

North Yorkshire County Council
Business and Environmental Services

Executive Members

22 October 2021

Review of 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 County Councillor Don Mackenzie, Executive Member for Access, for a continuation of an amendment to the current Highway Safety Inspection Manual V2.0 where deemed necessary, but also to begin a move back towards double-crewed highway safety inspections. This would continue to make provision in the 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 based on the proposal outlined later in this report, but also recognise the lifting of restrictions in line with Stage 4 of the Government's roadmap.
- 1.2 The intention is to continue to manage the risk to the Council's employees by striking a balance between the new mantra of 'living with Covid' whilst maintaining and delivering a resilient service. It is acknowledged that at the time of writing this report most restrictions have now been lifted, however if new or additional guidance is released or the situation has changed, a further update may well be required during the meeting of 22 October 2021.

2.0 Background

- 2.1 Earlier reports were presented to this meeting on 7 May 2020, again on 18 December 2020, with the most recent report on 23 July 2021. In those reports, officers outlined that 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. These inspections incorporate 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 7 May 2020 report outlined in detail the background to and purpose of the NYCC Highways Safety Inspection Manual (HSIM) and its the primary aim of providing operational guidance to those officers involved in undertaking highways safety inspections and the method of assessing, recording and responding to defects in the highway using a risk based approach.
- 2.3 Also contained in that report was an overview of the Coronavirus Act 2020 and the proposal to amend the HSIM 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

- 2.4 As such, an amendment to the wording in HSIM V2.0 was approved 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. Following agreement at your meeting, the relevant part of Section 2 of the manual was amended 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.”

- 2.5 Minor changes were also made to Section 2.6 – Performance Management, Page 15 of HSIM, regarding the frequency and methodology of safety inspection audits and specifically two types of random inspections.

3.0 Review of these (modified) arrangements

- 3.1 There have been a number of phases and changes to the landscape of national guidance and restrictions during the pandemic. In the summer of 2020 both infection and death rates were falling and restrictions were eased significantly from those initially imposed during the first ‘lockdown’. Towards the end of the summer of 2020, sadly rates rose again, necessitating a second ‘lockdown’. Given this ever changing picture, enquiries from local teams regarding how inspections were being undertaken and the pandemic continuing with no clear end in sight, it was agreed between the Assistant Director, Highways and Transportation and Head of Highway Operations that a formal 6-month review of these arrangements should be undertaken

4.0 Review Process

- 4.1 The report of December 2020 outlined how input from key personnel / groups was requested and associated discussions were also held. This led to the following recommendations being approved at that meeting (18 December 2020):
- i. the relevant part of Section 2 of the Highway Safety Inspection Manual that currently reads: ‘*The maximum speed of the inspection vehicle throughout an inspection will be 20mph*’ is amended with the highlighted text shown below to read:
 - a. ‘*The maximum speed of the inspection vehicle throughout an inspection will be 20mph unless a dynamic risk assessment on rural roads concludes it is safer to undertake these inspections at a speed more in keeping with traffic flows. However, this would still be limited to no more than 20mph on category 4b roads and 30mph on higher category rural roads*’

- ii. to retain the amendments made to the HSIM following the BES Executive Members meeting of 7 May 2020 shown in italics in para 2.4 of this report, with the addition of the text shown as highlighted below:
- a. *“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 including those occasions where the inspection was conducted between 20mph and 30mph in rural locations.*
- iii. 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
- iv. that a further review is undertaken at the end of March 2021 unless deemed necessary to be undertaken sooner.
- 4.2 Whilst the March review was delayed due to a variety of factors including that restrictions were still such that social distancing / wearing of masks etc. had not changed, officers were also dealing with a particularly challenging winter season (until May 2021) and other resource was also focused on the launch of NY Highways. In this intervening period, the practice of single crewed inspections was still in force and the arrangement continued throughout. Following the meeting on 23 July 2021 based on input and advice at the time from key consultees and the prevailing situation it was resolved that single-crewed inspections would continue, with a further review in October 2021.
- 4.3 In preparation for this report, key colleague / subject matter experts’ views have again been sought – these are summarised in the remainder of this section.
- 4.4 In terms of Legal and Democratic Services:
- As advised previously, the Health Protection (Coronavirus Restrictions) (Steps etc.) (England) (Revocation and Amendment) Regulations 2021 came into force on 18 July 2021 and revoked (amongst others) the “Steps Regulations” and the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020. This removed the restrictive requirements for social contact and gatherings and the wearing of face coverings. There is cautious government guidance which advises an expectation that face coverings are worn in crowded areas and enclosed settings where you come into contact with people you don’t normally meet such as on public transport, and ensuring there is adequate fresh air in indoor settings.
 - The Coronavirus Act 2020 has a two year lifespan and will formally expire at midnight on 24 March 2022. It will be reviewed in Spring 2022 and a decision will be made by the Government whether it and the remaining Regulations, including the No 3 Regulations need to remain in place.

- Now that restrictions have been lifted there appears to be currently (as of 29th September 2021) no legislative barrier to the Highway Authority carrying out its duty to inspect the highway by a return to previous staffing levels of crew vehicles, having regard to the relevant guidance. In the event the Highway Authority were challenged on the duty to maintain under section 41 of the Highways Act 1980, or needed to look to the special defence in action against for damages for non-repair of highway under section 58 of the Act, it may be difficult to justify any operational restrictions remaining, unless the Government imposed restrictions which may impact on services.
- The Government has published its Autumn and Winter Plan 2021 COVID-19 Response: Autumn and Winter Plan 2021 - GOV.UK (www.gov.uk) within which it refers to a “Plan B” if it is needed to help control transmission of the virus whilst seeking to minimise economic and social impacts. The Plan states that the Government hopes not to have to implement Plan B but given the uncertainty it may need to and if so, measures include:
 - Communicating clearly and urgently to the public that the level of risk has increased, and with it the need to behave more cautiously.
 - Introducing mandatory vaccine-only COVID-status certification in certain settings.
 - Legally mandating face coverings in certain settings.
- We advise when making amendments to policies and procedures, decisions which are based on for example the distribution of available workforce and/or resulting in changes to the nature of inspections following the removal of all restrictions should be considered on a risk based approach, after a risk analysis has been undertaken and recorded and having regard to any up to date government guidance.

4.5 From an Insurance & Risk Management (IRM) Perspective:

- Colleagues report they see there is some support for returning to Business as Usual (double crewed). From an insurance defence perspective IRM believe that decision would be desirable, however there has been no pressure exerted from insurers to do so and they would support the current single crewed arrangements if having taken account of **ALL** considerations NYCC continued with the current regime until British Summer Time commences.

4.6 In terms of ADEPT (Association of Directors of Economy, Planning & Transport) Engineering Board,

- NYCC’s Assistant Director H&T confirmed in July 2021, feedback from ADEPT members is that the approach is currently varied with some members retaining single crewed inspections ‘for now’, some members having moved permanently to single crewed inspections and some members having reverted to double crewed inspections. No further update will be available before the meeting of 22 October, therefore the ADEPT feedback remains unchanged.

4.7 From a Health & Safety perspective, the following feedback was received:

- Covid levels in North Yorkshire still remain above the national average with a steady increase although within Highways & Transportation we have only had 2 reported cases over the previous 3 months
- Government guidance for those other than transport organisations has removed the requirement for reducing the number of people travelling in the same vehicle. The advised controls are now:
 - use fixed travel partners
 - do not sit face-to-face
 - Providing adequate ventilation by switching on ventilation systems that draw in fresh air or opening windows
 - Cleaning shared vehicles between shifts or on handover.

- H&S concluded: we could look to moving back to double crewed inspections however we would suggest we continue to remain cautious and would need to ensure the above controls are rigorously implemented.
- 4.8 With regard to NY Highways (NYH): (under normal circumstances NYH would typically provide drivers to assist NYCC Highway Officers undertake such inspections)
- NYH's Operations Manager (NYHOM) confirmed NYH were reviewing whether the additional fleet vehicles were still required to allow single crewed travel to site and in addition had already returned to double crewing in some circumstances. NYHOM stated he would be comfortable with providing a driver in a double-crewed scenario if control measures such as those outlined above were followed.
- 4.9 HR colleagues stated:
- We would agree with everything that H&S have said, and would add that we need to ensure that appropriate risk assessments are in place for all involved, just to take account of any pre-existing health conditions, and indeed any emerging health matters such as pregnancy etc.
 - We would also recommend engagement and consultation with the workforce around the future working arrangements around driven inspections to address any concerns coming from employees
- 4.10 Public Health colleagues commented:
- Rates are currently high and going up but that is predominantly due to school-aged children. There is a secondary peak in c.40 year olds (i.e. parent/teacher age group). It is unclear how long this will last.
 - From a general policy perspective we are now very much into the 'living with COVID' phase. Most restrictions on social distancing etc. were released when we moved to Stage 4 of the Roadmap, and close contacts are no longer required to isolate if fully vaccinated and the 'work from home' national guidance is also no longer in place, although workplaces are expected to keep mitigation measures in place where practicable.
 - Moving away from single crewed inspections would seem reasonable, providing some mitigation measures remained in place (e.g. regular LFD testing, face coverings inside shared cabs, windows open/good ventilation, strongly recommending staff vaccination etc.). There would be 2 scenarios under which it may need to be reconsidered:
 - An outbreak among the crew workforce (where you might need to use single crews due to number of people in isolation anyway, or may wish to avoid people who are close contacts of a confirmed case from being too close to others)
 - A move to the government's 'Plan B' on the Autumn/Winter Roadmap, where the 'work from home' requirement may be brought back in (which would signal a national ambition to try and reduce workplace contacts as much as possible)
- 4.11 UNISON, having taken soundings from members who work in this area replied:
- We have spoken to our members who are involved in this work and, although there aren't strong feelings either way, our position is as it was at the last review. We feel that we are now at a stage in the Covid pandemic where the risks associated with single-crew (i.e. the risks associated with driving slowly, having to concentrate on both driving and inspection, etc.) outweigh the risks of double-crew (i.e. Covid transmission).
 - Most employers have now resumed double-crew (and triple-crew in some cases) for similar roles, e.g. refuse collection, delivery drivers, etc.

- Notwithstanding appropriate measures such as ventilation, mask-wearing where appropriate, etc., we believe it is appropriate to return to double-crew.
- 4.12 Colleagues in Fleet stated, from a fleet perspective double crewing was feasible based on other areas of fleet activity, suggesting:
- Adequate ventilation
 - Regular cleaning with appropriate cleaning materials of surfaces especially regular touch points
 - Maximise distance between passengers – use outer seats.
 - Sit side by side and not behind others
 - Use a face covering when travelling with others that you do not usually travel with.
- 4.13 Taking into account all of the points listed above, there is clearly a balance to be struck given the ‘Living with Covid’ phase we are now in whilst maintaining an appropriate level of workforce resilience. This will ensure service delivery & continuity as well as taking account of individual circumstances (such as underlying health conditions and/or people who may be clinically vulnerable).
- 4.14 A return to a more BAU approach, does now seem feasible with the appropriate risk mitigation and control measures in place, such as the wearing of face masks, ventilating vehicles and ‘buddying up’ / same pairings as much as possible in order to reduce the risk of transmission or loss of personnel in the case of positive tests.
- 4.15 With regard to the specific point of fixed travel partners, it may not always be possible to achieve this as Highway Officers (HO) have specific knowledge of their areas and on occasion where they are not driving for NYCC the NYH employee will be working with other NYH employees and therefore not always in the same ‘bubble’. Whilst it might be deemed feasible to have one NYCC HO undertaking all inspections, this will mean a shift in working practice that would result in inefficiencies given where some HOs live / would have to travel to in order to undertake their inspections or cover colleagues’ other duties. Where fixed travel partners is not achievable, it is imperative that additional control measures such as wearing of face coverings are adhered to. Other control measures, however, should be fully achievable.
- 4.16 A key consideration has always been the ability to retain a wider degree of resilience and business continuity. Having personnel double-crewed means twice the impact in terms of absences if positive tests result and the second person contracts Covid-19 from the first. Whilst the impact of this was particularly significant prior to isolation rules being relaxed in August 2021, this still needs close monitoring with any change in approach or return to double-crewed inspections. As can be seen from earlier commentary in this report, ultimately there is now a balance to be struck between living with Covid (including managing the health and well-being of employees), the safety elements associated with single crewed driving and the County Council’s ability to successfully defend against third party claims.
- 4.17 Having taken all of the above into account, the recommendations in section 9 of this report outline a way in which a transition to double crewed inspections can be enacted and managed

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 There are no additional financial implications arising from this report. Activity will continue to be managed within existing budgets.

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 have been enacted are outlined in this report and were referenced in the report of 18 December 2020 and background paper (Executive Members report of 7 May 2020) as well as the report of July 2020.

8.0 Climate Change Impact Assessment

- 8.1 The current changes to the Highways Safety Inspection Manual with respect to driven carriageway inspections during Covid-19 were put in place to allow certain safety inspections to be completed without a dedicated driver. This amendment to how the service is delivered has no impacts with respect to climate change and so there is no need for a climate change impact assessment.

9.0 Recommendations

- 9.1 It is recommended that the Corporate Director, Business and Environmental Services (BES), in consultation with County Councillor Don Mackenzie, Executive Member for Access agree:
- i. That a transition to double crewed inspections commences from 1 November 2021, including consultation / engagement with Highway Officers via local management teams.
 - ii. As part of that consultation / engagement, where specific circumstances might preclude double crewed inspections - including personal/underlying health conditions - and Highway Officers are in agreement that single crewed inspections are retained in those circumstances
 - iii. Where double crewed inspections commence, the Health & Safety / Fleet / Public Health guidance contained in this report regarding mitigation and control measures is followed as rigorously as possible / activities permit and that this is done in conjunction with any task specific and Covid related risk assessments
 - iv. That provision remains in place to revert to single-crewed inspections on a larger scale if there is either a large outbreak amongst the workforce and/or the Government's Plan B on the Autumn /Winter roadmap is invoked
 - v. That ongoing monitoring of the situation continues over the coming months and a further report is submitted to your meeting of 18 February 2022 (unless deemed necessary to be reported sooner).
 - vi. That the transition back to double-crewed inspections is fully concluded by the end of March 2022 unless circumstances dictate otherwise.

BARRIE MASON
Assistant Director
Highways and Transportation

Author of Report: Nigel Smith

Background Documents:

Reports to Executive Members 7 May 2020, 18 December 2020 and 23 July 2021

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	Nigel Smith		
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 <u>Equality rep</u> 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		✓	
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. As a consequence no people will be impacted including those with protected characteristics.		
Signed (Assistant Director or equivalent)	<i>Barrie Mason</i>		
Date	12/10/2021		