

## PLYMOUTH CITY COUNCIL

**Subject:** Highway Inspection Manual (2018)  
**Committee:** Cabinet  
**Date:** 15 January 2018  
**Cabinet Member:** Cllr Sue Dann, Cabinet Member for Environment and Street Scene  
**CMT Member:** Anthony Payne, Strategic Director for Place  
**Author:** Chris Watkins, Group Manager – Highways & Traffic Management  
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**Ref:**  
**Key Decision:** Yes  
**Part:** I

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### **Purpose of the report:**

Highway Maintenance is a statutory duty of the City Council as Local Highway Authority and is set out in the Highways Act 1980.

The implementation by the Council of a transparent and robust highway inspection regime is an essential element in maintaining its duty under Section 41 of the Highways Act 1980, and in providing its Section 58 defence against any claims brought against the council known as “red claims”.

The Highways Safety Inspection Manual defines how we classify highways safety defects and how we deal with them. It specifies the frequency and nature of highway inspections. The Manual sets out how safety defects identified during highway inspections will be dealt with, including signing, guarding or repairing defects to make the network safe.

Defects may be reported by the public, in which case they are evaluated to enable them to be dealt with in accordance with the Manual.

Publication of the Manual enables highway users to understand what constitutes a safety defect and what they should reasonably expect in terms of appropriate action by the Highway Authority when defects are found.

This manual has been developed in line with the new UK Roads Liaison Groups - Well-Managed Highway Infrastructure: A Code of Practice (Code of Practice). Recommendation 16, which, calls for a risk based safety inspection policy. It should be noted that the Code of Practice is not a statutory document, it comprises a framework of guidance and standards for the highway maintenance service.

The adoption of this Manual is aimed at delivering efficiency, and add further clarity, to the inspection process, whilst providing a more robust S58 defence against any “red claims” that might be made against the Council.

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## **Council's corporate plan 2016 - 19:**

The proposals within this report support the Council in achieving our vision to be 'One of Europe's most vibrant waterfront cities, where an outstanding quality of life can be enjoyed by everyone'. The proposals within this report support the Council's priorities as a **Growing City** and a **Caring Council** through maintaining an efficient transport network, supporting economic growth that benefits as many people as possible and ensuring Plymouth is a welcoming city.

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## **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

By virtue of Section 58 of the Highways Act 1980 (England and Wales) if the authority can prove that it had in place adequate policies and procedures to maintain the highway in place and the policies and procedures are properly executed and there was no prior knowledge of the defect before an incident date, a claim can be repudiated.

This improved repudiation is aimed to reduce legal resource and costs incurred, and reducing insurance premiums.

The risks of the recommended adoption have been mitigated by consulting the authorities Corporate Risk Advisors, its insurers, Liability Claims Team, Solicitors and with Legal Services.

The implementation of the Manual will be monitored closely to ensure its application is effective and a report of its value produced annually.

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## **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:**

See attached Equality Impact Assessment

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## **Recommendations & Reasons for recommended action:**

That Cabinet –

1. Approve the Highway Inspection Manual (2018) and that it is adopted herewith;
2. That the Head of Plymouth Highways, in consultation with the Cabinet Member for Environment & Street Scene, be given delegated authority to make minor amendments to the Manual as required.

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## **Alternative options considered and reasons for recommended action:**

Continue the current inspection regime – The improvements set out within the report will not be achieved, such as compliance with Code of Practice (best practice) and improved repudiation of 'red claims'.

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## **Background papers:**

None

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**Sign off:**

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Originating SMT Member – Lou Hayward											
Have you consulted the Cabinet Member(s) named on the report? Yes											

**1. Introduction**

- 1.1. This Highway Inspection Manual has been produced for the Plymouth Highways Term Maintenance Contract (2017) and supersedes all previous versions. It sets out the policy on how defects that may create a danger or serious inconvenience to highway users are to be dealt with through a system of inspection and referral for repair where necessary. The use of the term defect throughout this manual is to be seen in context and not in any way to be taken as an equivalent to Section 41 of the Highways Act 1980 at any point.
- 1.2. Defects that meet the stated investigatory criteria are to be assessed against a risk assessment matrix. This will determine the degree of risk they may pose to a highway user and the appropriate response. In addition to this the Highway Inspector (Safety) has an overarching discretion notwithstanding the particular criteria are met, to risk assess if they believe there is a particular risk.
- 1.3. This manual has been developed based on industry best practice and with due regard for the following documents:
  - The Highways Act 1980
  - Well Managed Highway Infrastructure: A Code of Practice (UK Roads Liaison Group published October 2016)
  - Well Managed Highway Liability Risk (Institute of Highway Engineers published March 2017)

**2. Background**

Section 41 of the Highways Act, 1980, imposes a statutory duty upon Highway Authorities such as Plymouth to maintain the highway network at public expense. Almost all claims against highways authorities relate to an alleged breach of Section 41. However, Section 58 of the act provides for a defence against such claims on the grounds that the authority has taken such care as is reasonably practicable for the appropriate type of traffic. The statutory duty placed on the Highway Authority requires it to have in place robust procedures.

The Highways Safety Inspection Manual defines how we classify highways safety defects and how we deal with them. It specifies the frequency and nature of highway inspections. The policy sets out how safety defects identified during highway inspections will be dealt with, including signing, guarding or repairing defects to make the network safe.

Defects may be reported by the public, in which case they are evaluated to enable them to be dealt with in accordance with the Manual.

Publication of the policy enables highway users to understand what constitutes a safety defect and what they should reasonably expect in terms of appropriate action by the Highway Authority when defects are found.

The proposed manual Council is recommended to improve the Councils defence against claims. The Manual has been developed using recommendations in the National Code of Practice 'Well Managed Highways' and best practice adopted by other Highway Authorities, including discussions with authorities.

**RECOMMENDATION 16 – INSPECTIONS states**

**A risk-based inspection regime, including regular safety inspections, should be developed and implemented for all highway assets.**

A link to the Code of Practice can be found below

<http://www.ukroadsliaisongroup.org/en/utilities/document-summary.cfm?docid=4F93BA10-D3B0-4222-827A8C48401B26AC>

There are three drivers for the adoption of a new Highways Inspection Manual at this time:

- 'Well-managed Highway Infrastructure' recommends highway authorities adopt a risk-based approach in accordance with local needs, priorities and affordability when developing policy.
- improved repudiation, aimed to reduce legal resource and costs incurred, and reducing annual insurance premiums.
- the need to improve efficiency in the delivery of highway works and, in the interest of efficiency, to improve network resilience.