Highways Safety Inspection Policy

Report of the Head of Highways, Capital Development and Waste

Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

Recommendations:
(a) that Cabinet approves the high level principles detailed in Section 3;
(b) that delegated approval is given to the Head of Highways, Capital Development and Waste in consultation with the County Solicitor and Cabinet Member for Highway Management and Flood Prevention to approve trial policy amendments to the current Highway Safety Inspection Manual;
(c) that following the results of the trial policy amendments, discussions with Place Scrutiny Committee, wider consultation and benchmarking findings are presented to Cabinet in March 2016, including any recommendations for change.

1. Summary

Current Highways Safety Inspection policy has been reviewed and compared with current national guidance and best practice.

This report seeks approval of high level principles to inform the development of highway safety inspection and highway defect repair policy.

As a result of the review of current policy, it recommends that trials are carried out to evidence the impact of a measured approach to policy changes to align policy and process with national best practice. This includes for evaluating risk during highway safety inspections so that safety defect repairs can be focussed on the highest priorities in the interest of network safety, improved network resilience and efficient working.

It is proposed that findings from trials and any recommendations for change to current policy following the trials be reported to Cabinet for consideration in March 2016.

2. Background/Introduction

Section 41 of the Highways Act, 1980, imposes a statutory duty upon Highway Authorities such as Devon County Council to maintain the highway network at public expense. Almost all claims against highways authorities relate to an alleged breach of Section 41. However, Section 58 of the act provides for a defence against such claims on the grounds that the authority has taken such care as is reasonably practicable for the appropriate type of traffic. The statutory duty placed on the Highway Authority requires it to have in place robust policies.

The Highways Safety Inspection Policy defines how we classify highways safety defects and how we deal with them. It specifies the frequency and nature of highway inspections. The policy sets out how safety defects identified during highway inspections will be dealt with, including signing, guarding or repairing defects to make the network safe.
Defects may be reported by the public, in which case they are evaluated to enable them to be dealt with in accordance with Policy.

Publication of the policy enables highway users to understand what constitutes a safety defect and what they should reasonably expect in terms of appropriate action by the Highway Authority when defects are found.

The budget allocated for the repair of safety defects in 2015/2016 financial year is £6.5m. However, the development of safety defects is dependent on a number of factors including the resilience of the network and the impact of severe weather. The safety defect repair budget is volatile for the above reasons.

The current policy is considered to be robust and as such the County Council has a good record in defending itself against claims. The current policy has been developed using recommendations in the National Code of Practice (NCoP) ‘Well Maintained Highways’ and best practice adopted by other Highway Authorities. It has been agreed that the policy should be reviewed periodically and where applicable amended to ensure it continues to be fit for purpose.

There are three drivers for policy review at this time;

- current Highway Safety Inspection policy adopted by Cabinet on 12 December 2012 has been reviewed annually and it is now considered a more fundamental review is required.
- a draft revision of the NCoP renamed ‘Well-managed Highway Infrastructure’ recommends highway authorities adopt a risk-based approach in accordance with local needs, priorities and affordability when developing policy.
- the need to improve efficiency in the delivery of highway works and, in the interest of efficiency, to improve network resilience.

3. Proposed

It is proposed that the following high level principles are approved by Cabinet to shape the Policy Review.

(i) Devon County Council continues to ensure it is meeting statutory duties by involving the County Solicitor in the policy review, benchmarking to the appropriate code of practice and considering best practice delivered by other highway authorities, in particular those within the South West region;

(ii) Devon County Council further develops the current risk based approach in determining when defects that meet intervention levels constitute a danger or serious inconvenience to road users, particularly in relation to location within the highway network;

(iii) Devon County Council continues to work with our Term Maintenance Contractor to ensure repairs to the highway are prioritised, planned and delivered in the most efficient way whilst maintaining the safety for users of the highway;

(iv) That trials are undertaken to inform future policy development and to provide an evidence base for policy change recommendations. Such trials may include but not be limited to:
• Assessing when a defect that meets the intervention level constitutes a danger or serious inconvenience when considering its position within the road or footway;
• The response time for permanent repairs on lower category footways be extended (the response times on the busiest high category footways to remain unchanged);
• The defect classification for road marking is relaxed.

Cabinet is therefore asked to give delegated authority for trial policy changes to the Head of Highways, Capital Development and Waste, in consultation with the County Solicitor, and Cabinet Member for Highways & Flood Prevention.

It is proposed that a report including findings from trials, results of benchmarking and any recommendations for policy changes will be presented to Cabinet in March 2016.

4. Consultations/Representations/Technical Data

The risk based approach to determining highway safety defects and an appropriate response is a recommendation in the NCoP. The risk based approach is also used by other neighbouring authorities.

Early discussions with our term maintenance contractor have occurred and will continue to do so throughout the process, to identify potential works delivery efficiency gains due to policy changes.

The authority's County Solicitor's Office, Insurance Manager and our insurers solicitors Browne Jacobson have been consulted and support the ethos of further developing our risk based approach.

It is proposed that the risk-based approach be discussed with Town and Parish Councils at the forthcoming Highway Service Conferences in October, 2015.

Appendix A contains detail of supporting headline data regarding the delivery of safety inspections and safety defect repairs. A full copy of the current Highway Safety Inspection Manual can be found at the following web link and clicking on the Safety Inspection Manual. 
https://new.devon.gov.uk/roadsandtransport/maintaining-roads/highways-safety-inspections/

A full impact assessment will be completed and submitted with the report including findings from trial working, results of benchmarking and any recommendations for policy changes when presented to Cabinet in March 2016.

5. Financial Considerations

It is not considered that the work proposed as part of the review, including any trials, would impact on the current year highways safety defect repair budget.

6. Environmental Impact Considerations

The policy trials are unlikely to have any adverse environmental impact; this will be fully considered in the final report to be presented in March 2016.
7. **Equality Considerations**

Where relevant to the decision, the Equality Act 2010 Public Sector Equality Duty requires decision makers to give due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people’s needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

Taking account of age, disability, race/ethnicity (includes Gypsies and Travellers), gender and gender identity, religion and belief, sexual orientation, pregnant women/ new and breastfeeding mothers, marriage/civil partnership status in coming to a decision, a decision maker may also consider other relevant factors such as caring responsibilities, rural isolation or socio-economic disadvantage.

This may be achieved, for example, through completing a full Equality Impact Needs Assessment/Impact Assessment or other form of options/project management appraisal that achieves the same objective.

The recommendations of this report will enhance the County Council’s highway safety inspection and defect repair regime and this should have a positive benefit for all road users through maintaining a safe highway network and improving network resilience.

A full impact assessment will be completed and submitted with the report including findings from trial working, results of benchmarking and any recommendations for policy changes when presented to Cabinet in March 2016.

8. **Legal Considerations**

The highway safety inspection regime forms a key aspect of the Council’s strategy for managing liabilities and risks. The authority will need to demonstrate that its actions or decisions were reasonable. For example, inspection and repair policies are in accordance with national guidelines are based on rational consideration of local circumstances and evidence.

By virtue of Section 58 of the Highways Act 1980 (England and Wales) if the authority can prove that it had in place adequate policies and procedures to maintain the highway in place and the policies and procedures are properly executed and there was no prior knowledge of the defect before an incident date, a claim can be repudiated.

9. **Risk Management Considerations**

This report recommends a measured approach to trial policy changes for the introduction of a risk based approach to highway inspections and the management of highway safety defects.

This will lead to building an evidence base before adopting policy changes, which is considered to be good risk management practice.

The risks of the recommended trails have been mitigated by consulting the authorities Insurance Manager, its insurers Solicitors Browne Jacobson and with legal service. A full risk
analysis will be included in any proposals for change to policy to be considered in March 2016.

10. Public Health Impact

The proposals in this report enhance the safety inspection regime and should improve the overall condition and continuing functionality of the network to the benefit of the most vulnerable road users irrespective of travel mode. Consideration to all road users is an important factor when assessing and identifying a level of risk.

11. Discussion

Policy review and updating is important to ensure alignment with current best practice and an appropriate response to current drivers for change.

The measured approach of adopting trails enables evidence and experience of proposed policy changes to be gathered to inform future policy development.

12. Options/Alternatives

There are two main options:
- continue the current policy and inspection regime;
- adopt the recommendations of the draft NCoP on using a risk based approach.

13. Reason for Recommendation/Conclusion

It is considered that by trialling new approaches we will be better placed to understand the impacts in advance of any changes to the current policy in March 2016.

David Whitton
Head of Highways, Capital Development and Waste

Electoral Divisions: All

Cabinet Member for Highway Management and Flood Prevention: Councillor Stuart Hughes

Strategic Director, Place: Heather Barnes

Local Government Act 1972: List of Background Papers

Contact for enquiries: Matthew Scriven

Room No. Lucombe House, County Hall, Exeter. EX2 4QD

Tel No: (01392) 383000

Background Paper Date File Reference
1. Highway Safety Inspection Manual April 2013 to date

https://new.devon.gov.uk/roadsandtransport/maintaining-roads/highways-safety-inspections/

ms280915cab Highways Safety Inspection Policy
hk 02 011015
The following graph illustrates the associated costs to some key areas of the safety defect revenue budget. The grey gangs undertake the majority of repairs other than potholes, mainly on footway surfaces and overgrown vegetation. As lining (road markings) and signs require specialist repair teams these are not included in the grey gang costs. The inspectors’ costs include the provision of vehicles and manpower to undertake the planned routine safety inspections.

The following graph indicates the type of safety defects identified during 2014/2015 from safety inspections and reports from the public but does not include the 50,000+ potholes repaired that year. Footway trips, cracks and gaps are by far the highest recorded defects after potholes.

DH = Devon Highways
CSS = Customer Service System