

Lancashire County Council

Internal Scrutiny Committee

Friday, 27th September, 2019 at 10.00 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Agenda

Part I (Open to Press and Public)

No. Item

1. Apologies

2. Disclosure of Pecuniary and Non-Pecuniary Interests

Members are asked to consider any Pecuniary and Non-Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.

3. Minutes of the Meeting held on 12 July 2019 (Pages 1 - 6)

4. Reducing Single Use Plastics in Lancashire - Update Report (Pages 7 - 16)

5. Highway Adoption and the Process Involved (Pages 17 - 32)

6. Internal Scrutiny Committee Draft Work Programme 2019/20 (Pages 33 - 38)

7. Urgent Business

An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

8. Date of Next Meeting

The next meeting of the Internal Scrutiny Committee
will be held on Friday 15 November 2019 at 10:00am in
Cabinet Room B, County Hall, Preston.

County Hall
Preston

L Sales
Director of Corporate Services

Lancashire County Council

Internal Scrutiny Committee

Minutes of the Meeting held on Friday, 12th July, 2019 at 10.00 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor David O'Toole (Chair)

County Councillors

M Salter	E Nash
S Clarke	P Steen
C Crompton	C Towneley
B Dawson	D Whipp
J Fillis	G Wilkins
E Lewis	

County Councillors Stephen Clarke and Bernard Dawson replaced County Councillors Paul Rigby and Steven Holgate respectively.

1. Apologies

There were no apologies.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

None were disclosed.

3. Constitution: Membership; Chair and Deputy Chair; and Terms of Reference

The report presented set out the constitution, membership, chair and deputy chair and terms of reference of the Internal Scrutiny Committee for the municipal year 2019/20.

Resolved: That the following be noted:

- i. The appointment of County Councillors David O'Toole and Matthew Salter as Chair and Deputy Chair of the committee for the remainder of the 2019/20 municipal year.
- ii. The new membership of the committee following the County Council's Annual Meeting on 23 May 2019.
- iii. The Terms of Reference of the committee.

4. Minutes of the Meeting held on 17 May 2019

Resolved: That the minutes from the meeting held on 17 May 2019 be confirmed as an accurate record and signed by the Chair.

5. Impact of the Reduction of Winter Maintenance Trigger Levels from 1.0 to 0.5 Degree Celsius for the 18/19 Season

The Chair welcomed Phil Durnell, Director of Highways and Transport and Harvey Danson, Area Highways Manager to the meeting.

The report presented set out the results of the Cabinet approval last year to reduce the road surface temperature at which gritting was instructed on the highway network in Lancashire.

The overview, impact and results of the change were also presented along with the end of season report from Lancashire County Council's forecast provider. During 2018/19 the threshold was cut to 0.5 degrees. Members were informed that the 0.5 degree threshold provided a further buffer to offset the risk of an inaccurate forecast.

The change of policy meant that 312 fewer individual treatments had been carried out than would have been the case if the previous intervention level had been maintained. Members were informed that this had resulted in a saving of £82,000 being achieved.

It was pointed out to the committee that there was no difference compared to previous winters in the proportion of inaccurate forecasts with the potential to incorrectly influence decisions about whether or not to send out the gritters. As last winter was mild, this had led to more marginal forecasts about whether temperatures would stay above freezing. This had put the new policy to the test.

The committee was satisfied that previous concerns about the possible effects of the policy change had not occurred but wanted to know if isolated areas had benefited from the new way of working as requests had been made for greater emphasis on the secondary routes and priority footways through the use of some of the savings to permit the secondary routes and priority footways to be treated. They were informed that as last winter had been relatively mild there had been little need to treat more minor routes. It was also noted that there had been a very good sign up from agricultural contractors to cover the gritting of secondary routes as well as working with the district councils to cover priority footways as well.

Resolved: That;

- i. The report and recommendation to continue winter service provision with an intervention level of +0.5 be noted.
- ii. The treatment of secondary routes be monitored going forward.

6. Statement of Priorities for 16-19 Education and Skills Report

The Chair welcomed County Councillor Phillippa Williamson, Cabinet Member for Children, Young People and Schools and Ajay Sethi, Head of Learning Services and Skills to the meeting.

The report presented the Lancashire Statement of Priorities for 16 – 19 Education and Skills for consideration. The document provided a strategic overview of the education and training provision being accessed by Lancashire residents aged 16 – 19 and those aged 19 – 24 who had an Education, Health and Care Plan (EHCP) and were accessing provision at college, SSF, academy or apprenticeship provider.

In terms of the local context, Lancashire had 8 colleges, 2 Foundation Learning Providers, 9 School Sixth Forms (SSF) and 10 Academies. In 2017/18 the national achievement rate tables showed that, for 16-18 year olds achievements, five Lancashire colleges were in the top 10% of all General Further Education Colleges and Sixth Form Colleges in England.

Members were informed that the document was shared with colleges, key apprenticeship providers, school and academy sixth forms, the Education and Skills Funding Agency (ESFA), Ofsted, Blackpool Council, Blackburn with Darwen Council and Leaders and Chief Executives of district councils.

It was reported that the Statement of Priorities informed individual conversations with college principals and senior management teams to understand how they could contribute towards priorities. There had been positive feedback from colleges on the use of this document to inform their strategy and curriculum planning. They had been used internally to inform decision making and development.

Figures presented to the committee showed that between December 2018 and February 2019, an average of 519 young people aged 16 and 17 were found not to be in education, employment or training (NEET). This amounted to 2.1% of all residents in that age group. Identifying these young people was a huge challenge in Lancashire. One of the challenges was around data sharing. Schools had a duty to provide information and guidance to pre-16 aged pupils about their next step. Sixth form and further education colleges had been reminded of the need to help the county council track their students' progress. The Tracking Participation Guidance Document had been reissued to schools and colleges. As a result, members were informed that the figures of the unknowns was already reducing.

The committee was informed that Lancashire was in a good position in terms of the further education opportunities on offer, with some of the highest rated colleges in the country and a network of enterprise advisers linking up students and employers. It was also noted that further education providers were co-operating with the council to ensure there was a broad range of courses on offer to encourage teenagers to continue studying. Young people learned in different

ways, so having qualifications that were academic, vocational and occupational, supported different learning styles.

Members were advised that there were council officers in place, dedicated to providing post-16 options advice to young people who had been in council care or had special needs and disabilities.

The NEET rate for young people who were in council care was higher than that for all Lancashire 16 – 17 year olds. The proportion of unknowns in that age group was slightly lower than the general population. For young people with special education needs and disabilities, the known NEET rate was broadly similar to that of all students in the relevant age range, while the unknown rate was much lower than the general population.

The committee enquired on the reasons behind the closure of sixth form colleges. Members were informed that this was in part due to financial liability. And the quality of colleges and the student experience was also taken into consideration. Cross border education was not uncommon. Students were prepared to travel for a better quality of college.

The committee enquired about the provision of further education from the authority to the rural community. It was reported that a lot of young people moved to urban areas for their education.

Resolved: That;

- i. The report presented be noted.
- ii. Suggested improvements and amendments for the next version of the Lancashire Statement of Priorities for 16 – 19 Education and Skills be considered.

7. Report of the Budget Scrutiny Review Panel

The report presented an overview of matters presented and considered by the Budget Scrutiny Review Panel at its meeting held on 11 April 2019.

Resolved: The Internal Scrutiny Committee receive and note the report of its Budget Scrutiny Review Panel.

8. Internal Scrutiny Work Planning Session 25 July 2019

The Internal Scrutiny Committee was informed of its Work Planning Session on Thursday 25 July 2019, at 1:00pm in the John of Gaunt Room (former County Mess), County Hall, Preston.

9. Urgent Business

There were no items of Urgent Business.

10. Date of Next Meeting

The next meeting of the Internal Scrutiny Committee would take place on Friday 27 September 2019 at 10.00am in Cabinet Room B (The Diamond Jubilee Room) at the County Hall, Preston.

L Sales
Director of Corporate Services

County Hall
Preston

Internal Scrutiny Committee

Meeting to be held on Friday, 27 September 2019

Electoral Division affected: (All Divisions);
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Reducing Single Use Plastics in Lancashire - Update Report

Contact for further information:

Mike Kirby, Tel 01772 533285, Director of Strategy & Performance,
mike.kirby@lancashire.gov.uk

Executive Summary

In January 2019, the Internal Scrutiny Committee published a task and finish group report on reducing single use plastics (SUP) in Lancashire following a Notice of Motion at Full Council. In May 2019 the committee received a response to the recommendations made by the task group by the relevant cabinet members.

This report details an update on progress by the various services involved in the delivery of this work and the development of a strategy for Lancashire County Council to become a SUP free authority, where possible and feasible.

Recommendation

The Internal Scrutiny Committee is asked to receive and comment on the update.

Background and Advice

On the 22 February 2018 a Notice of Motion was submitted to Full Council asking the county council to take a lead on reducing single use plastics (SUP) in Lancashire. An Overview and Scrutiny Task and Finish Group was established to review the matter and subsequently a report of the task and finish group and their recommendations was shared with the committee in January 2019. Cabinet Member responses to each of the recommendations were provided to the committee in May 2019.

This report presents an update from each of the services involved in the delivery of this work and details progress made on the recommendations as agreed by the Internal Scrutiny Committee. A bite size briefing for councillors has been arranged for the 9 October 2019 to inform councillors about the issues of plastic waste and what is being done to address this and the role that councillors can play.

The remit of this work, as defined by the Notion of Motion was to:

- i. Developing a robust strategy to make Lancashire County Council a 'single use plastic-free' authority and encourage the county's institutions, businesses and citizens to adopt similar measures;
- ii. Ending the sale and provision of SUP products such as bottles, cups, cutlery and drinking straws in council buildings, events and services;
- iii. Encouraging schools and social care facilities to adopt measures, with the aim of phasing out single use plastic, for example containers and cutlery in their premises;
- iv. Ensuring that the County Council, via its procurement of goods and suppliers, has integrated the aim to end the use of SUP products by suppliers wherever feasibly and appropriate;
- v. Exploring measures to encourage District and Borough Councils and other statutory partners of Lancashire County Council within Lancashire to adopt rigorous enforcement policy on disposal of SUP products.

(i) Developing a robust strategy to make Lancashire County Council a 'single-use-plastic-free' authority and encourage the county's institutions, businesses and citizens to adopt similar measures.

Update provided by Director of Strategy and Performance - Work to develop a strategy in line with the council's objectives has commenced. This will reflect opportunities emerging from the thematic work taking place and also take account of national policy, legislation and emerging best practice.

The strategy will be linked to an action plan and targets for the county council to help it become a SUP free authority, where possible and feasible and will detail how the county council will aspire to work with and encourage its district councils, businesses, schools, community groups and citizens to work together to make Lancashire plastic free, where possible.

The strategy will be used to highlight a series of key messages that will further promote this work within the authority and externally in Lancashire. The development of the key messages will be used to deliver a number of the recommendations of the task group report.

The Director of Strategy and Performance has taken responsibility for the development of the strategy. The Internal Scrutiny Committee will have the opportunity to review and make comment on the strategy before it is finalised.

(ii) Ending the sale and provision of SUP products such as bottles, cups, cutlery and drinking straws in council buildings, events and services;

Update provided by Facilities Management: Over recent months we have introduced more compostable and recyclable products at all our sites that provide catering products. We also advertise the items and work we have done at all our

sites to raise awareness of the action the county council is taking to support the removal of all SUPs.

We continue to work with suppliers and our colleagues in procurement to source alternative products that can be introduced across the service in future months. These include: food packaging, soft drinks in recyclable packaging, stationary, recyclable containers, recyclable cutlery.

An additional challenge for manufacturers of compostable products has recently come to our attention, as they have been informed that compostable products will also be banned in 2021 due to the lack of recycling sites able to cope with these products in the United Kingdom.

The service has recently introduced compostable items in the new Sustain range to combat single use plastics and will keep this under review and seek advice from waste colleagues in this regard as and when more information comes available.

Total items now recyclable or compostable that we have introduced over recent months replacing SUPs now stands at 20 items. The additional cost is still a concern but these are reducing as new manufacturers introduce alternatives.

The table below illustrates the cost impact of the changes to alternative products, still showing a relatively low financial impact, but slightly reduced from the previous report of £2,300 to the current anticipated increased annual cost of £2,150.

2019/20 Estimate based on 2018/19

<u>Product</u>	<u>Current Annual cost (£)</u>	<u>Revised Annual cost (£)</u>
Sustain Kraft Hot Cup	3,050	2,745
Sustain Kraft Hot Cup Lid	697	1,743
Wooden Stirrers	186	186
Kraft Standard Sandwich Wedge	261	294
Kraft Deep Sandwich wedge	33	37
Sealable individual cake pack	26	26
Squat Food Container with Lid	70	105
Square Bagasse Clam Shell	69	96
Hot Wrap Cover – Medium & Large	45	78
Soup container	98	98
Rectangle Bagasse Clam Shell x 4	583	824
Protein Pots	42	52
Fresh fruit Salad Pots	44	55
Sustain Knives (Reusable 8 times)	672	941
Sustain Fork (Reusable 8 times)	750	1,200
Sustain Dessertspoons (Reusable 8 times)	254	282
Sustain Teaspoons (Reusable 8 times)	268	536
Total	7,148	9,298
Annual Increase		2,150

The cost of using glasses for water instead of disposable plastic cups has shown to be cost neutral, against the additional increase in labour time taken to wash the glasses. Cost increases are being managed in general through price increases passed on to the customer, which were introduced in April/May as part of our annual price increases to avoid any adverse customer reaction. Future cost increases will depend on the manufacturers increased cost and Government legislation along with the effects of Brexit.

(iii) Encouraging schools and social care facilities to adopt measures, with the aim of phasing out single-use plastic, for example containers and cutlery in their premises.

Update from Schools & Residential Care Catering - Governor Services have raised the subject of the campaign at the Chair of Governors Forum and are considering forming a working party of Governors who will take the lead in assessing reduction plans and any implications therein.

A further communication is scheduled to appear within the next Core Agenda publication so that all Governors are made aware of the campaign.

Schools & Residential Care Catering are to attend the forthcoming Primary Heads at the Lancashire Executive meeting taking place on 8 October 2019, where the matter of SUPs will be discussed with the Executive. The intention is to update the Executive on progress made within the Service to encourage greater emphasis on the need for schools to ensure appropriate recycling facilities are readily available.

Additionally, secondary school Operations Managers have begun engagement with school leaders to agree local plans for the reduction of SUPs. Each local plan will account for the nature of the schools food service, practical limitations, options for recycling and engagement with pupils on each school's SUP reduction strategy.

The intention is to engage with school leaders and pupils alike to increase engagement and to gain a unilateral approach being taken across each school.

Schools & Residential Care Catering has developed a bespoke 6 week training course for primary school aged children. The course focusses on food education, the effect food has on the body (high fat, salt, sugar foods etc.), food miles, packaging and environmental factors and seasonality and sustainability. The course underpins schools requirement to teach children about food and healthy lifestyles and also delivers key messages around calorific intake, eating a healthy balanced diet and understanding where food comes from and when and how it grows. The course will be made available to schools late October 2019.

Schools & Residential Care Catering has operated against a sustainable procurement strategy for the past decade which considers environmental, social and economic factors when making purchasing decisions. Elements of the strategy are embedded within procurement tenders and are used as levers to affect positive changes.

A recent example of the benefits of the strategy includes the introduction of a central distribution hub which will see a reduction in the number of vehicles delivering food across Lancashire (removing 3,000+ per week) which reduces Co² emissions, particularly around busy towns and cities, and which requires suppliers to adhere to strict SUP packaging limitations.

All food tenders require tendering organisations to outline their commitment to environmental factors which ensures that pre-delivery waste and other environmental factors are adequately scrutinised and scored as part of the tender exercise.

The Service is working closely with the Procurement Service in relation to discussions with suppliers re alternative products and the following provides an update on current known position in relation to school catering supplies for fresh and cooked meats, soft drinks and stationary:

- 65.73% of all catering disposables used by Schools Catering are already recyclable or compostable. The remaining range is currently being worked through for recyclable or compostable alternatives. A number of non-recyclable/non-essential products have already been delisted.
- Replacement of the majority of black (non-recyclable) plastic trays, used for packaging fresh meat, which have been replaced with clear recyclable alternatives. This will see the removal of 3-4,000 non-recyclable trays per week or 175,000 per annum. Cooked meats are already supplied in clear recyclable trays.
- 70% reduction of stationary used within school kitchens by introducing e-tablets to all operational kitchens.
- The specification of a range of secondary school drinks, sold in bottles contain 51% recycled plastic and are 100% recyclable themselves.
- Unilateral agreement (from all contracted fresh food suppliers) to adopt a policy of only supplying recyclable or compostable packaging which can be guaranteed as widely recyclable/compostable.
- All fresh fruit and vegetable and bread deliveries made in reusable trays are returned to suppliers for reuse. The same trays are used by the produce supply chain (delivery/backhaul) which reduces unnecessary packing.
- Further work is underway to evaluate biodegradable alternatives to SUP food packaging.

(iv) Ensuring that the County Council, via its procurement of goods and suppliers, has integrated the aim to end the use of SUP products by suppliers wherever feasible and appropriate.

Update provided by Procurement Service - The Procurement Service is continuing to work with suppliers to review current contracts and where possible is providing new catalogue items to replace SUP products and alternative packaging where appropriate.

In respect of medium term recommendations, the Service is in discussions with suppliers over the following contracts with updates as follows:

Fresh meat – as part of a new framework that is currently out to tender and is proposed to commence on 1 December 2019, appointed supplier(s) will be required to pro-actively work with the council and the council's contract distributor to ensure that all product packaging, whether intrinsic to the product or transportation, has the least environmental impact possible and is widely recyclable and/or compostable.

Cooked meat –The specification of the new contract which commenced on 1 July 2019 requires that packaging is recyclable.

Soft drinks – discussions are ongoing with catering services and school units to identify alternative items.

Stationery – this will be picked up as a part of the forthcoming tender exercise (contract ends 31/1/2020), to identify alternative products where possible and with a focus around packaging.

In relation to longer term recommendations the Service is continuing discussions with other suppliers over the following contracts and when alternative products are available on the market, for these to be considered:

Cleaning Materials – No alternative packaging has been identified from review of supply chain currently due to the nature of the product being stored. This will be reviewed again as part of the forthcoming contract extension discussions in February/March 2020.

First Aid and Medical – Currently limited or no alternatives to disposable aprons/gloves available across the supply chain. The position remains as reported previously.

Cheese packaging – Manufacturers have not confirmed any alternative to plastic bag packaging to date. The position remains as previously reported.

These issues are being addressed proactively and will be featured in tender specifications as the relevant contracts come up for renewal. We will do all we can to influence and improve the supply range to limit single use plastics.

(v) Exploring measures to encourage District and Borough Councils and other statutory partners of Lancashire County Council within Lancashire to adopt a rigorous enforcement policy on disposal of SUP products.

Update provided from Waste Management Service - The Waste Management Teams (WMT's) role in addressing the issue of SUPs focussed largely on widening the amount of plastic that could be recycled.

At Household Waste Recycling Centres (HWRCs) hard plastic such as garden furniture or children's toys was problematic. The WMT has therefore trained up staff to better filter hard plastics, which were often problematic because they were combined with other materials, to increase the consistency of the material. This, and new signage and literature on plastics for customers, saw new contracts sourced and hard plastics being collected. All HWRCs now collect all forms of plastic.

It has long been the ambition to increase the range of plastics doorstep collected too. In the government's recently published waste and resource strategy, currently out for consultation, pots, tubs and trays were one of the essential doorstep materials to be collected. Lancashire has historically resisted collecting any plastic other than bottles for reasons of processing capacity, because of contamination concerns and due to material types (limited markets for certain plastics).

To overcome these obstacles new technology and processes were trialled at the Material Recovery Facility (MRF - where the bulk of the doorstep collected co-mingled recyclate goes). New markets were sought and existing recyclers contacted over widening the plastics they would take. This led to agreement with districts to include clean plastic pots, tubs and trays in with the doorstep collected recycling from 1st October 2019. This is really positive news that has been well received by the public and district councils. It will result in much more plastic being kept from landfill or incineration. Another positive aspect of this is that the secondary processing at the MRF is on track to be halved (from 20% of everything brought into the MRF, which was above the national average to 10% which is below the national average). This means that there is now half as much rejected recycling (items that don't get sorted into material for recycling), much of it plastic, as there was twelve months ago.

Other important changes expected next year, regarding plastic, will occur as a result of the formal adoption of the draft government resource and waste strategy. Single use plastic that is hard to process (such as dark coloured plastic) or hard to recycle (such as Type 3 – PVC, Type 6 –Styrofoam and Type 7 -mixed) will be banned or taxed more heavily. This should see the composition of plastic coming into the MRF become more uniform in the future.

Update from Corporate Communications – As detailed above, from 1 October 2019 residents within the Lancashire County Council and Blackpool Council boundaries will be able to recycle pots, tubs, trays along with their plastic bottles. A communications campaign has been developed to promote the awareness of this change to residents across the area to maximise the potential of people who currently recycle, informing them of the full range of household items that they could be recycling.

The Communications Service is working closely with the Waste Service and councils in their role as bin collection authorities to ensure everyone promotes a consistent message, using the right channels in a timely way.

Artwork has been designed and a campaign toolkit produced for partners to ensure consistency across all organisations. Lancashire County Council along with partner authorities will be informing residents of the changes from 16 September 2019 in the following ways:

- Stickers appearing on recycling bins
- Media relations
- Information on websites
- Social media messages on Twitter, Facebook and Instagram
- Paid for digital advertising
- Information in bus timetable leaflets
- Messages on bin collection vehicles
- Council newsletters
- Waste and recycling collection calendars
- Roadshows
- Leaflets
- Posters

The campaign will run from October 2019 through to October 2020 with both Lancashire County Council, Blackpool Council and districts councils continuing to promote messages in a timely way during the year.

The target audience for the campaign is young families who are existing recyclers who could do extra to be more effective (i.e. people who are already recycling but have the potential to recycle more). This is based on evidence from WRAP who highlight that younger families provide the opportunity to help embed learned behaviours and capture people at moments of change.

The Communications Service is currently exploring running a 'jingle' competition with schools to harness the pester power young people can have on their parents. The objective of the campaign is to recycle between 2,000 and 7,000 tonnes during the 12 month period.

Consultations

A copy of the task and finish group's report was shared with district and borough councils. District councils were also consulted on in relation to litter reinforcement.

Implications:

This item has the following implications, as indicated:

Risk management

This report has no significant risk implications. The necessary legal and financial implications will need to be considered for any changes that will occur as a result of the desire to reduce SUPs across the authority.

Financial

The small increase in costs outlined within the report are being managed within the existing revenue budget for the facilities management service.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Tel
Report of the Reducing Single Use Plastics Single Use Plastics in Lancashire Task and Finish Group	18/01/19	Misbah Mahmood/01772 530818
Cabinet Members Responses to the Recommendations of the Reducing Single Use Plastics in Lancashire Task and Finish Group Report	17/05/19	Misbah Mahmood/01772 530818
Reason for inclusion in Part II, if appropriate		
N/A		

Internal Scrutiny Committee

Meeting to be held on Friday, 27 September 2019

Electoral Division affected: (All Divisions);
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Highway Adoption and the Process Involved

(Appendices 'A - D' refers)

Contact for further information:

Neil Stevens, Tel: 01772 534057, Development Support Manager,

Neil.Stevens@lancashire.gov.uk

Executive Summary

The aims of this report is to describe the process of the local highway authority in considering and adopting a road, having regard to typical issues and other influences that often occur, delaying adoption and who is responsible for un-adopted roads.

Recommendation

Whilst the timing of highway adoptions are outside the control of the highway authority there are a number of recommendations proposed, if supported, would provide greater certainty and understanding to all.

- 1 Suggest additional wording to the Local Planning Authority (LPA) and which can be used within a planning condition that is attached to any planning permission. The wording requires a timeline for adoption in line with development buildout.
- 2 Inform relevant Councillors at the time of a road being adopted.
- 3 Work more closely with Councillors (residents) in locations where housebuilders are slow in progressing the adoption process (where there are no issues that cannot be resolved).
- 4 Look at opportunities to strengthen the partnership approach between housebuilders, utilities (drainage), LPA and the highway authority in strategic development locations to assist where possible to unlock issues and speed up the adoption process.
- 5 Inform the relevant Councillor if a road is NOT suitable for adoption and reasons why.

Background and Advice

The most common method of achieving road adoption is under the Section 38 of the 1980 Highways Act. It is mostly used where roads are planned by developers on new residential or commercial developments. Agreements provide a seamless process to achieve road adoption and can only be finalised once all highway related

planning requirements are in place. It is good practice that the process commences during the planning phase and continues through design and construction phases.

Once roads are adopted into the highway they are then maintained at the public expense.

1 Adoption Process and common issues

Section 38 of the Highways Act 1980 enables LCC to take over and maintain at the public expense (adopt), roads, supporting structures, foot/cycle ways and verges constructed by a third party through a legal agreement within the highway authority.

Applications to enter into a Section 38 (S38) Agreement should be started by the developer as soon as practicable during the planning process; ideally at the application stage.

General Issue: *Unfortunately few housebuilders take up this opportunity as it requires them to resource/fund this and would be undertaken without certainty of planning permission. Unfortunately the planning system does not require a developer to progress a proactive approach.*

Large development sites are often divided in to a number of phases and each phase requires a completed Agreement before highway construction works commence. The process can be divided into 4 stages:

Note: Typical Issues referenced below are further explained in Section 3.

i. Planning Phase (tasks)

Pre-application engagement, understand the housebuilders intentions (with regard to roads to be adopted and those to remain private), joint working on layout understanding site related limitations and risks, this process is an iterative process.

There are occasions when plans approved by the LPA as part of a planning permission some elements do not satisfy the highway authority (**Typical Issue 1**).

ii. Design Phase post planning decision (tasks)

Housebuilder makes technical submission and the highway authority provides approval when satisfied (it is usual for this to be an iterative process). Technical approval must be in line with that approved at planning committee. Legal agreements are also drafted at this stage and bond and inspection fees paid.

Note: Prior to a S38 Agreement being signed, the Developer must provide written proof that they are the client for the highway works. Proof of land ownership is required to ensure that all parties with freehold or leasehold interests in the land enter into the S38 Agreement and consent to its terms.

iii. Construction Phase (tasks)

Relevant planning conditions attached to a permission need to be discharged; highway construction commences with works inspected by the highway authority at various stages; works completed (safety audit undertaken, if required). Post maintenance period of a completed phase (minimum of 12 months) works are inspected with any additional/remedial works undertaken, to satisfy safety audit or as a result of poor workmanship, damage, defective products etc.

iv. Adoption Phase (tasks)

On completion of all remedial works with obligations satisfied, commuted sums paid and all other agreements and certificates in place such as drainage (**Typical Issue 2**), documentation (and plans) are provided by the housebuilder (**Typical Issue 3**) to the highway authority. On the highway authority being satisfied the highway can be adopted and maintained at public expense.

*Note: It is for the housebuilder to request that a highway is considered for adoption and his responsibility to submit all information, when he is ready (**Typical Issues 4 and 5**).*

For further information on the agreement, see Appendix A for a process flow chart and Appendix B for contents of a legal agreement.

2 Other necessary Highway Works required within existing highway boundary or adjoining it

It may be necessary in some instances to alter the existing adopted highway. Where this is required, the works will be subject to either:

- (a) a separate agreement under the provisions of Section 278 of the Highways Act 1980, or
- (b) a combined agreement

Works associated with the development will not be allowed to commence on any publicly maintained highway until either the S278 Agreement or S38/S278 Combined Agreement is signed by both parties and a Bond of Surety is in place.

When any work is undertaken on the existing adopted highway or to support adoption, there are a number of additional agreements required relating to working within the highway, or connecting to existing drainage system, see Appendix C for a list and further information.

See Appendix D for the number of active S38's that the highway authority has.

3 Summary of Typical issues that impact on what will be adopted and its timing

This section describes the issue in further detail as highlighted above.

General Issue 1: Developers are recommended to enter into S38 discussions with the local highway authority as soon as practicable during the planning process; ideally at the application stage.

Response: A proactive approach is supported by the highway authority. However it is not a requirement of the planning process, therefore developers are usually reluctant to undertake additional work at their cost, with no certainty of a planning permission being granted. Full or hybrid planning applications do include additional layout information which is often suitable to give additional certainty on principles of adoptions, reducing the scale of any issue.

Typical Issue 1: There are occasions when plans approved as part of a planning permission do not satisfy the highway authority usually on layout detail, for example:

- road widths not suitable to allow vehicles to pass (safety issue)
- insufficient size of turning head to allow a refuge vehicle to manoeuvre within the road (operational and safety issue)
- driveways of an insufficient length to satisfy parking standards resulting in footway being obstructed (safety issue)
- layout not satisfying general design criteria such as visibility or stopping requirements (safety issue) or specific detail design at junctions or on highway links
- unacceptable materials used within the highway

Response: Developers are fully aware of requirements and design standards and what can/will be adopted (all issues uncovered are highlighted to the developer and his consultants at the pre-applications stage or during the planning process). Lancashire's requirements are broadly consistent to other highway authorities. The main reasons for layout issues are:

- pressure from the applicants urban designers or the LPA from a design perspective or
- a housebuilder is maximising the number of dwellings within the site and the LPA is accepting greater levels of density, delivered at the expense of acceptable highway infrastructure
- a housebuilder not requesting roads within a development to be adopted i.e. a gated community, or lengths of cul-de-sac and are therefore designed/build to a different specification/standard
- a housebuilder is unable to satisfy requirements i.e. outside his control

Typical Issue 2: External influences impacting on both the housebuilder and the highway authority, such as the requirement to have an agreement to discharge into an existing sewer. This needs to be completed with the drainage statutory undertaker prior to the completion of the S38.

Response: The housebuilder is fully aware of his requirements and what the risks are prior to commencement on site and that he must demonstrate a right to discharge surface water from the highway, either by way of a Sustainable Drainage System (SUDS) or an existing or proposed public sewer. Unfortunately, where there are situations where multiple housebuilders all linking into one system and being delivered in series it can take time to reach agreement on required sewer improvements **with the statutory undertaker**. If the first housebuilder is in no rush to reach agreement with the undertaker this can impact on the next. Legal agreements need to be in place with statutory undertakers prior to a highway being considered for adoption. An example of this issue is Buckshaw (Chorley) and the time for utilities to be satisfied.

Typical Issue 3: A housebuilder is in no rush to provide all supporting documentation (and plans).

Response: Housebuilders are generally keen to have roads adopted as soon as is possible, as it removes their liability. However housebuilders and their delivery teams are also keen to progress with the next development site, constructing and selling houses. Unfortunately this can impact on housebuilders progressing with the adoption process and the supply of necessary documentation to the highway authority (on a site which is completed). This delays adoption.

Typical Issue 4: It is for the housebuilder to request that a highway is considered for adoption and the housebuilder submits supporting information when he is ready.

Response: Unfortunately the highway authority cannot:

- require a housebuilder to have a highway adopted or
- adopt a highway without support of the owner of the private road (land owner)

Typical Issue 5: Adoption of a new road can only be considered where it connects into an existing adopted road providing a continuous corridor. This can be an issue for large sites where one developer requires access into the roads/infrastructure of another developer.

Response: The highway authority should not have a disjointed network of adopted roads with isolated sections where access (its use) cannot be controlled. This issue only applies to large sites with numerous house builders all delivering infrastructure at different rates. This issue is generally short term.

4 Existing private roads (including footways) not adopted

Across Lancashire there are a number of existing historic roads that are not adopted. Unfortunately, many of these roads are not constructed to current adoptable standards or in line with a satisfactory layout supporting current needs. Therefore these roads cannot be considered suitable for adoption. For these roads to be considered, it is for the owners/residents/users of the road in question to fund all

necessary changes to the satisfaction of the highway authority in line with standards, following a suitable process. They must provide evidence that all other necessary agreements such as drainage rights into the public system or into a water course/pond are in place.

Whilst highway officers are happy to assist local communities in the process, it is the responsibility of the communities (promoters) to progress matters on private roads making them suitable for adoption with all costs and risks being borne by the owners. This usually results in the private road remaining private, as necessary changes are cost prohibitive or undeliverable.

Note: There can also be a further complication. This can occur in a scenario when there is an unknown owner of a section of private road which is required to provide a continuous and suitable route and the owner cannot be determined by land registry checks. A process can be progressed by the promotor(s)/land owners at their risk by undertaking necessary changes to the road, with LCC then progressing an approach to flush out the unknown land owner prior to adoption. This approach is not used often as can be considered aggressive. Again the approach is very costly to the promotor (and comes with additional risks).

4.1 Maintenance of Existing private Roads

Maintenance of private roads is the responsibility of the residents who use those roads, it is often through informal agreements. If it is a rural road/lane it is typical for the land owner who borders the lane to maintain it to the centre, including existing hedges and verges.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

The process followed by LCC with regard to delivery of new highway infrastructure and its adoption is in line with the planning process which the LPA control and also satisfies the Highways Act 1980.

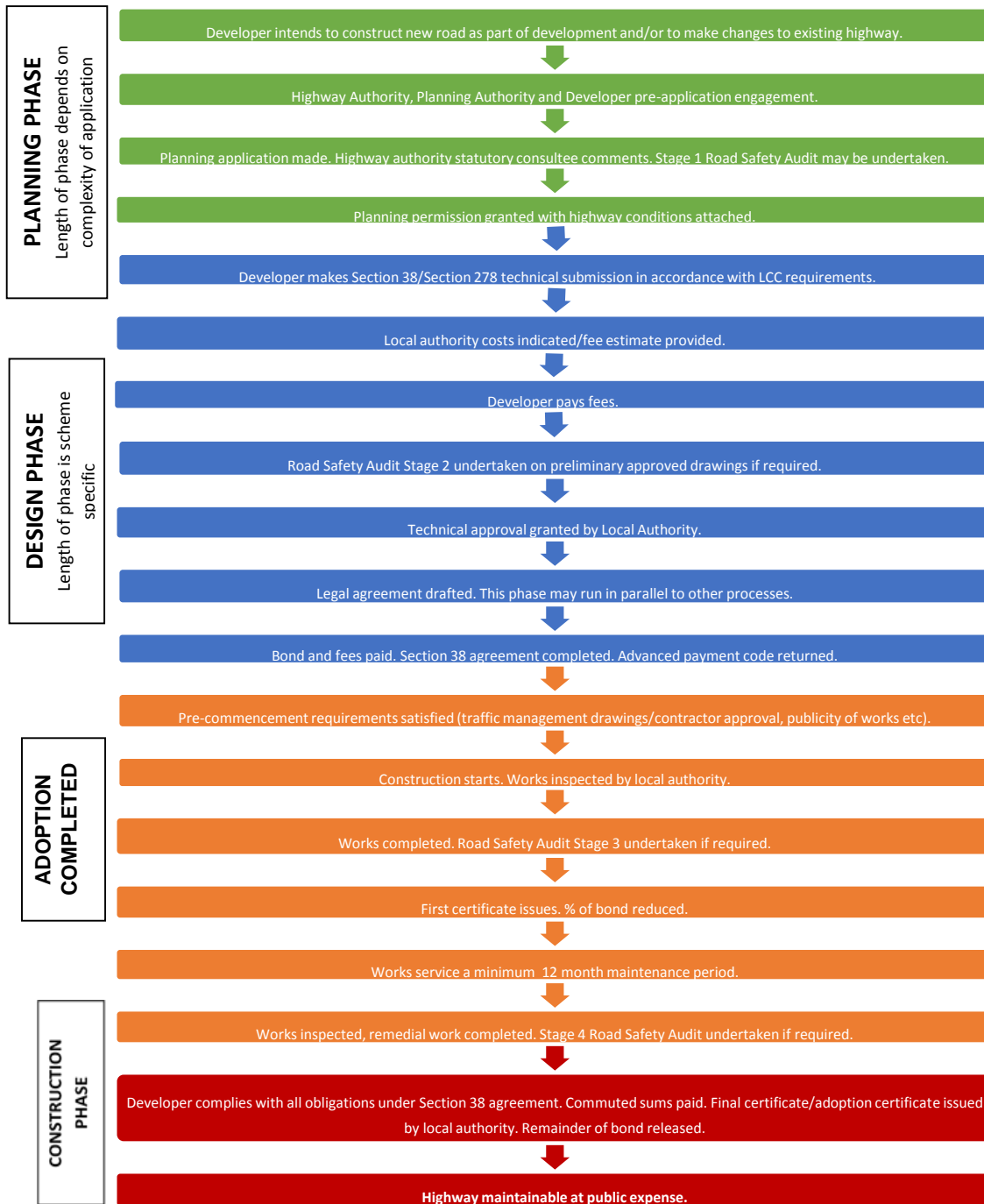
The benefits of supporting the recommendations presented is that residents which require direct/indirect access to a new road yet to be adopted will be better informed on adoption matters and the likelihood of a road being adopted. They also maximises opportunity between all influencing parties to speed up the adoption process and unlocking issues (with the support from Councillors and their residents).

The risks associated with not following the recommendations highlighted in the report is that the timing for adoption will continue to be protracted especially for large sites, with residents not having a clear understanding of timing or progress made.

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Tel
N/A		

Flowchart for Adoptions Section 38 of the Highways Act 1980



S38 Legal Agreement Contents

- Details of the proposed highway layouts, designating which are to remain private (such as gated communities, combined private driveways short lengths of cul-de-sacs) and which are to be offered up for adoption;
- Developer's liability;
- LCC fees and charges;
- Arrangements for dealing with statutory undertakers, connections of existing services, and grants of rights for drainage;
- Arrangements for dealing with traffic regulation orders, consultation, street lighting, traffic signals and road safety audits;
- Arrangements for dealing with all necessary notices to allow works to be undertaken on or adjacent to the Adopted Highway;
- Approach to dealing with the Construction (Design and Management) Regulations 2015;
- The need and value of the financial Bond of Surety required at inception of the S38 Agreement;
- Arrangements for design checks and technical approvals (where necessary);
- Scope of Part 1 and Part 2 works, inspection procedures, and certification;
- Developer obligation during the maintenance period;
- Approach to reporting and timing of adoption.

Notices, Permits, Licences & Other Agreements

(a) Permit Scheme Notice (Traffic Management Act 2004 – Part 3) [TMA]

The Developer will need to apply for a permit from LCC to undertake any works on the Adopted Highway in advance of the works starting.

This is required to ensure that LCC can identify causes, or potential causes, of road congestion or other disruption to the movement of traffic on their road network, including the management of its own works for road purposes.

(b) Section 171 Licence (Highways Act 1980) [S171]

Before any works are carried out on or adjacent to the Adopted Highway the Developer is required to obtain a licence from LCC. This licence permits the Developer and his contractors to undertake works on or adjacent to the highway with the approval of LCC as the Highway Authority.

If the Adopted Highway has to be closed to vehicular traffic to undertake these works then a separate application will have to be made for a Temporary Traffic Regulation Order (TTRO) to be implemented.

(c) Section 184 Agreement (Highways Act 1980) [S184]

If a Developer requires the construction of a new site access, or requires alterations to an existing site access in advance of the main works under a S278 or S38 Agreement, then the Developer will be required to enter into a Section 184 Agreement to do so. The scope of these works may, in some instances, be extended to cover other minor works like re-positioning a road gully or a street lighting column. LCC will approve the Developer's design and inspect the S184 works.

(d) Section 50 Licence (New Roads & Street Works Act 1991) [NRASWA]

If a development requires works within the Adopted Highway to excavate, or break through it to work on or install new apparatus, the Developer will need to apply for a Section 50 Licence (NRSWA).

(e) Section 58 Notice (New Roads & Street Works Act 1991) [S58, NRASWA]

This notice is required to ensure that:

- recently resurfaced or reconstructed streets will not be affected by subsequent activities and works undertaken by others; and,
- activities in the same street or immediate area which may conflict are not carried out at or within a short period time of each other.

The period of time from the completion of the works when other works cannot be undertaken depends upon the classification of the street and its traffic sensitivity designation.

(f) Section 104 Agreement (Water Industry Act 1991)

The Developer must demonstrate a right to discharge surface water from the highway, either by way of a Sustainable Drainage System (SUDS) or an existing or proposed public sewer.

Where it is proposed to drain the new highway into an existing sewer, subject to a Section 104 Agreement under the Water Industry Act 1991, the agreement must be completed with the drainage statutory undertaker prior to the completion of the S38 Agreement.

List of Current S38's Progressing in Lancashire

Approximate Number of S38's progressing			
District (West)	Number	District (East)	Number
Wyre	35	Lancaster	100
Fylde	35	Ribble Valley	70
Preston	30	Hyndburn	30
South Ribble	70	Burnley	30
Chorley	50	Pendle	40
West Lancashire	25	Rosendale	30
County Total		545	

Note: Approximate time from commencement on site to adoption 5 years

Internal Scrutiny Committee

Meeting to be held on Friday, 27 September 2019

Electoral Division affected: (All Divisions);
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Internal Scrutiny Committee Work Programme 2019/20

(Appendix 'A' refers)

Contact for further information:

Misbah Mahmood, 01772 530818, Senior Democratic Services Officer,

Misbah.mahmood@lancashire.gov.uk

Executive Summary

The draft work programme for the Internal Scrutiny Committee is attached at Appendix 'A'. The draft work programmes for all other Scrutiny Committees will be presented to the respective committees at their next meeting and agreed work plans will be shared at the November 2019 Internal Scrutiny Committee meeting.

The topics included were identified at the work planning workshop held on 25 July 2019.

Recommendation

The Internal Scrutiny Committee is asked to:

- i. Discuss and confirm any further topics required and reasons for scrutiny.
- ii. Comment and agree on the draft work programme for the Internal Scrutiny Committee;

Background and Advice

A statement of the work to be undertaken and considered by the Internal Scrutiny Committee for the 2019/20 municipal year is set out at Appendix 'A'.

The work programme will be presented to each meeting for consideration.

The work programme includes topics to be discussed at committee meetings, events, task groups, rapporteur work, briefing notes and training for members.

Members are requested to note and comment on the report and to discuss and confirm any further topics and reasons for scrutiny.

Consultations

NA

Implications:

This item has the following implications, as indicated:

Risk management

This report has no significant risk implications.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Tel
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NA

Reason for inclusion in Part II, if appropriate

NA

Internal Scrutiny Committee Work Programme 2019/20

The Internal Scrutiny Committee Work Programme details the planned activity to be undertaken over the forthcoming municipal year through scheduled Committee meetings, task group, events, training and through use of the 'rapporteur' model.

The items on the work programme are determined by the Committee following the work programming session at the start of the municipal year in line with the Overview and Scrutiny Committees terms of reference detailed in the County Councils Constitution. This includes provision for the rights of County Councillors to ask for any matter to be considered by the Committee or to call-in decisions.

Coordination of the work programme activity is undertaken by the Chair and Deputy Chair of all of the Scrutiny Committees to avoid potential duplication.

In addition to the terms of reference outlined in the [Constitution](#) (Part 2 Article 5) for all Overview and Scrutiny Committees, the Internal Scrutiny Committee will:

- Determine which Overview and Scrutiny Committee considers a matter where this is not clear.
- Receive for approval requests from the other Overview and Scrutiny Committees to establish task groups and/or other working groups
- Receive for approval requests from the other Overview and Scrutiny Committees to establish as necessary joint working arrangements with district councils and other neighbouring authorities
- Review and scrutinise all services provided by the authority, unless specifically covered by the terms of reference of another Overview and Scrutiny Committee
- Consider matters relating to the general effectiveness and development of Overview and Scrutiny in the authority including training for County Councillors and Co-optees
- Recommend the Full Council to co-opt on to a Committee persons with appropriate expertise, without voting rights
- Establish arrangements for the scrutiny of member development, and receive reports from the Member Development Working Group

The Work Programme will be submitted to and agreed by the Scrutiny Committees at each meeting and will be published with each agenda. The dates are indicative of when the Internal Scrutiny Committee will review the item, however they may need to be rescheduled and new items added as required.

Topic	Scrutiny Purpose (objectives, initial outcomes)	Scrutiny Method	Lead Officers/ Organisation	Proposed Date(s)	Recommendations	Progress
Meeting						
Highway Adoption and the Process Involved	To better understand the processes involved in the adoption of a highway and to understand the criteria involved for a road to be adopted.	Committee meeting	Neil Stevens	27 September 2019		
Update on Reducing Single Use Plastics in Lancashire	An update report on the ongoing work to reduce single use plastics within the county council and the development of a strategy to make LCC a SUP free authority where possible and feasible.	Committee meeting	Mike Kirby, Clare Johnson, Steve Scott, William Maxwell, Rachel Tanner, Ginette Unsworth, Ajay Sethi, Nigel Craine, CC Albert Atkinson	27 September 2019	The update to be noted. Further updates to be provided as appropriate.	Bite Size Briefing for Members scheduled for 9 October 2019.
Budget savings update	Further update to the budget savings impact agreed in 2018/19 on services as agreed at the January 2019 meeting.	Committee meeting	Richard Hothersall/Neil Kissock	15 November 2019		
Blue Badges	Impact following changes to legislation.	Committee meeting	Sarah Jenkins/ Ben Zebrowski CC Peter Buckley	15 November 2019		
Corporate Strategy Performance Monitoring Proposals	To consider the suggested targets for the key metric indicators.	Committee Meeting	Donna Talbot/Mike Kirby	15 November 2019		

Topic	Scrutiny Purpose (objectives, initial outcomes)	Scrutiny Method	Lead Officers/ Organisation	Proposed Date(s)	Recommendations	Progress
Pot Holes and Blocked Gullies	Update report on progress with pot holes following a report to the committee last year. Request to include blocked gullies.	Committee Meeting	Harvey Danson/Andrew Moss/Ridwan Musa	17 Jan 20		
Local Government Funding and Income Generation Task Group	Further update to committee on progress of recommendations as detailed in the report.	Committee meeting	Neil Kissock	13 March 2020	To note the update.	
Regulation of Investigatory Powers Task Group	To provide an annual update to the committee.	Committee meeting	Laura Sales/Amanda Maxim	15 May 2020	To note the report and update.	Annual update.
Task Group						
Bite Size Briefing						
Reducing Single Use Plastics	Information to all members on the issues of plastic waste and what is being done to address this and what role councillors can play.	Bite Size Briefing	Mike Kirby	9 October 2019		
Winter Gritting	Information to all members on winter gritting and how councillors can help more.	Bite Size Briefing	Phil Durnell/Ridwan Musa	20 November 2019		

Topic	Scrutiny Purpose (objectives, initial outcomes)	Scrutiny Method	Lead Officers/ Organisation	Proposed Date(s)	Recommendations	Progress
Briefing Note						
Member Grants, CGF and LIF	Impact on third sector and community organisations in relation to the withdrawal of funding.	Briefing note for members	TBC	Dec 2019		