



EXECUTIVE MEMBER DECISION

REPORT OF:	Executive Member for Regeneration
LEAD OFFICERS:	Director of Environment and Operations
DATE:	29 October 2018

PORTFOLIO/S AFFECTED:	Regeneration
WARD/S AFFECTED:	All

SUBJECT: Highways Safety Inspections Procedure – Review and Update

1. EXECUTIVE SUMMARY

The Highway Safety Inspections Procedure details the measures to be employed to demonstrate an effective maintenance regime and allow the Council as the Highways Authority to claim the Section 58 special defence against insurance claims. The procedure has been reviewed and updated to bring it in line with current national guidelines – “*Well-managed highway infrastructure: A Code of Practice*”

2. RECOMMENDATIONS

That the Executive Member:
Approves the proposed changes to the Highways Safety Inspection procedure.

3. BACKGROUND

To provide a defence under Section 58 of the Highways Act 1980 against third party highway claims the council operates a Highways Safety Inspection Procedure. The current procedure adopted in 2013 and last updated in 2014 is based on the national guidelines at the time – “*Well-maintained Highways: A Code of Practice for Highway Maintenance Management*”.

New national guidelines based on a risk management approach were published in 2016 with authorities expected to adopt these principles by October 2018. The proposed procedure incorporates this risk based approach whilst essentially maintaining current methods of working to help ensure a seamless change over period.

4. KEY ISSUES & RISKS

Failure to update the procedure to meet the new code of practice’s risk based approach will substantially weaken the Council’s insurance defence against insurance claims.

An element of the risk based approach is the introduction of a network hierarchy into the document with each street being separately risk assessed against it to determine the street’s inspection category. This contrasts with the previous procedure whereby streets were allocated ‘in bulk’ to categories.

The other main change is the introduction of a risk matrix for defect repair assessment and response

time scales. To provide continuity, the risk based approach has been implemented to give similar results to inspections undertaken using the old methodology.

5. POLICY IMPLICATIONS

The Highways Safety Inspections Procedure is already adopted by the Council and the current review merely updates the procedure in line with the new code of practice

6. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this procedure as it is an update to an existing service.

7. LEGAL IMPLICATIONS

The Council has a duty to maintain the highway under section 41 of the Highways Act 1980. The procedure provides the basis to support a Section 58 defence under the same act against 3rd party insurance claims where the claimant is taking an action against the Council for failure to maintain the highway.

Where the Highways Authority has a considered and up to date Inspection Procedure under Section 58 which responsibly and reasonably categorises the streets appropriately and where the inspection programme is followed and the Procedure is reasonably abided by, then the Courts have often held in favour of the Highway Authority over issues of disrepair.

8. RESOURCE IMPLICATIONS

None

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

Consultations have taken place with senior officers in highways and insurance.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION: 1

CONTACT OFFICER: Paul Withington

DATE: 10th October 2018

BACKGROUND PAPER: Well-managed highway infrastructure: A Code of Practice
Highways Safety Inspection Procedure