

CABINET MEMBER FOR TRANSPORT – 10 FEBRUARY 2011

HIGHWAY SAFETY INSPECTIONS POLICY

Report by Deputy Director of Environment & Economy

Introduction

1. Oxfordshire County Council has a statutory duty under the Highways Act 1980 to maintain the network in a safe condition. Failure to do so can lead to accidents, third party claims and other significant liability and reputational issues.
2. A regime of programmed safety inspections and procedures exists to identify and respond to potentially hazardous defects so they can be repaired or made safe in accordance with the hazard they present.
3. A revised policy for Statutory Safety Inspections has now been produced that aligns with changes to the network hierarchy and new operational processes (Annex A). The new policy and practice will assist the Council in managing resources and risk and provide a robust mechanism for claims defence.

Legal framework

4. Section 58 of the Highways Act 1980 expressly gives the highway authority a special defence in any action against it for damages for non-repair of the highway. This makes it clear that the highway authority does not have a duty to make sure there are absolutely no defects in the road. What it must do is take *reasonable care* to ensure that the highway is not dangerous.
5. This may be accomplished by adherence to an approved policy for safety inspections that reflects an appropriate risk management approach to defect identification and repair.

Revised Policy

Inspection Regime

6. Processes exist to register defects, to categorise them and to instigate remedial actions, as appropriate. They are identified during routine safety inspections and may also be identified during the course of other work, or be reported by the public direct.

7. For a successful highway claim defence, the County Council must demonstrate that the frequency and type of inspection is appropriate for the route, its location and for the traffic that ordinarily uses it. Furthermore, it is necessary to prove that potentially hazardous defects are identified and categorised in accordance with current policy and that defects so classified are attended to and made safe within the timescales specified.
8. The County Council is responsible for over 4,500 kilometres of carriageway and a similar length of footway. An exercise has recently been undertaken to re-categorise these routes according to the type and volume of traffic they carry and by their relative importance to one another. This exercise has enabled a modified network hierarchy to be established that informs the prioritisation of activities such as the frequency of statutory safety inspections and, potentially, the specification of treatment types. Consequently, the frequency that individual roads and footways are inspected is governed by the priority assigned to them in terms of their maintenance category, as shown in Table 1, Annex A.
9. The County's highway network includes many very minor routes that are essentially no more than farm tracks or access roads serving a small number of properties (Road Maintenance Categories 11 and 12) with little or no real road construction. Technically, the Council has a responsibility to maintain them, but they constitute such a low priority compared with other routes they are unlikely to receive anything more than the occasional minor repair. Furthermore, the speed of traffic along these routes is normally self-regulating and the few people that use them are generally familiar with their condition and can be expected to exercise an appropriate level of care and attention. Consequently, from a risk management approach, it is inefficient to inspect the Category 11 and 12 routes on a routine basis.

Risk Management approach

10. Not all highway defects have a safety implication. Those categorised as non-safety defects are monitored and reviewed periodically by the asset management team and local highway representatives and may be included in works programmes as budgets and priorities permit. Highway defects that are considered potentially hazardous are classified as safety defects and are dealt with on a risk-management basis- an approach that is recommended by the Code of Practice for Highway Maintenance Management (Well-Maintained Highways).

Investigatory Levels

11. The proposed policy advocates a dual approach to the assessment and prioritisation of highway defects. The first step involves the use of investigatory levels to help qualify whether a defect has a safety or a non-safety implication. The investigatory levels are dimensions that relate to specific types of defect (Annex B). Although defects that meet or exceed the relevant investigatory levels may generally be deemed to present a hazard, each situation must be taken in context. Consequently, the investigatory levels are not absolute

thresholds – they are used to assist Inspectors to make reasoned judgements as to whether a defect has a safety implication or not.

12. Those defects identified as safety defects are subsequently appraised using a risk matrix to determine the level of hazard and the appropriate response time. The investigatory levels have been set based on officer judgement and with reference to practice elsewhere.
13. It should be noted that not all defects have investigatory levels assigned to them because, by their nature, some defects are difficult to quantify and define and are best dealt with by reference to the risk matrix only. Similarly, it is not necessary to assign investigatory levels to non-safety defects.

Response Times

14. Standard response times are assigned to each category of safety defect that define the timescales for attending site and making defects safe. In situations where it is not possible to effect immediate repairs the defects may be isolated and/or guarded until repairs can be safely undertaken.
15. The response times are as follows:

Safety Defects	
Defect Category	Response Time
Category 1A	2 hours
Category 1B	24 hours
Category 2	28 days

16. By aligning the response times to the relevant categories, the more urgent work can be prioritised and the less urgent work more efficiently programmed. Although the response times have been reviewed, there is no justification for changing them. Consequently, the proposed response times do not differ from those in the current policy.
17. During exceptional circumstances, such as prolonged or intense periods of severe weather, it may not be possible to carry out safety inspections or to respond within the specified timescales. In these exceptional situations, the normal levels of service may be temporarily suspended, but only with the Deputy Director - Highways and Transport's prior written approval. Where warranted, this action will reinforce the County's claims defence.

Financial and Staff Implications

18. Guidance documents and work processes are being developed alongside the Safety Inspections Policy to support the consistent identification of defects and efficient operational procedures. Together, the Safety Inspection Policy and associated procedures will help provide a more resilient S58 claims defence. The cost of all highway claims to the Council last year was in excess of £700k, the majority being pothole and surface condition related claims. The number of

similar claims this year has already increased by approximately 130% following last years' severe winter and will increase further following the most recent cold spell.

19. Driven inspections require a two person team. One to drive the vehicle and the other to identify and record defects. This conflicts with current Oxfordshire County Council practice where inspectors are unaccompanied on all routes other than high-speed roads. Consequently, it will be necessary to provide dedicated drivers or other staff to team up with Inspectors for driven inspections. This issue is already being addressed.

RECOMMENDATION

20. **The Cabinet Member for Transport is RECOMMENDED to:**
 - (a) **approve the Highway Safety Inspections Policy as set out in Annex A to this report;**
 - (b) **approve the Highway Defect Investigatory Levels as set out in Annex B to this report;**
 - (c) **to authorise the Deputy Director for Environment & Economy - Highways and Transport to issue a written instruction to temporarily suspend service standards as set out in the Highway Safety Inspections Policy during or as a result of exceptional adverse weather conditions or other exceptional disruptive events.**

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Background papers: Nil
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