Category C (inspection carried out before the end of the guarantee period) would be covered by performance inspections taking place under Category B(inspections carried out during first six months) which should be category J (performance monitoring inspection). This was on the understanding that Cat. C failures were based on ‘historical’ failures, the causes of which may have already been addressed but Cat. B/J inspections covered more recent works and were a more true reflection of current performance.</p>		

<b>9. Is the description in sections 5 and 6 of the Code of Practice for a non-compliance follow-up (Category H) inspection clear?</b>	YES X	NO <input type="checkbox"/>
<p>If not, please give reasons:</p> <p>Yes, the Category H inspections are applicable to failures after Category D (s74) and E (permits) inspections – (not as stated in 2.15 ..., or during the course of any other inspection ..’). This view is supported by the EXPLANATORY NOTE associated with the Regulations, ‘... non-compliance follow-up inspections are concerned ... specifically in relation to prolonged occupation of the highway and permit conditions...’.</p> <p>However a clearer explanation would be useful for why Category D and E inspections are required.</p>		

<b>10. Is the process, as shown within the flow charts, as shown as appendices C2, C3 and C4 of the code of practice, for non compliance</b>	YES <input type="checkbox"/>	NO X
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inspections clear?		
<p>If not, please give reasons:</p> <p>C3/C4 as agreed by the Department for Transport / HAUC(UK) Inspections Working Group.</p> <p>C2 requires changing as there is no longer a 'defect non-compliance inspection fee' (Fee 4 in the flowchart).</p> <p>However, the flow charts are too busy and confusing. It would be also if useful if it could be highlighted in red where inspections are rechargeable / chargeable and flow charts are required for each inspection category.</p>		

<b>11. Do you agree with the proposal to change the calculation of units of inspection to duration of works?</b>	YES X	NO <input type="checkbox"/>
<p>If not, please give reasons and an alternative:</p> <p>Yes, as agreed by the Department for Transport / HAUC(UK) Inspections Working Group. NJUG supports the change as it simplifies the process but EToN systems must be changed to reflect this requirement.</p>		

<b>12. Do you agree with the allocated durations against the number of units of inspections?</b>	YES X	NO <input type="checkbox"/>
<p>If not, please give reasons:</p> <p>Yes, as agreed by the Department for Transport / HAUC(UK) Inspections Working Group.</p>		

<b>13. Do you agree with the elements and the methodology used to calculate the cost of an inspection (in relation to those inspections for which costs are recoverable)?</b>	YES X	NO <input type="checkbox"/>
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If not please provide additional evidence for using alternative elements and methods:

Yes, since the current fees were agreed and endorsed by the Department for Transport / HAUC(UK) Inspection Fees Working Group. The new inspections will form part of this process.

However elements within Annex F show double handling and a number of duties can be/are automated. Also the fees are too high and do not reflect actual costs and a transparent review is required.

<p><b>14. Do you disagree with any of the assumptions about costs or benefits in the impact assessment?</b></p>	<p>YES X</p>	<p>NO <input type="checkbox"/></p>
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If so, please provide alternative assumptions and justify why they should be used.

NJUG continues to argue that the base figures used in the impact assessment are a gross exaggeration and bear no resemblance to reality. The latest CBI figure (March 2010) states a total cost of congestion to the country of £7-8 billion per year, the DfT figure used in the impact assessment states that delays caused by street works is £5.25 billion per year (2009 prices), which gives a total cost to the country of congestion of £105 billion per year (widely accepted that street works element make up 5% of delays which according to the DfT equates to £5.25 billion therefore the remaining 95% gives £99.75 billion).

The Goodwin Report (quoted in 40. of Summary : Intervention & Options) has, yet again, been misquoted. The Report reviewed all the various methods and costs that have resulted in various reports quoting different 'cost of congestion' totals and determined that the figures used were so far apart that there must be fundamental issues with how figures are calculated. Also, the benefits of improving and maintaining the utility infrastructure were not taken into account.

NJUG recommends a joint approach, with all stakeholders, to determine an accurate cost in relation to delays and congestion.

In section 18 of the Summary : Interventions & Options it states that the

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additional cost to utilities (and their customers) of the proposed Permit Condition Check is 'cost neutral', the logic behind this is clearly nonsense.

The assessment is based on a very small sample of responses from Authorities (only 9 responses).

The additional costs to utilities have been underestimated e.g. proposed response times will need additional resources, as will the management of 'logged calls'. Utilities IT systems will require upgrading (where integrated systems are in place), as will mobile devices. The training of all street works related staff will be a significant cost.

NJUG has concerns over local authorities undertaking works on utility apparatus (or remedial reinstatement works) where the utility has not been given the opportunity to carry out these works.

Need to ensure the WIR Form is to the agreed EToN specification and is available in a timely manner.

<p><b>15. If you are an authority, would you be willing to provide additional statistics on inspections that have taken place to inform the impact assessment?</b></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
<p>Not applicable.</p>		

<p><b>16. Are there any parts of the code that require further clarification?</b></p>	<p>YES X</p>	<p>NO <input type="checkbox"/></p>
<p>If so, please explain your reasons and add any additional comments you wish to make:</p> <p>Chapter 4. Defective Safety Measures and Reinstatement, will need re-writing to reflect the removal of the non-compliance defect inspection and to ensure compliance with primary legislation i.e. as per s72 (2) of</p>		

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NRSWA, together with associated references.

The need for parity should be included in this Code of Practice i.e. if (and when) authorities start registering their works and there is a common approach to safety, authority works should be subject to the same inspection regime as utilities (the use of independent auditors should be considered).

The proposal for 30 minute/ 1 hour response times is unreasonable and the existing processes should remain.

Greater use of WIRs should be considered, to reduce the need for logged calls.

Review the need for new terminology.

Review the 'self defect' procedure to remove the need for unnecessary discussions between Authorities and Utilities.

Involve the Department for Transport / HAUC(UK) Inspections working group in the setting of the consultation questions.