

Subject:	Brighton and Hove Well Managed Highways		
Date of Meeting:	16th March 2021		
Report of:	Executive Director Economy, Environment & Culture		
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1. This report outlines Brighton & Hove City Council's approach for managing its Public Highway network assets in a structured and consistent way. This approach will follow the Code of Practice for the management of highways. The Well Managed Highways Infrastructure Code of Practice was commissioned by the Department for Transport (DfT) and produced in October 2016 by the UK Roads Liaison Group. This Code supersedes the previous Codes of Practice on highway maintenance and brings a fundamental change in the way highway infrastructure is managed, through the adoption of a risk-based approach. The council is already following this approach and this report seeks to inform members on some of the good work already being carried out.
- 1.2. The Code clearly indicates that Highway Authorities move to a risk-based approach and is supported by the organisation at all levels.
- 1.3. The council's strategy for managing the highway has been approved previously on the 19th January 2016, but this was before the code of practise was published.

2. RECOMMENDATIONS:

- 2.1 That the Committee endorse the updated Brighton & Hove City Council's Strategy for Well Managed Highway Infrastructure (Appendix 1) and Safety Maintenance Policy (Appendix 2).

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Well Managed Highway Infrastructure Code of Practice is not a statutory document. However, any departure from the recommended guidance must be based on detailed analysis, judgement and evidence. The Code of Practice is a reference document for defending public liability claims and if it is not followed may lead to increased numbers of claims that could not be successfully repudiated.
- 3.2 To fulfil the principal requirements of the Code, a Well Managed Highway Infrastructure Strategy document has been produced that incorporates the Code's recommendations for best practice maintenance of the public highway,

together with a Safety Maintenance Policy specifically for the safety inspection regime of roads and pavements.

- 3.3 The risk-based approach to highway infrastructure maintenance is predicated on an understanding of the condition of the highway network, the potential risks, and an appreciation of their likely significance. Brighton & Hove City Council's Strategy for Well Managed Highway Infrastructure focuses on road (carriageway) requirements and financial investment, setting out risk-based priorities for the maintenance of this essential and highest-value highway asset within the available annual funding.
- 3.4 The Code of Practice for Well Managed Highway Infrastructure 2016 supports the asset management approach and is supplementary to primary legislation such as the Highways Act 1980 which places a duty on the authority to maintain the public highway.
- 3.5 The Strategy for Well Managed Highway Infrastructure is a document which details the council's service provision in line with the Code's recommendations. The council meets many of the recommendations, although it is acknowledged by the Department for Transport that some recommendations may take longer to achieve in full than others, such as designing for maintenance, cross-asset priorities and funding, and long-term funding plans.
- 3.6 The greatest impact in adopting the principles of the Code is on safety maintenance. Safety maintenance is the Council's approach to small-scale routine and reactive maintenance of roads, pavements and cycleways. The purpose of this type of maintenance is to ensure the public highway is as safe for users as can reasonably be expected and that the authority fulfils its statutory duty under the Highways Act.
- 3.7 The Code of Practice 2016 moves away from a prescriptive approach to safety maintenance and enables local authorities to define their approach based on their own network priorities and local needs.
- 3.8 Adopting a risk-based approach is reliant on an authority having a thorough understanding of how its network is used and appropriate measures that can be taken to minimise the risk of harm. All carriageway, pavement and cycleway safety inspection frequencies and repair standards have been reviewed to ensure that safety maintenance is addressing risks appropriately.
- 3.9 This has involved a fundamental review of the network hierarchy – defining the importance of every section of the road network and prioritising maintenance accordingly. A range of criteria have been analysed to identify the level of priority, including the function and purpose of the road, and type and volume of vehicular, cycle and pedestrian traffic. The council has very different demands placed on its road network in comparison with adjoining authorities. The high demand for public transport and high number of dedicated bus lanes in the city cause significant damage to the carriageway. Applying a risk-based approach for maintenance of these critical assets means that more emphasis is placed on maintaining the busiest roads in the city to a better standard, prolonging their lifespan and reducing the number of pothole repairs and in time reduce congestion.

- 3.10 The Code of Practice recommends an inspection frequency ranging from once a month to annually depending on the hierarchy. Brighton & Hove City Council has chosen to inspect each road no less than every six months, for logistical reasons. However, the timescales for repair define the authority's priorities in line with the Code of Practice recommendations.
- 3.11 The council also respond to reports from members of the public which means that safety risks are not solely identified through the inspections. Although small residential streets are inspected less frequently than main thoroughfares, there is often a greater level of ownership by residents who are more likely to report potential safety issues.
- 3.12 An example of the good practice that is now being followed in the city can be seen in appendix 3. A road in Patcham was identified through this process and a new treatment to repair the road was used that reduced cost and reduced its carbon impact.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The council could decide not to adopt the Strategy and Policy documents. This would mean that Brighton & Hove Highways Department would continue with a safety inspection regime that is based on an outdated and superseded Code of Practice from 2001, and which does not account for the city's current road network usage or for a risk-based approach. This could have serious implications for the council's defence in any public liability claims.
- 4.2 The council could decide to set different levels of inspection frequencies and repair timescales. However, the approach contained within the Safety Maintenance Policy has been defined via a thorough and fundamental risk-based review of all the streets in the city in accordance with the current Code of Practice. In addition, the safety maintenance regime must be delivered within the available annual budget and any changes are likely to have budget implications.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Prior to the development of this the Strategy and Policy, consultation with relevant stakeholders was undertaken on various aspects of highway services including identifying the Resilient network, the Highways winter service, the Highways Asset Management Policy and Strategy and the risk-based gully cleansing regime.
- 5.2 There is direct communication with customers reporting highway issues and the senior manager is involved in regular Customer Feedback meetings which review all elements of the customer experience.
- 5.3 Brighton & Hove City Council participate in the annual National Highways & Transportation Survey which reports on customer perception and satisfaction across a range of Transport & Highway services.
- 5.4 The council is a member of the SE7 Highway Authorities group and the South East Service Improvement Group for customer service.

6. CONCLUSION

- 6.1 The case for adopting a risk-based approach to the management of highway assets has been identified by DfT as the most efficient means of delivering highway services in the current social and economic climate.
- 6.2 Brighton & Hove City Council's strategy and policy documents incorporate this risk-based approach for the maintenance of the public highway's roads, pavements and cycleways, particularly in regard to the duty to provide for the safety of the public.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no additional costs arising from the recommendations of this report as the updated strategy will be implemented within existing budgets. However, as set out in the report, if the council discharges its obligations for Highway Maintenance using a risk-based approach, this may ensure that limited revenue resources in the service's existing budgets are deployed in the areas of greatest maintenance need/risk .
- 7.2 The council is assessed by the DfT to see how it manages the highway and is currently assessed as Band 3. This means that it receives all of the "Incentive Element" of the Highways Maintenance Budget capital grant which will equate to £364,000 for 2021/22. The council has to demonstrate that a risk-based approach is adopted and supported at all levels of the council or this funding will be reduced.

Finance Officer Consulted: Jeff Coates

Date: 17/02/2021

Legal Implications:

- 7.3 The Council as local highway authority has a statutory duty, under s41 of the Highways Act 1980, to maintain adopted public highway. "Maintain" is defined as including repair, although no standard of repair is prescribed. Case law has held that the standard of repair is governed by considerations of safety and that there will be a breach of the duty where danger is caused or threatened to those who may reasonably use the highway in question.
- 7.4 Section 58 of the 1980 Act provides that in an action for non-repair of the highway it is a complete defence for the highway authority to prove it had taken such care as was reasonable in all the circumstances to secure that the part of the highway involved was not dangerous for traffic. "Traffic" in this context includes pedestrians and animals.

Lawyer Consulted: Hilary Woodward

Date: 15/2/21

Equalities Implications:

- 7.5 A well-maintained highway provides a good level of service for all users but with particular impact on more vulnerable groups such as people with mobility difficulties and two-wheelers. By establishing a risk-based approach relevant to local priorities and needs, Brighton & Hove City Council seeks to manage and minimise risk to highway users.

Sustainability Implications:

- 7.6 Where possible, sustainable techniques are used during construction and repair such as using and recycling materials or in-situ infra-red pothole repairs.

Brexit Implications:

- 7.7 None

Any Other Significant Implications:

- 7.8 None

Crime & Disorder Implications:

- 7.5 None

Risk and Opportunity Management Implications:

- 7.6 The fundamental principle of the Code of Practice for Well Managed Highway Infrastructure is that a risk-based approach should be adopted. There is a risk to the council not being able to successfully repudiate public liability claims if the council does not follow the Code's approach. Conversely, the council has an opportunity to successfully defend against public liabilities by demonstrating that it has adopted a thorough evidence-based approach to safety maintenance.

Public Health Implications:

- 7.7 None

Corporate / Citywide Implications:

- 7.8 None

SUPPORTING DOCUMENTATION

Appendices:

1. Brighton & Hove City Council's Strategy for Well Managed Highway Infrastructure
2. Brighton & Hove City Council's Safety Maintenance Policy

3 Example of a new approach to surfacing concrete roads - County Oak

Background Documents

None