

TELFORD & WREKIN COUNCIL

CABINET: 15 MARCH 2018

REPORT OF ASSISTANT DIRECTOR: CUSTOMER & NEIGHBOURHOOD SERVICES

WELL MANAGED HIGHWAYS INFRASTRUCTURE CODE OF PRACTICE & HIGHWAY SAFETY INSPECTION POLICY

LEAD CABINET MEMBER: CLLR ANGELA McCLEMENTS, CABINET MEMBER FOR TRANSPORT, INFRASTRUCTURE & BROAD BAND

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 Performance data shows that the condition of the roads in the Borough are better than both the regional and national averages and in 2017 the Council was 2nd out of 104 other Local Highway Authorities for overall public satisfaction with highways and transport (*National Highways and Transport Survey*).
- 1.2 Our more recent approach to managing the Highway and responding to defects has seen a continual reduction year on year with the number of potholes reported and completed over the past few years. Figures show in 2012/13 there was 7,012 potholes inspected and completed and by 2017 this had reduced down to 3,397, a reduction of 48%.
- 1.3 We recognise the importance that the highway network plays in supporting our communities and businesses in the Borough. The Council is continuing to invest significant funding over and above current government funding into maintaining our roads, footpaths and other assets through the Pride in Our Community initiative. This has included £2m each year additional funding for roads, £1m a year investment into footways, £1m into urgent structures and £750,000 into improving residential parking. The Council is committed to a major investment of £20m in 2019/20 and 2020/21 into improving the condition of all assets in particular roads and this will allow a more proactive approach to maintaining these assets than responding reactively and in doing so we hope to retain the high levels of satisfaction and ranking in relation to the condition of our roads.
- 1.4 Currently the Council received £1.5m per annum in government funding to spend on the Highway, which equals £1.49 per metre of road. However one pot hole costs on average £120 to repair and so the Councils additional investment is critical if we are to maintain our highways to an acceptable standard.

- 1.5 As well as the additional investment being made the Council is also working towards a new highways contract with a significant focus on innovation, efficiency and customer satisfaction.
- 1.6 In order to maintain a safe highway network, local authorities must adhere to national guidance setting out policies with regards to Inspections including frequency and response times. In October 2016 a new National code of practice, 'Well Managed Highway Infrastructure' (WMHI) was introduced. This revised code of practice aims to address issues with the previous approach which made it difficult for authorities to significantly change how they completed highway inspections and therefore not achieve potential efficiencies and improvements in the delivery of the service.
- 1.7 The Council's current maintenance policies and practices were developed based on the previous codes which were prescriptive in nature. An example of this is that there is currently no distinction between a 40mm pothole on a highly trafficked, high speed road and a 40mm pothole on a rural lane – both currently have to be repaired within the same timescales even though it is clear that there is higher risk to road users on the high speed road. WMHI enables authorities to apply flexibility in defining investigatory levels (the level of defectiveness at which an inspector will attend site) along with a risk assessment process to define the response time for repairing the defect, based on size, location and other local factors.
- 1.8 The new code of practice encourages the principle of developing local levels of service and taking a risk management approach to maintaining local highways, rather than adhering rigidly to nationally defined criteria for addressing highway defects as described in 1.6. This therefore means that the response to managing highway defects or issues can be based on a range of factors relevant to the local area. Our revised policy and approach is outlined in Appendix A. Moving to this approach would mean:-
 - 1.8.1.1 The Council will be able to manage the risks on the local highway network more appropriately with defects in high risk areas i.e. outside a school or on a pedestrian crossing being treated as a priority compared to a similar defect where no pedestrians may be present;
 - 1.8.1.2 It will result in higher quality, more efficient repairs as low risk defect repairs can be programmed perhaps as part of the agreed Highways Capital programme rather than being carried out immediately, ensuring we get the repair right first time; and
 - 1.8.1.3 The change is cost neutral and allows the Council to maintain its levels of service within a defined budget and allocate resources more appropriately. This revised approach should also lead to increased customer satisfaction.

- 1.9 It is recognised that this change from reliance on specific guidance to the implementation of a risk based approach will require time and authorities have until October 2018 to implement WMHI across all assets. Given the benefits that the new code can provide to authorities in managing the highway network the Council is keen to bring the new Inspection Policy in as soon as possible.

RECOMMENDATIONS

- 2.1 That Cabinet approves the risk based local highway safety inspection policy **(Appendix A)**
- 2.2 That delegated authority is given to the Assistant Director: Customer & Neighbourhood Services in consultation with the Cabinet Member for Transport, Infrastructure & Broadband to approve revisions to the Councils highway safety inspection policy and regime where required.

SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes/No	Contributes to all by improving access within the Borough but specifically “ensure that neighbourhoods are safe, clean and well maintained”.
	Will the proposals impact on specific groups of people?	
	Yes/No	
TARGET COMPLETION/DELIVERY DATE	October 2018	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes/No	Telford and Wrekin Council received Department of Transport Incentive Funding as a Tier 2 authority of £266,000 in 2017/18. This funding will increase should the Council adopt measures to become a Tier 3 authority to an annual maximum amount of approximately £500,000 per annum. The adoption of the measures in this report will assist towards the attainment of Tier 3 status.
LEGAL ISSUES	Yes/No	Section 41 of the Highways Act 1980 imposes a duty upon the Council Highway Authority to maintain the Borough’s adopted highway network. A claimant alleging personal injury caused by the

		<p>Council's failure to fulfil this duty would have to prove that the highway was in a dangerous condition because of the Council's failure to maintain or repair it and that the injury resulted from such a failure. However, Section 58 of the same Act gives the Council a special statutory defence to such claims where it can establish that it has taken such care as in all the circumstances is reasonably required to secure that the highway is not dangerous for highway users. The adequacy of the Council's Highway Inspection Policy will be a key consideration for any court in determining whether the special statutory defence applies to protect the Council against the claim succeeding. Regardless of the potential civil claim scenario, the Council has a statutory responsibility to assert and protect the rights of the public to use and enjoy the Borough's highways and having an improved Highway Inspection Policy is one element of the Council's response to this general duty.</p> <p>IR 18.01.18</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes/No	<p>This policy will improve the management of the highway network, to reduce risk to highway users whilst improving the allocation of resources and the quality of repairs.</p>
IMPACT ON SPECIFIC WARDS	Yes/No	

PART B) – ADDITIONAL INFORMATION

2. INFORMATION

3.1 Well-Managed Highway Infrastructure

3.1.1 A new national code of practice, Well Managed Highway Infrastructure (WMHI) was introduced in 2016. WMHI offers improved flexibility for local authorities, with the overarching principle being that of developing local levels of service and taking a risk

based approach to maintaining highway assets rather than adhering rigidly to nationally defined criteria for addressing highway defects.

- 3.1.2 The introduction of WMHI coincides with the development of the Telford & Wrekin Highways Team Service Contract which is to run from April 2019. The new contract takes into account the new approach and flexibilities provided by WMHI. This will allow better programming, better use of resources and improved public satisfaction as more permanent repairs are used.
- 3.1.3 WMHI emphasises the importance of an integrated approach to highway infrastructure. It contains a range of recommendations across reactive, routine, and programmed maintenance, regulatory activity (inspection and enforcement), winter maintenance and resilience.
- 3.1.4 Members have been briefed previously on the Department for Transport (DfT) Incentive Funding bandings which require a range of asset management principles to be adopted and evidenced by authorities. This revised approach embraces those principles.
- 3.1.5 Like the previous codes, WMHI is not statutory. Adoption of the recommendations is a matter for each Highway Authority based on their own legal interpretation, risks, needs and priorities. However, there is an expectation that we will adhere to national guidance and this forms part of the Council's legal defence against highway claims. The current Code of Practice assists in providing a strong defence against current highway claims and failure to implement the new code could place the Council at risk in defending any potential claims.

3.2 Highways Safety Inspection Policy

- 3.2.1 The Highways Act 1980 sets out the main duties of highway authorities in England. Section 41 of the Act imposes a duty to maintain highways 'maintainable at public expense' and the majority of highways-related claims against the Authority arise from alleged failure to comply with this duty.
- 3.2.2 The Council can defend against an alleged failure to comply on the grounds that it has taken the care that is reasonably required to ensure that the part of the highway in question was not dangerous for the appropriate type of traffic. In order to make this defence the Council must have a systematic approach to inspection and repair of highway assets.
- 3.2.3 However, the highway safety inspection process is not simply for the purposes of defending against claims – it is the means by which local roads and footpaths are kept safe and serviceable for those who use them. The proposed new Highways Safety Inspection Policy (Appendix A) aims to maximise the Council's existing highway maintenance resources and is deemed a cost-neutral change which maintains levels of service within a defined budget. Essentially it will allow us to ensure issues are fixed right first time.

Implementing this risk based policy should result in:

- Higher quality, more efficient repairs

- High risk defects in high risk locations being treated as a priority
- Increased customer satisfaction

- 3.2.4 As outlined above, the current approach to highways safety inspections is based on the prescriptive approach of 'Well Maintained Highways' and features pre-defined intervention levels and repair times which are set nationally. The maintenance responses are prescribed and make no allowance for either the likelihood or impact of damage or injury caused by each defect. There is no consideration of actual risk.
- 3.2.5 The new policy retains the Council's current Investigatory Levels, therefore the level at which an inspector will attend site will not change. Where the new policy differs from current practice is that the inspector will carry out an on-site risk assessment to determine the type and speed of response. By allowing inspectors to use their professional expertise and judgement to assess defects, repair decisions can be based on the actual risk that the defect presents as well as looking at the impact of any defect on the wider 'liveability agenda'. This approach means that resources can be directed in a timely manner where they are most needed in order to manage that risk.
- 3.2.6 By adopting a risk based approach the safety inspector determines the implications of all defects and sets an appropriate repair timescale. As a result higher risk repairs can be completed quickly and, where risk analysis allows, low risk reactive repairs may, where appropriate due to their low risk status, be able to become part of a planned programme of Highway capital works that is due to be undertaken.
- 3.2.7 The current approach to maintenance does not allow for proper programming of work and consequently high levels of temporary repairs are carried out. This leads to repeat repairs, lower customer satisfaction and higher costs per repair.
- 3.2.8 During the development of the Policy, internal advice was provided by the Council's Insurance Team, Health & Safety Advisers, Legal Team and Asset Managers as well as the highway safety inspectors who were involved in developing the guidance contained in Appendix A of the policy. Independent external advice was provided by Atkins Ltd. (Consultants) and Arthur J Gallagher Insurance Brokers Ltd. In addition two highways focus groups were convened specifically to discuss local levels of service in relation to reported highways defects. Both focus groups emphasised the importance of the current investigatory levels and supported the risk based approach to categorising defects.
- 3.2.9 Once the Policy has been approved, Highway Safety Inspectors will receive training in the risk assessments required by the policy, supplemented by ongoing training and support. The new code will be implemented once safety inspectors are competent in its use. This will be by October 2018 at the latest.

4. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

4.1 Community Impact

The Council has a general duty of care to road users across the borough. By applying the principles of risk management to all decisions affecting policy, priority, programming and implementation of works the Council will ensure that available resources are targeted to minimise risk to the community and at the same time providing a better quality service which will hopefully enable us to retain our high customer satisfaction ratings for management of the road network.

4.2 Equalities Impact

Because the risk based approach requires individual decisions to be made it allows the needs of individuals and groups of road users to be taken into account when making maintenance decisions across all assets.

5. PREVIOUS MINUTES

n/a

6. BACKGROUND PAPERS

Appendix A - Highway Inspection Policy & Manual February 2018

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