

North Yorkshire County Council

Business and Environmental Services

Executive Members

7 May 2020

Driven Carriageway Inspections during Covid-19

Report of the Assistant Director – Highways and Transportation

1.0 Purpose Of Report

- 1.1 The purpose of this report is to seek agreement from the Corporate Director, Business and Environmental Services (BES) in consultation with the BES Executive Members, for an amendment to the current Highways Services Inspection Manual V2.0 to permit in the current exceptional circumstances due to the outbreak of Covid-19 for single person highway inspections of all categories of road for which the Highway Authority is responsible.
- 1.2 The intention is to minimise the risk to the Council's employees by adhering to the Government requirement for social distancing and so that highway inspections are carried out within Public Health England Guidelines during the emergency period.

2.0 Background

- 2.1 In complying with its duty to maintain the highway, as outlined within Section 41 of the Highways Act 1980 and for the purposes of Section 58, which provides for special defence, North Yorkshire County Council undertakes inspections of the highway incorporating the carriageway, footway, grass verge and pathways upon which the public have a right of access and which are maintained at public expense.
- 2.2 The NYCC Highways Safety Inspection Manual (HSIM) has been developed with the primary aim of providing operational guidance to those officers involved in undertaking highways safety inspections in order to ensure a consistent countywide approach by utilising a formalised system that prescribes the frequency of inspections and the method of assessing, recording and responding to defects in the highway using a risk based approach.
- 2.3 The HSIM was last updated in early 2017 and approved by the Corporate Director, BES in consultation with the BES Executive Members in February of that year.

3.0 The Coronavirus Act 2020

- 3.1 The Coronavirus Act 2020 and the Health Protection (Coronavirus Restrictions) (England) Regulations 2020 (the Act) introduced restrictions in response to the "serious and imminent threat posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARSCoV-2) in England". The power to issue directions relating to gatherings and premises is contained in Schedule 22 of the Act and which have been implemented in order to prevent, protect against, delay or otherwise control the incidence or transmission of coronavirus. The second Regulations setting out the directions came into force on 26th March 2020 (revoking the First Regulations).

- 3.2 Regulation 6 makes provision for restrictions on movement under which no person may leave the place where they live without reasonable excuse. A reasonable excuse includes the need to travel for the purposes of work, where it is not reasonably possible for that person to work or provide those services from the place where they are living. It is therefore considered that Highway Officers have a reasonable excuse under Regulation 6(f) as they need to travel for the purposes of work to carry out highway inspections, subject to the requirement to have regard to social distancing requirements and Public Health England guidance.
- 3.3 Regulation 7 makes provisions for restrictions on gatherings. During the emergency period no person may participate in a gathering in a public place of more than two people subject to certain exceptions. One of the exceptions is where the gathering is essential for work purposes. However from a duty of care and welfare perspective we do not consider that it is essential to expose Highway Officers to the risk of working in close quarters to colleagues without being able to adhere to the social distancing guidelines within the confines of premises which as defined in the Act means any place and includes vehicles.
- 3.4 The decision to amend the HSIM is to ensure compliance with the Act and the Regulations without compromising the Council's statutory duties nor unduly compromising the health and wellbeing of Council staff during the Government declaration of a threat to public health.

4.0 Amendments to the HSIM

- 4.1 In 'Section 2 – Inspection Procedures' the HSIM discusses 'Driven Inspections' Page 7 and stipulates that carriageway inspections will be carried out in a vehicle with a different person driving that vehicle to that undertaking the inspection, as follows:

“All driven inspections will be carried out from a slow moving Inspection Vehicle, (marked ‘SURVEYING’) specifically designed for this purpose with both a driver and Highways Officer present at all times.”

- 4.2 An exception to this exists in the following paragraph with regards to Category 4b roads, as follows:

“As an exception to the above, driven inspections can be carried out from a slow moving vehicle without a dedicated driver being present in low risk situations on category 4b roads. This would be in situations where any actionable defects can still be identified and there are no additional public safety risks from not having a dedicated driver. In such circumstances the normal safety inspection vehicle may be replaced with an appropriately liveried Highways Officer's van. In urban areas the inspection will be carried out at no more than 10 mph and in both directions and the Highways Officer must walk any sections where parked vehicles restrict the view of the full highway extent. A record must be kept of the inspection method used.”

- 4.3 Due to the Government mandated Social Distancing requirements and from a duty of care and welfare perspective it is considered appropriate to extend the 'dedicated driver' exception described above to all category roads.
- 4.4 As such an amendment to the wording in HSIM V2.0 is required so that all Category of Roads may be inspected without a dedicated driver so long as that inspection be carried out in both directions and in accordance with the specific Risk Assessment.

- 4.5 It is proposed to amend the HSIM paragraph detailed in section 2 of the manual and paragraph 4.2 above to read as follows:

“As an exception to the above, driven inspections can be carried out from a slow moving vehicle without a dedicated driver being present in low risk situations on category 4b roads, and in the event of a Government declaration of threat to public health for the duration of the declaration made under statutory provisions. This would be in situations where any actionable defects can still be identified and there are no additional public safety risks from not having a dedicated driver. In such circumstances the normal safety inspection vehicle may be replaced with an appropriately liveried Highways Officer’s van. In urban areas the inspection will be carried out at no more than 10 mph on category 4b roads and 20 mph on higher category roads and in both directions and the Highways Officer must walk any sections where parked vehicles restrict the view of the full highway extent. A record must be kept of the inspection method used.”

- 4.6 In ‘Section 2.6 – Performance Management, Page 15, frequency and methodology of safety inspection audits and specifically two types of random inspections, as follows:

Random Inspection (1)

*Carried out at six monthly intervals during April and October
Maintenance Manager to carry out one walked and one driven Inspection,
(determined at random by the Maintenance Manager) with each Highways Officer in
their own geographic area. Results to be compared against those previously
recorded in Insight by the Highways Officer.*

Random Inspection (2)

*Carried out annually during September
Maintenance Manager A to carry out one walked and one driven Inspection
(determined at random by Maintenance Manager A) with Maintenance Manager B in
Maintenance Manager B’s geographic area. Results to be recorded and compared
against those previously recorded in Insight. Feedback to be delivered to Highways
Officers by Maintenance Manager B.*

- 4.7 For the same reasons outlined in 4.3 above it is proposed to replace each instance of the word “with” with “for” to ensure that the random inspections are carried out by one Maintenance Manager, such an amendment to be required only in the event of a Government declaration of threat to public health for the duration of the declaration made under statutory provisions.

- 4.8 With regard to Insurance and Risk Management, the proposed activity to be undertaken by Highway Officers and Maintenance Managers as set out above has been thoroughly risk assessed in terms of both employer duties and public liabilities. The Highway Safety Inspection forms an integral part of the statutory defence available to the Highway Authority for liability claims relating to the Highway. This has been referred to the council’s liability insurers.

5.0 Equalities

- 5.1 An initial equality and impact assessment screening form has been completed and is outlined in Appendix A

6.0 Finance

6.1 No financial impact

7.0 Legal

7.1 The County Council as Local Highway Authority, Street Authority and Traffic Authority has a wide range of statutory duties imposed by a variety of legislation.

7.2 The legal impacts of the emergency legislation which has been enacted are highlighted in the report.

8.0 Recommendation(S)

8.1 It is recommended that the Corporate Director BES and the BES Executive Members agree the amendments to the HSI and that such amendments are only to be effective for the duration of the public health response period as conferred by the Coronavirus Act 2020 and the Health Protection (Coronavirus Restrictions) (England) Regulations 2020 and made by Government declaration.

BARRIE MASON
Assistant Director
Highways and Transportation

Author of Report: Jayne Charlton

Background Documents:

None

Initial equality impact assessment screening form (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')			
This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
Directorate	BES		
Service area	H&T		
Proposal being screened	Amendment to Highways Safety Inspection Manual V2.0 (HSIM)		
Officer(s) carrying out screening	Andy Davies / Jayne Charlton		
What are you proposing to do?	Amend the HSIM to allow for single person carriageway inspections during the Covid-19 social distancing protocols		
Why are you proposing this? What are the desired outcomes?	Endorsement of the Recommendations within this report allows NYCC to fulfil its obligations under the Highways Act 1980 whilst complying with the social distancing guidelines set down by Public Health England.		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No		
Is there likely to be an adverse impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics?			
As part of this assessment, please consider the following questions:			
<ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? 			
If for any characteristic it is considered that there is likely to be a significant adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt.			
Protected characteristic	Yes	No	Don't know/No info available
Age		✓	
Disability		✓	
Sex (Gender)		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	

Appendix A

Marriage or civil partnership		✓	
NYCC additional characteristic			
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	
Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.	No.		
Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.	No		
Decision (Please tick one option)	EIA not relevant or proportionate:	✓	Continue to full EIA:
Reason for decision	The proposed works will have no negative impact on the operation of the highway from the current position or on any of the protected characteristics.		
Signed (Assistant Director or equivalent)	Barrie Mason		
Date	27/04/20		