

Report to the Cabinet

Meeting to be held on Thursday, 12 April 2018

Report of the Head of Service Highways

Part I

Electoral Division affected:
All

Proposed Highway Safety Inspection Policy Revision

(Appendix 'A' refers)

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Executive Summary

The county council as a local highway authority has a statutory duty under the Highways Act 1980 to maintain that part of the highway network which is maintainable at public expense. To assist the authority to achieve this statutory duty and defend itself against compensation claims the Highway Safety Inspection Policy was established in respect of vehicular highways. Changes to national guidance towards taking a risk based approach has prompted a review of our current policy. In light of that review a revised policy is submitted for approval.

This is deemed to be a Key Decision and the provisions of Standing Order 25 have been complied with.

Recommendation

The Cabinet is asked to approve the adoption of the proposed Highway Safety Inspection Policy as shown in Appendix 'A' along with the associated annexes.

Background and Advice

Highway safety inspections are designed to identify defects likely to create danger or serious inconvenience to users of the network. The county council has been operating a system of highway safety inspections since 2003 with only minor changes since implementation. The current Highway Safety Inspection Policy was last revised and approved in April 2015.

National guidance defines the good practice that must be considered when operating a system of highway safety inspections. This same guidance is considered by the legal profession when assessing the appropriateness of our policy and procedures.

The current version of the national guidance – *'Well-Managed Highway Infrastructure Code or Practice'* has introduced a change in emphasis for highway safety inspections. The code now recommends that the safety inspection regime and defect repair regime should be based on risk. Therefore the revised policy at Appendix 'A' sets out in section 17 a proposed method for assessing the risk posed by defects and hazards and establishes a practical process to facilitate this. The process is driven by two key considerations:

- Probability – the likelihood of highway users encountering the defect. This is linked to how busy a street is – the more users the higher the probability.
- Impact – if the defect is encountered the likely severity of damage. This is linked to the physical characteristics of the defect; its size, depth and position.

Therefore a large defect on a busy street will have a high impact rating and a quicker response time for repair than a small defect on a less busy street. Annex 'A' of the policy sets out in detail how this risk based approach is applied to the most common defects and shows the investigatory levels, specific risk assessment, impact rating, and the response time to repair or make safe the defect. This means that defects of a certain size or in a certain location may require more urgent attention than other defects where the locations and sizes are such that longer periods of response will be reasonable.

The revised policy introduces the concept of investigatory levels. The use of investigatory levels is aligned with the risk based approach and the national code of practice. If a defect exceeds the investigatory levels a repair will generally be actioned. Likewise if a defect does not meet or exceed the investigatory levels then generally no action will be taken. However, the highway safety inspector will have discretion to vary that, based on a dynamic risk assessment. This risk assessment will take account of factors such as position and location of the defect, the specific nature of the defect, and the likelihood of it deteriorating further before the next inspection. The measurements of defects identified for repair remain largely unchanged from those in the current 2015 policy. For example the depth at which a pothole will be actioned is 40mm in the carriageway and 25mm on a footway (20mm on a primary walking route). However, the revised policy introduces an additional measurement in terms of the diameter of a pothole. Whilst this was not defined in the 2015 policy the highway safety inspectors had been working to a measurement of 150mm diameter for a carriageway pothole and 100mm for a footway pothole. Therefore the revised policy includes both the diameter and depth measurements. These are set out in Annex 'A' of the policy.

There is a regime of response arrangements for repairing defects within the revised policy and these are explained in section 17.6 of the policy and in Annex 'B'. Response times vary depending on the nature and size of the defect, how busy the street is and the risk posed by the defect, and they are summarised below:

1. 4 hours: Make safe or repair within 4 hours
2. 2 days: Make safe or repair within 2 working days
3. 5 days: Make safe or repair within 5 working days
4. 10 days: Make safe or repair within 10 working days.
5. 20 days: Make safe or repair within 20 working days

6. Notify: No set response time. Used for hazards or defects that will be dealt with outside of the Highway Safety Inspection policy or by a 3rd party.

Annex 'H' of the proposed revised policy makes provision for a validation period in relation to public reported defects. This is to allow time for officers to input information into the Highway Asset Management System and confirm investigatory levels have been met. Therefore 2 working days will be added to the 5 day, 10 day and 20 day response times listed above. If reported over the weekend or on a bank holiday or out of hours the validation period will commence on the next working day.

These response times are generally consistent with good practice in highway authorities across the country, are in line with a risk based approach and provide the county council with a realistic prospect of achieving a good level of performance and thereby a strong defence against public liability claims.

Set out in Annex 'F' of the revised policy are proposed performance indicators through which response times will be managed and monitored.

Central to the risk based approach is having a mechanism to categorize streets based on their functionality and usage and thereby setting a suitable frequency of inspection. This is achieved through establishing a network hierarchy. Lancashire's highway network hierarchy and frequency of inspection is set out in sections 11, 12 and 13 of Appendix 'A'. There are no fundamental changes to the hierarchy or frequency of inspection in the revised policy and they remain in line with those set out in the 2015 policy. The recommendations in the national code of practice in this regard remain similar to the 2015 policy. In summary the streets used by higher numbers of vehicles or pedestrians are inspected more frequently than those that carry lower numbers.

Annex 'G' sets out the main methods for undertaking repairs to defects in bituminous carriageways and footways. The excavate and reinstate method is the preferred way in which pot holes will be repaired, however other techniques will be used depending upon the prevailing circumstances as described in the Annex.

The information contained within Annexes 'D' and 'E' deals with the specific circumstances of undertaking and recording highway inspections. The main changes relate to the introduction of the Highway Asset Management System and a general update and clarification of the operational processes.

The Highway Safety Inspection policy and associated annexes will be reviewed as and when necessary especially when changes to either legislation or national guidance are introduced. The policy already addresses changes to the operations or procedures set out in the various annexes which can be made by the Head of Service – Highways this is as set out in those annexes. This enables, for example the addition of new defect types and impact ratings, changes to the type of repair methods used or changes to the codes used within the Highway Asset Management System for example. Any prospective removal or reduction of defect types and changes to the investigatory levels will be subject to cabinet approval.

Public Reports

To ensure a consistent approach the processes set out in this policy and associated annexes especially the risk evaluation process, defect categorisation and response times will be applicable to defects reported by the public (subject to the validation period referred to in this report and at Annex 'H').

Consultations

In developing the proposed policy and associated annexes officers have taken into consideration revisions being made to highway safety inspection policies by other local highway authorities. In addition the proposed policy has been reviewed by two Barristers with extensive experience in dealing with highway claims on behalf of Lancashire County Council.

Implications:

This item has the following implications, as indicated:

Risk management

The revised policy provides a risk based approach to managing highway safety inspections and responding to and repairing the defects identified. Adoption of a policy is crucial to providing the council with a defence under Section 58 of the Highways Act and defending itself against highway compensation claims.

Legal

Section 41 of the Highways Act 1980 imposes a duty on the county council to maintain its highway network –the highways maintainable at public expense. Section 58 of the Highways Act 1980 provides a special defence in action against a highway authority for damages for non-repair of the highway. To be able to rely on a defence under section 58 there must be a routine and cyclic system of highway inspection in place. The Highway Safety Inspection Policy sets out the processes and procedures of inspection and repair to be able to argue the section 58 defence and other defences in respect of claims relating to non-repair of the maintainable vehicular highway network.

Financial

This policy supports the Section 58 of the Highways Act defence which is used to rebut claims against the authority, so reducing the financial burden on the authority. It also contributes towards the evidence of good practice that supports the county council assessment of B and 3 against the Department for Transport self-Assessment; thus allowing the authority to secure the maximum capital maintenance funding through the Incentive Fund. It is not envisaged that this revised policy will lead to increased expenditure requiring additional funding.

List of Background Papers

Paper	Date	Contact/Tel
Well-Managed Highway Infrastructure: A Code of Practice	28 October 2016	Michael White/01772 535979
Reason for inclusion in Part II, if appropriate		
N/A		