

Cheshire West & Chester Council

**Highway Safety  
Inspection Policy  
October 2018  
Appendix A**



## **1.0 Introduction**

### **1.1 Statutory Duties and Legal Requirements**

Cheshire West and Chester Borough Council, as the local highway authority, for a highway maintainable at the public expense have a legal duty under Section 41 of The Highways Act 1980 to 'maintain the highway' so that it is safe for its users. The duty is owed to all users of highways, whether using vehicles or on foot. The term 'highway' includes a "road and "street" over which "the public at large" can pass and repass as frequently as they wish, without hindrance and without charge.

Section 329(1) of the Highways Act 1980 provides that 'maintenance' includes repair and the word 'maintain' is to be construed accordingly. In order to ensure compliance with this duty the Council undertake regular highway safety inspections which are an important means of ensuring that the adopted highway network remains safe for the travelling public.

This duty only applies to highways maintainable at the public expense and does not extend to unadopted highways or private roads which the highway authority is not responsible for. The management and maintenance of Public Rights of Way (which is a term generally used to denote a more minor highway, limited to a particular class of user, such as a footpath or bridleway) are dealt with under a separate regime.

If a member of the public suffers an injury caused through a failure to maintain or repair the highway, the highway authority may be liable to pay damages to individual users unless it can demonstrate that it has taken reasonable care to keep the highway safe and free from danger.

Section 58 of the Highways Act 1980 provides a special defence for an action against a highway authority for non-repair of the highway. Under Section 58, the highway authority can potentially defend a civil claim if it can demonstrate that it 'had taken such care as in all the circumstances was reasonably required to secure that the part of the highway to which the action relates was not dangerous for traffic.'

A policy which provides for an agreed inspection and repair regime and the subsequent actions to repair defects is considered necessary to ensure compliance with the standards of maintenance expected and supports a legal defence pursuant to Section 58 of the Highways Act 1980.

Defects are to be assessed against a Code of Practice which has been produced by the Council to take account of the provision of Sections 41 and 58 of the Highways Act 1980. This can be found in Appendix B to the Cabinet Report. Inspection may result in action to repair defects within a timescale that is reasonable in the opinion of the highway authority which is determined by the seriousness of the defect and the risk of danger to the public.

## 1.2 National Guidance

The 'Well-Managed Highway Infrastructure: Code of Practice 2016' (WMHI 2016) published by the UK Roads Liaison Group on 28<sup>th</sup> October 2016 (amended 15<sup>th</sup> March 2017) is the current national guidance available for highway authorities on the suggested management approach to adopt for the delivery of a safe and well maintained highway network.

This code recommends that a risk-based inspection regime, including regular safety inspections, should be developed and implemented for all highway assets.

The Council's strategy follows the risk based approach of the WMHI 2016.

## 2.0 Council's Aims

- 2.1 The highway network is the Council's largest and most visible publicly owned asset. It is used daily by the majority of the travelling public for commuting, business, social and leisure activities. It is fundamental to the economic, social and environmental wellbeing of local communities and to the prosperity of the nation as a whole.
- 2.2 At a national level our economic prosperity relies on reliable movement of goods and people around the highway network. At a local level the highway network helps to shape the character and quality of local areas and makes an important contribution to wider local authority priorities, including regeneration, social inclusion, community safety, education and health.
- 2.3 Like any physical asset, the highway network requires maintenance and renewal to counter deterioration. New infrastructure, once built, also needs to be maintained over its useful life in order to deliver expected benefits. Poor quality roads can create congestion through road works and delays, which cost businesses and individuals through reduced productivity, increased fuel consumption, delayed deliveries and damage to vehicles.

The Code of Practice will contribute to the Council's aims of providing a well-connected and accessible borough with safe, clean and sustainable neighbourhoods, supporting businesses. Its principal aims are to:-

- Carry out highway safety inspections of all highways maintainable at the public expense in accordance with its published Code of Practice set out in Appendix B to the Cabinet Report;
- Identify and maintain a record of any defects through undertaking highway safety inspections that could potentially pose a hazard to any individual user consistent with the criteria set out in the Code of Practice;

- Risk assess all defects identified in accordance with the criteria set out in the Code of Practice and arrange for the appropriate level of repair to be undertaken;
- Undertake any repairs within the timescale set out in the Code of Practice which have been deemed reasonable by the Council based on the severity of the defect and the potential risk to the highway user.

### **3.0 Policy**

- 3.1 The Council has produced a Highway Safety Inspections Code of Practice detailed in Appendix B which adopts the principles and recommendations contained in national guidance (WMHI 2016) and domestic case law.
- 3.2 The Code of Practice details the frequency of safety inspections for each road based on how it has been categorised applying the national road classification.
- 3.3 The Code of Practice details the types of defects that will be identified through safety inspections, the investigatory levels and required response times for repair.
- 3.4 The Code of Practice sets out the criteria for safety inspections carried out by trained inspectors and investigators on the Borough's road network.

### **4.0 Policy Review**

- 4.1 The Highway Safety Inspection Policy (Appendix A) and the Code of Practice (Appendix B) will be periodically reviewed and updated from time to time by means of insertion pages, replacing or adding to those in the first edition to ensure that it is legally compliant, remains fit for purpose and it is in line with national guidance and domestic case law and the Council's priorities.