

From: Andrew Loosemore – Head of Highway Asset Management

To: Mike Whiting – Cabinet Member for Planning, Highways, Transport and Waste

Decision No: 18/00032

Subject: **Well-managed Highway Infrastructure – Implementing the Code of Practice**

Summary: This paper outlines the proposed strategy for implementing the new Code of Practice for highway maintenance management which becomes fully effective in October 2018. It is highly unlikely that there will be any material impacts on the volume or cost of highway maintenance works but there will be a greater emphasis on the assessment of risk. Currently, no changes to service standards are proposed however, prior to any changes being made a full evaluation of options would be required followed by approval in accordance with the County Council Constitution.

Recommendation: The Cabinet Member for Planning, Highways, Transport and Waste is asked to agree to approve the adoption of the principles outlined in Well-managed Highway Infrastructure and endorse the implementation strategy “Well-managed Highway Infrastructure - Implementing the Code of Practice in Kent 2018 – 2020” as shown at Appendix A.

1. Introduction

- 1.1. Well-maintained Highways, the code of practice for highway maintenance management was published in July 2005. It provided local authorities with guidance on highways management and proposed some prescribed investigation levels for highway defects e.g. 50mm depth for carriageway potholes. The Code of Practice formed the basis for the County Council’s Highway Safety Inspection Regime and our approach to highway maintenance. Well-maintained Highways was repeatedly deemed to be best practice by the Courts and by adopting the principles of The Code of Practice we have been able to defend claims against the County Council by demonstrating our defence (under Section 58 of the Highways Act 1980) of implementing all reasonable measures and demonstrating we are not a negligent highway authority.
- 1.2. Well-managed Highway Infrastructure was published in October 2016 and will replace Well-maintained Highways when it becomes fully effective in October 2018. Like it’s predecessor, Well-managed Highway Infrastructure is a national, non-statutory code of practice which sets out a series of general principles for highway maintenance. It is endorsed and recommended by the Department for Transport and its production has been overseen by the UK Roads Liaison Group (UKRLG) and its Roads, Bridges and Lighting Boards. However, the new Code of Practice is less prescriptive and instead promotes the establishment of local levels of service through risk-based assessment.
- 1.3. Officers have engaged with Members on the principles that underpin the new Code of Practice. Concern was raised about the increased risk of legal challenge. Further advice has since been sought from the County Council’s Corporate Risk Manager and BLM, the insurance risk and commercial law firm who represent KCC with respect to highway claims. The following points have been noted:
 - The Code of Practice is expected to be deemed a relevant consideration for claims however the legal basis for defending highways claims has not changed.

- The non-prescriptive nature of the Code of Practice may open our s.58 defence up to greater challenge. This can be mitigated by ensuring that intervention levels, inspection frequencies and response times are documented and justified; that the competence of decision makers at all levels can be evidenced and that regular, documented reviews of service standards are implemented.
- The Code of Practice does not necessitate changes to existing service standards
- Departures from the Code of Practice need to be approved by the Executive with clear reasoning

1.4. Based on legal advice and engagement at a national and regional level, it is proposed that the County Council formally adopt the fundamental principles of the Code of Practice and take a phased approach to implementation, “evolution not revolution”. In accordance with the County Council’s Constitution, doing so will need to be subject to Cabinet Member approval.

2. Discussion

2.1. Subject to approval, *Well-managed Highway Infrastructure - Implementing the Code of Practice* outlines how we would go about applying the principles in the Code of Practice to the way we work and measure our success to ensure continuous improvement and a focus on the County Council’s Strategic Outcomes.

The Highway Network

- 2.2. Well-managed Highway Infrastructure recommends that the highway network should be considered as an integrated set of assets when developing infrastructure maintenance policies.
- 2.3. There are several classifications and hierarchies used for the planning and prioritisation of highway inspections, maintenance, renewals, improvements and new installations in Kent. However, residents, communities and businesses do not distinguish between the different categories of road, range of assets or types of work undertaken. They expect the network to be managed and maintained holistically to provide consistent and appropriate levels of service in the context of the County Council’s strategic outcomes.
- 2.4. An integrated network hierarchy is the foundation of a risk-based maintenance strategy and should inform intervention levels, inspection frequencies and response times. It is important that it reflects the actual use of each infrastructure asset and needs to be sufficiently dynamic to respond to the changing nature of the network – the classification of an asset may alter as a consequence of short term influences such as seasonal fluctuations or due to longer-term factors such as climate change and development.
- 2.5. Much of our network hierarchy information is already published including our Resilient Highway Network and Winter Salting routes. It is proposed that, from April 2019, the County Council will publish a series of related hierarchies which include all elements of the highway network. These hierarchies will consider current and expected use, resilience, and local economic and social factors as well as the desirability for continuity of service across administrative boundaries and a consistent approach for walking and cycling.

Risk Based Approach

2.6. Well-managed Highway Infrastructure is underpinned by the fundamental principle that highway authorities should adopt a risk-based approach in accordance with local needs (including safety), priorities and affordability.

- 2.7. Meaningful risk management is an intrinsic part of the management of our highway infrastructure. Inspections, maintenance, renewals and improvements present extensive choices and therefore it is vital that the impact of implementation and the consequences of failure are fully understood. In addition, there are a variety of external influences which impact on the performance of the highway network. Weather, budget, political direction and demand from other service areas also need to be considered when determining the approach to maintenance and investment.
- 2.8. Many of our existing inspection regimes and methodologies for prioritising work on the highway include a consideration of risk. Furthermore, the County Council has already adopted a risk management approach, detailed in the Risk Management Policy & Strategy 2018-21. It is therefore proposed that this approach is applied for all aspects for highway infrastructure maintenance. At a strategic level, the management of current and future risks would be embedded within our approach to asset management. At an operational level, a risk-based approach would be used to determine intervention levels, inspection frequencies, response times and investment priorities across all highway assets.
- 2.9. A case study outlining the practical application of a risk-based approach can be found at Appendix B.

Resilience and Sustainability

- 2.10. Kent provides key transport links between London and the continent and has some of the most intensively used roads in the country. Any disruption to the network has an immediate impact on road users, the economy and services. Ensuring these roads are as resilient and sustainable as is practicable must be a priority.
- 2.11. The County Council has long had robust systems in place to respond effectively to severe weather emergencies, unforeseen events and civil emergencies and we already take a hierarchical approach to the management of our 8,700 km highway network. In September 2017, this approach was enhanced further when The Environment & Transport Cabinet Committee endorsed The Definition for Kent's Resilient Highway Network.
- 2.12. It is important that the highway network is maintained for future generations. In addition to responding effectively to emergencies and high impact events, it is important that due consideration is given to the impacts of climate change. Furthermore, a balance needs to be sought between providing sustainable growth and a competitive, innovative and resilient economy and protecting and improving our natural and historic assets.

Financial Management, Priorities and Planning

- 2.13. The way in which investment is prioritised needs to provide sufficient flexibility to deliver value for money. In addition to ensuring effective coordination, an asset management-based approach to managing highway infrastructure requires due consideration of different options and factors that influence their success:
- The differing life expectancies of various treatments and the future implications of these for the balance of capital and revenue funding; for example, renewing a bridge parapet might be more expensive than simply repointing the aging brickwork but doing so could generate a saving with respect to the long-term maintenance.

- The seasonal and weather sensitive nature of many treatments and the service as a whole; for example, renewing a road surface is best done during dry, mild weather as very cold or wet weather can cause the surface to rapidly fail.
- The uncertainties in prediction of out-turn costs for Winter Service, Severe Weather Events and emergencies and the need for financial year-end flexibility

2.14. The County Council has endorsed an asset management-based approach to the maintenance and management of highway assets. Part of this approach involves viewing the highway network as a whole rather than as discrete asset groups such as carriageways, drainage, lighting and structures. It is therefore proposed that the County Council will take a cross asset approach when developing priorities and programmes and produce a rolling forward works programme that is updated regularly.

Performance Management

2.15. Effective performance monitoring will support the County Council in reviewing progress, performance requirements and works programmes. Our Highway Asset Management Framework establishes mechanisms for performance management, including performance measures and targets, which facilitate the monitoring of delivery with respect to the short, medium and long term strategic direction of the service.

3. Financial Implications

- 3.1. Implementation of the Code of Practice will require a significant amount of administrative work to review and document our existing approach to service delivery. In addition, there will be a need to carry out staff training to ensure that they have a demonstrable understanding with respect to the assessment of risk.
- 3.2. The anticipated cost of implementation is £143k already included in the existing Highways Asset Management Team revenue budget.
- 3.3. The Code of Practice does not necessitate changes to existing service standards and none are proposed. As such it is highly unlikely that there will be significant financial implications in the immediate future. Any longer term financial implications would be a consequence of the County Council's legal obligations and not as a direct result of the Code of Practice

4. Procurement Implications

- 4.1. Implementation of the Code of Practice will not require any additional commission or procurement and the means of delivery will remain unchanged through the existing highways contracts.

5. Conclusion

- 5.1. Whether or not to adopt the recommendations of the Well-managed Highway Infrastructure is something for each highway authority to decide "based on their own legal interpretation, risks, needs and priorities". However, the Code of Practice is expected to become a relevant consideration for highways claims from October 2018 and is likely to open our s.58 defence up to greater challenge if appropriate mitigations are not implemented. Moreover, departures from the Code of Practice need to be justified and approved at the appropriate level.
- 5.2. Engagement with other highway authorities at a national and regional level has indicated that the vast majority either have, or intend to, adopt the fundamental principles of Well-

managed Highway Infrastructure. The Code of Practice presents an opportunity for County Councils' to shape the services they provide based on local needs and priorities and does not need to represent a radical change from a customer perspective, particularly in the short term. It does however require improved documentation and publication of service standards and places a significant emphasis on demonstrable, risk-based decision making and the competency of those decision makers.

- 5.3. Subject to approval, a programme is in place to ensure the timely and effective implementation of the Code of Practice, including risk management and mitigation. Programme delivery is subject to monitoring by the Divisional Management Team and GET Portfolio Board and the strategy for implementation, proposed decision-making processes and recommended standards will be subject to Cabinet Member approval.

6. Recommendation

- 6.1. The Cabinet Member for Planning, Highways, Transport and Waste is asked to agree to approve the adoption of the principles outlined in Well-managed Highway Infrastructure and endorse the implementation strategy "Well-managed Highway Infrastructure - Implementing the Code of Practice in Kent 2018 – 2020" as shown at Appendix A.

7. Background Documents

7.1. Proposed Record of Decision

7.2. Link to Well-managed Highway Infrastructure
<http://www.ukroadsliaisongroup.org/en/codes/index.cfm>

7.3. Well-managed Highway Infrastructure - Applying the Code of Practice in Kent

7.4. Well-managed Highway Infrastructure - Implementing the Code of Practice in Kent 2018 – 2020

8. Contact Details

Andrew Loosemore – Head of Highway Asset Management
T: 03000 411 652
E: Andrew.Loosemore@kent.gov.uk