CABINET

Approval of the Highways Safety Inspection Policy

Report of Emma Alexander

Portfolio Holder: Cllr Hibbert

November 2013

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Ext. 1675

Purpose of Report

To seek approval to the Highways Safety Inspection Policy as appended to this report (Appendix A).

Recommendations

Approve the appended policy for Highways Safety Inspections for implementation and publication.
1 Background

1.1 The main purpose of highway maintenance is to maintain the highway network for the safe and convenient movement of people, traffic and goods. However, even the best maintained roads will still be subject to deterioration.

1.2 Section 41 of the Highways Act 1980 imposes a duty upon the Highway Authority (Oldham Council) to maintain the adopted highway network (i.e. those highways maintainable at public expense) in such a way so as to ensure the safe passage of all road users, and almost all claims against the Authority relate to an alleged breach of this duty. The Council currently pays out approximately £1.8M per annum on such claims.

1.3 Section 58 of the Act provides a statutory defence against such claims, on the grounds that the Authority has taken such care as in all circumstances was reasonably practicable to ensure that the highway in question was safe for highway users.

1.4 In effect this requires the Highway Authority to:
   - Consider what constitutes a danger to road users.
   - To regularly inspect the highway in search of such defects, and
   - To repair such defects in a timely fashion.

1.5 In order to comply with our duty of care the Council carries out a variety of safety inspections specifically designed to identify those defects which represent, in varying degrees, a danger to users of the highway.

1.6 In 2005 the document “Well Maintained Highways – Code of Practice for Highways Maintenance Management July 2005, updated January 2012” (WMH) was published, which recommends best practice with regards highways maintenance.

2 Current Position

2.1 The existing policy was approved in 2001 and it is considered appropriate to now refresh this document.

2.2 The new “Highways Safety Inspection Policy” (Appendix A) has been developed to continue to ensure that the Council’s procedures for inspection and repair will reduce the potential for accidents to occur, whilst also providing the evidence that safe systems are in place in the event that an accident claim is made against the Council.

2.3 The Policy deals specifically with safety inspections, and repairs, and is designed to ensure a consistent approach is delivered across Oldham.

2.4 The highways inspections are carried out as part of the Unity contract. The identified defects are repaired by the Council’s in-house Highways Operational team.

3 Proposal
3.1 It is proposed to adopt the revised policy. The amended policy may have an impact on not only the number of defects identified and needing repair but also the claims made against the Council.

3.2 The Unity contract will need to be amended to ensure it encompasses the requirements of this new policy along with a robust management process to ensure the required outputs are achieved.

4 Options / Alternatives

4.1 There are two options available to Members;

1. To approve the revised policy to ensure that Council continues to provide an appropriate level of protection against third party tripping claims.
2. To retain the existing policy which was published in 2001.

The preferred option is therefore (1) to approve the new policy as presented.

5 Recommendation

5.1 That the draft policy shown at Appendix A be adopted by the Council as the appropriate mechanism for inspecting the highways.

6 Consultation

6.1 Internally, the proposed policy has been developed in conjunction with:

i. Unity Partnership (Highways)
ii. Highways Operations
iii. Risk and Insurance
iv. Legal Services

7 Financial Implications

7.1 Summary Implications

<table>
<thead>
<tr>
<th></th>
<th>2014/15 £’000s</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Inspection Costs</td>
<td>160</td>
</tr>
<tr>
<td>Additional potential estimated Highways repair costs</td>
<td>144</td>
</tr>
<tr>
<td><strong>Total additional cost</strong></td>
<td><strong>304</strong></td>
</tr>
<tr>
<td>Funding - estimated reduction in claims</td>
<td>(160)</td>
</tr>
<tr>
<td><strong>Total estimated financial pressure</strong></td>
<td><strong>144</strong></td>
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7.2 Capital Implications

There are no additional capital implications.

7.3 Revenue Implications
The adoption of this Highways Safety Inspection policy, will result in additional inspection work. Unity have indicated that this will cost an extra £160,000 per annum.

The increase in inspection will enhance the council’s position with regards to reductions in tripping and other accident damage claims against the Authority, insurance colleagues have advised that a 5% increase in repudiation rates on such claims would save £160,000 per annum in claims paid out from incidents occurring after the adoption of the new policy.

The increase in inspections, may cause an increase in requests for repair work required, although the council, as a Cooperative Council, already encourages members of the public to report any defects. The increase in inspections will hopefully assist the public perception that where repairs are identified (it does not necessarily follow that an inspection will result in a repair) these will be proactively dealt with.

Highways Operations have indicated that they currently working at capacity of cat 2 defect repairs, and therefore the adoption of the policy could potentially result in an increase in workload and backlog for Highways Operations in carrying out the repair works, bearing in mind the risk implications.

This impact on Highways Operations cannot be quantified at present. If additional teams are required one additional patching team would cost £144,000 per annum.

It is recommended that a reserve is created from the currently reported Council underspend to manage any additional costs in the short term. From 2015/16 these costs will need to be addressed via the end to end review of the Highways Function which is being carried out presently. The implications of the policy and the subsequent review can be built into the 2015/16 budget.

A further option would be to divert existing funding so that repairs identified through inspection are prioritised and other repairs (e.g. ward members or public requests) are left as a lower priority, however as traditionally demand in this area outweighs budget this may create a potential pressure in this area.

(Mel Creighton/Steven Mair)

Legal Services Comments
8.1 It will be necessary to adopt and implement the policy to enable the Council to rely on the special defence contained in section 58 of the Highways Act 1980 in relation to claims for damages for non-repair of highways maintainable at the public expense.

(A Evans)

Human Resources Comments
9.1 None

Risk Assessments
10 There is a risk that this proposal does not lead to the reduction in claims totalling £160,000 as planned in the report due to the Council not carrying out the repairs to
defects identified by the improved inspection regime in the appropriate timeframe. If the inspection regime identifies more repairs that are not repaired in a timely fashion it could result in a reduction of the present repudiation rate.

This risk has been raised by officers but the view of Corporate Property is that this proposal should go ahead. Failure to improve the repudiation rate as set out in this report will result in the risk of overspends in the future on the Insurance Budget (Mark Stenson)

11 IT Implications
11.1 None

12 Property Implications
12.1 None

13 Procurement Implications
13.1 None

14 Environmental and Health & Safety Implications
14.1 Oldham Council, as Highway Authority, are required to ensure that the highway network is safe for all road users to use. The adoption of an appropriate maintenance regime is fundamental to this requirement. Safety inspections are an integral part of this process.

Well maintained highways have a negligible impact on vehicular traffic. However, the presence of potholes can be detrimental, and can increase both fuel efficiency and vehicle emissions.

15 Community Cohesion Implications [including Crime & Disorder Implications in accordance with Section 17 of the Act and Equalities Implications]
15.1 A poorly maintained highway network may become a barrier to effective movement, and may deter some people from making the journeys that they might otherwise make. This, in turn, can reduce the level of natural surveillance which is known to be an effective deterrent which is known to be an effective deterrent to both crime and the fear of crime.

16 Forward Plan Reference
16.1 (Needs to be on the Plan)

17 Key Decision
17.1 Yes CMCL_-05-2014

18 Background Papers
18.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

19 Appendices

19.1 Appendix A – New Highways Safety Inspection Policy