

Report subject	Council Highway Inspection Policy
Meeting date	28 July 2021
Status	Public Report
Executive summary	<p>To seek approval of BCP Council’s harmonised Highway Inspection Policy to ensure the council meets its responsibilities in line with the Code of Practice ‘Well managed highway infrastructure’ 2016.</p> <p>The developed Highway Inspection Policy is the primary evidence used by the authority in any defence against third party claims on the highway, under Section 41 or 58 of the Highways Act 1980.</p> <p>Highway safety inspections are designed to ensure the network is safe and routinely checked for defects, which may have the potential to create injury or disruption to users of the highway network. The current Code of Practice recommends that the safety inspection and defect repair regimes should be based on risk, in accordance with local needs, context and priorities. There are no longer prescriptive or minimum standards published at which an authority should intervene and repair a defect. It is for local authorities to determine appropriate levels of service and be able to demonstrate clearly what has informed that approach.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>(a) Cabinet consider and approve the proposed Highway Inspection Policy as set out in Appendix 1 aligned to the Code of Practice ‘Well managed Highway Infrastructure’</p> <p>(b) Cabinet consider approval of delegated authority to Director of Environment in consultation with Director of Finance and Portfolio Holder for Environment to make operational adjustments to the Policy because of Code of Practice amendments and/or risks identified with the Councils insurers.</p>
Reason for recommendations	<p>To provide and consolidate a unified approach to Highway Inspections across the BCP Council geographical area in accordance with the published Code of Practice.</p> <p>The Highway Inspection Policy is a live document that will be monitored on a continual basis. Refining our approach and revising the document is inevitable and by delegating authority to the Service Director for Environment in consultation with the Portfolio</p>

	Holder for Environment will enable necessary changes to be made swiftly.
Portfolio Holder(s):	Cllr Mark Anderson – Environment, Cleansing & Waste
Corporate Director	Kate Ryan – Chief Operating Officer
Report Authors	Simon Legg – Highway Delivery Manager Kate Langdown – Interim Director for Environment
Wards	Council-wide
Classification	For Decision

Background

1. A Highway Inspection Policy & Procedure is the method by which the Council methodically inspects and records safety defects on the adopted highway. The Code of Practice 'Well managed highway infrastructure' 2016 recommends highway authorities to adopt a risk-based approach to inspecting and analysing highway defects.
2. Additionally, Section 41 of the Highways Act 1980 imposes a duty on the Highway Authority to maintain those roads, footways and cycle tracks which are 'Highway maintainable at public expense'.
3. Each of the three legacy highway authorities had its own approach to inspecting and assessing risk. Through the Local Government Reorganisation programme the use of the legacy Borough of Poole policy and procedure was approved from 1st April 2019 within the legacy Dorset County Council highway authority geographical area of Christchurch. The subsequent intention being to apply this unified approach across the whole BCP adopted highway network.
4. Data and network condition information collected through the inspection cycle is a key component of the Highway Asset Management Plan feeding into investment and repair programmes.

Options

5. Remaining with two legacy inspection policies fails to achieve a single harmonised inspection and maintenance policy, including software solution across the BCP Council highway network. Upon review and discussion with insurance providers and colleagues it has been determined that the operating policy and associated procedures applied across legacy Christchurch and Poole are more greatly aligned to the latest 'Well Managed Highway Infrastructure Code of Practice' and as such place the Council in the strongest position.
6. Although the "Well Managed Highway Infrastructure Code of Practice" is not statutory, it provides highway authorities with national guidance and good practice on highways management. The Code supersedes any previous infrastructure codes including Well Maintained Highways: July 2005,

7. National guidance is regularly referred to when processing third party claims against highway authorities and a failure to follow this will expose the Council to an increased number of successful highway claims.

Highway Inspection Policy

8. BCP Council has a statutory duty under the Highways Act 1980 to maintain the highway network in a safe condition. To fulfil this duty, we have developed a harmonised Highway Safety Inspection Policy based on the recommendations in the “Well Managed Highway Infrastructure: A Code of Practice”. We have adopted a risk-based approach in determining the inspection regime to ensure hazards are identified, prioritised, made safe, and permanently repaired in the most cost efficient method. The paramount concern in implementing the Highway Inspection Policy is public safety and the adoption of best practice within the resources available.
9. The policy and procedure set out BCP Council’s response to Well Managed Highway Infrastructure 2016 relating to highway inspections and safety defect repair.
10. It describes the principles for determining frequencies of inspection, the investigatory levels to be applied and the risk-based approach to subsequent actions.
11. The Policy and Procedure applies to the adopted highway and incorporates:
 - network hierarchy
 - inspection frequency
 - defect categorisation
 - response times.
12. As stated in the National Code of Practice “Well Managed Infrastructure” Safety Inspections are designed to identify all defects likely to create danger or serious inconvenience to users of the network or the wider community. Such defects should include those that are considered to require urgent attention as well as those where the location and sizes are such that longer periods of response would be acceptable.
13. Levels of service have been developed in accordance with local needs, priorities, and affordability. The procedure will also support the delivery of the Bournemouth Christchurch and Poole Council Highway Asset Management Plan.
14. Inspections are focused on safety related defects (identifying condition, defects, and signs of deterioration). Any knowledge and data gathered will also be used to inform decisions on network reliability and integrity.
15. The Inspection Policy detailed in full in Appendix 1 has been considered and developed by Environment Services, Financial Services, and the Council’s insurers to ensure its fitness for purpose.

Summary of financial implications

16. There is no new financial implication for the application of the Highway Inspection Policy.
17. Resulting works are managed through a mixture of revenue funding and an allocation from the Local Transport Plan Capital Programme.
18. An adopted Highway Inspection Policy significantly reduces exposure to third party claims against the authority (more than 240 claims since April 2019).

Summary of legal implications

19. The Council has a duty to maintain its highways by Section 41 of the Highways Act 1980. If the Council fails to maintain the highway and, as a result, a person sustains an injury or suffers damage, the Council may be liable to pay compensation. However, if the Council has taken reasonable care to secure that the highway is not dangerous, then it will have a defence, under Section 58 of the Highways Act 1980. Adopting the proposed Highway Inspection Policy will give the Council the best possible chance of defending a claim under Section 58.

Summary of human resources implications

20. Continuity of delivery of the Highway Inspection Policy and repairs to identified defects is subject to the ongoing resourcing of the service within Environment.

Summary of sustainability impact

21. Refer to Appendix B – Decision Impact Assessment (DIA) Report 204

Summary of public health implications

22. Identifying safety defects reduces the risk of injury to highway users. A safe network promotes sustainable/active travel and/or minimise congestion and as such aims to deliver improvements to air quality and increase levels of activity.

Summary of equality implications

23. Only positive impacts have been identified. The movement away from measurement-based intervention levels to investigatory levels allows Inspectors greater flexibility through a risk assessment process to identify defects which may result in a negative impact on highway users.

Summary of risk assessment

24. Failure to adopt a Highway Inspection Policy will compromise BCP Councils statutory defence. Section 58 of the Highways Act 1980 states that a statutory defence against third party claims is provided where the Highway Authority can establish that reasonable care has been taken to 'secure that the part of the highway to which the action relates' to a level commensurate with the volume of ordinary traffic such that it 'was not dangerous to traffic. A robust Highway Inspection Policy is a significant contributing factor to such defence.
25. An adopted Highway Inspection Policy provides a uniformed and consistent approach for accessing highway safety defects and public reports.

Background papers

Code of Practice 'Well managed highway infrastructure' 2016 – Published works

BCP Highway Asset Management Plan – Published works

Appendices

Appendix 1 Highway Inspection Policy

Appendix 2 Highway Inspection Decision Impact Assessment

Appendix 3 Equalities Assessment