

UPDATED HIGHWAY MAINTENANCE POLICY DOCUMENT PART A -
2024

TRANSPORT & STRATEGIC PLANNING (COUNCILLOR DAN
DE'ATH)

AGENDA ITEM: 14

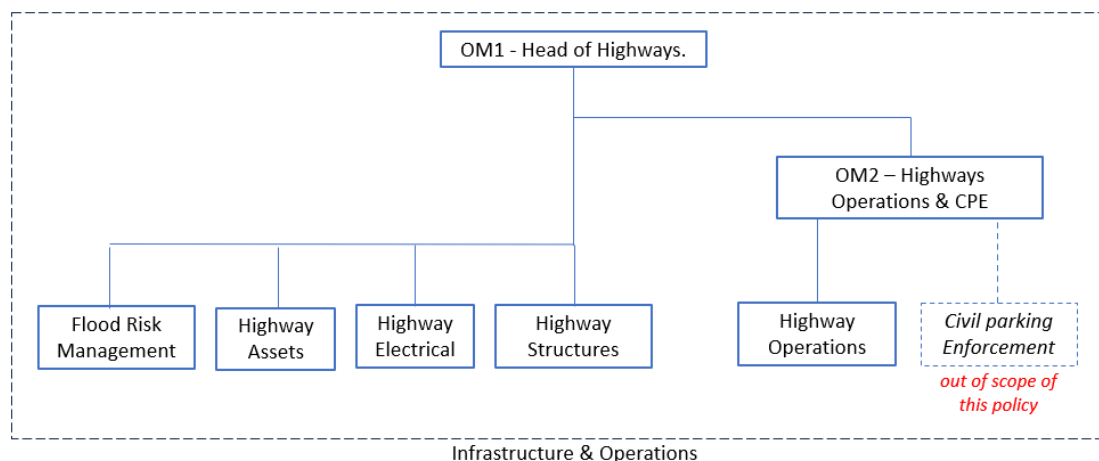
Reason for this Report

1. To recommend to the Cabinet the Updated Highway Maintenance Policy Document Part A – 2024 (**see Appendix A**).

Background

2. There is a three-tiered approach for Cardiff Council's highway maintenance policy documentation following the Wales Audit Office (Audit Commission) recommendation of best practice in 2008. The Policy's three tiers are:
 - Part A - The Maintenance Policy (**Why we do it**). This sets out the Council's statutory obligations and key principles which will provide the framework for Part's B and C of the Policy which will provide the operational details.
 - Part B – The Standards (**What we do**). This will provide detail of what is required to be done to maintain the highway asset to satisfy the Council's statutory obligations and the key principles established in Part A.
 - Part C - Working Instructions (detailed, **How we do it**). These will set out more detailed instructions and procedures required to undertake and complete specific maintenance activities to satisfy the Council's statutory obligations and the key principles established in Part A.
3. This Cabinet Report relates to an updated **Part A (2024)** of the Highway Maintenance Policy which applies to the functions delivered by the **Highways Infrastructure and Operations Teams** that manage and maintain the highway network for which the Council is responsible as the Highway Authority.

Highways Infrastructure and Operations Team Structure



4. The primary objective of the Highway Maintenance Policy is to set how the Council will deliver its statutory duty as the **Highway Authority** in maintaining the highway network within Cardiff. Reference in this document to highway network or highways relates to the adopted highway. For these purposes adopted highway only applies to a designated section of public maintained highway that has gone through a process for maintenance and inspection criteria as defined in the Highway Maintenance Policy Document Part C:001 Highway Safety Inspections (**see Appendix C**) - relating to areas highlighted pink on the councils GIS mapping system.
5. Part A of the Maintenance Policy sets out the Council's statutory obligations and key principles which creates the framework for Part B (**see Appendix B**) and Part's C (**see Appendix C**) of the Policy which will provide the operational details. This Part A document will:
 - Outline Cardiff Council's approach to highway maintenance within a legislative, corporate, and financial framework.
 - Define the Council's approach to highway maintenance based on current legislation and recommendations made in the latest national highway's code of practice: Well Managed Highway Infrastructure – October 2016, utilising the risk-based approach advocated in the determination of local technical and operational standards.
 - Establish the network hierarchy for carriageways and footways.
 - Define arrangements for the management of highway maintenance set within the context of an overall asset management regime defined in The Highway Asset Management Plan 2023-2026 (HAMP – 3)
6. The Highway Maintenance Policy will be periodically reviewed particularly in response to changes in legislation, the development of case law or Council reorganisation. This is the second Highway Maintenance Policy document Part A, the first was approved by the Council's Cabinet on 16th February 2012 under Decision No. EXECM/11110/Min no.121.
7. The Council's Cabinet is responsible for the approval of any changes to the Highway Maintenance Policy Part A. In respect of part B and part C of the policy document, as stated in the approved executive report dated 16th February 2012 *"the City Services Chief Officer, in consultation with the Executive Member for Highways, to be authorised to approve these*

documents, and subsequent amendments to these as they become necessary, for example, because of operational experience or marketplace innovations”.

Issues

8. There are no identified issues raised for the approach described in this Part A Highway Maintenance Policy Document. However, issues resulting from financial pressures on the maintenance and management of the highway asset are described in detail in the May 2023 Cabinet approved Highway Asset Management Plan 2023-2026 (HAMP-3), and its accompanying HAMP-3 Cabinet Report.

Reason for Recommendation

9. To approve the Updated Highway Maintenance Policy Document Part A (2024) as the current management policy for this function.

Financial Implications

10. This report does not result in any additional financial implications. It seeks approval for an updated Highway Maintenance Policy Document Part A which sets out how the Council will deliver its statutory duty as the Highway Authority in maintaining the highway network within Cardiff.
11. The updated Highway Asset Management Plan reported to Cabinet in May 2023 detailed proposals for future management and investment of the highway and associated assets. This report identified pressures on the service and a significant budget gap for future years between the existing capital budget allocations and the investment deemed necessary to achieve steady state, without reliance on additional Council resources.
12. The Directorate must continue to manage within available revenue and capital budgets and seek all alternative external funding sources, actions, mitigations and efficiencies which enable the service to close the gap without impacting on maintenance obligations and minimum condition standards.
13. This will necessitate prioritisation of work and diversion of resources as appropriate in order to maximise resources within a cost effective and risk-based planned maintenance programme.

Legal Implications

14. Section 41 of the Highways Act 1980 (“the Act”) imposes on a highway authority an express duty to maintain highways which are maintainable at public expense. The section itself does not specify what is the standard required of the highway authority in executing this duty. Case law has however established, that the duty to maintain a highway requires maintenance of a standard necessary to accommodate the ordinary traffic which passes or may reasonably be expected to pass along the highway. Therefore, the extent of the duty will vary according to the type of highway and the type of traffic that may normally be expected on it. Breach of this duty can render the council liable to

pay compensation if anyone is injured as a result of failure to maintain the highway. The Highway Maintenance Policy sets out the Council's approach to highway maintenance as regards highways which are maintainable at the public expense.

15. It should be noted that claims can be brought against a highway authority for alleged failure to maintain the highway. Section 58 of the Act provides a defence against such claims where the highway authority can be shown to have taken such care, as in all the circumstances was reasonably required to secure that the part of the highway to which the claim relates was not dangerous. It is understood that the preparation and approval of the updated plan will, in part, assist the Council to demonstrate the approach adopted to carry out highway inspections.

Equality and Socio-Economic Duty

16. In considering this matter, the Council must have regard to its public sector equality duties under the Equality Act 2010 (including specific Welsh public sector duties). This means the Council must give due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The protected characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of belief.
17. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers (WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 (gov.Wales) and must be able to demonstrate how it has discharged its duty.
18. An Equalities Impact Assessment aims to identify the equalities implications of the proposed decision, including inequalities arising from socio-economic disadvantage, and due regard should be given to the outcomes of the Equalities Impact Assessment.

Well-Being of Future Generations (Wales) Act 2015

19. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales – a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
20. In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan 2023-26. When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the

decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.

21. The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them
- The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

General

22. The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language, the report and Equality Impact Assessment deals with all these obligations. The Council has to consider the Well-being of Future Generations (Wales) Act 2015 and how this strategy may improve the social, economic, environmental and cultural well-being of Wales.

23. Cabinet must be satisfied that the proposal is within the Policy and Budget Framework, if it is not then the matter must be referred to the Council. All decisions taken by or on behalf the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers of behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Council Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances

HR Implications

24. There are no HR implications directly arising from this report.

Property Implications

25. There are no specific property implications arising from the Updated Highway Maintenance Policy Part A report. Where there are any property transactions or valuations required to deliver any proposals, they should be done so in accordance with the Council's Asset Management process and in consultation with Strategic Estates and relevant service areas.

Insurance Implications

26. Section 41 of the Highways Act 1980 ("the Act") imposes on a highway authority an express duty to maintain highways which are maintainable at public expense. The updated policy incorporates the "Well Managed Highway Infrastructure – October 2016" code of practice. The Highways policy will be relied on when attempting to defend insurance claims made against the Council.

RECOMMENDATION

Cabinet is recommended to approve the updated Highway Maintenance Policy Document Part A (2024) as the current management policy for this function.

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| SENIOR RESPONSIBLE OFFICER | Andrew Gregory Director Planning, Transport & Environment |
| | 15 March 2024 |

The following appendices are attached:

- Appendix A** *Highway Maintenance Policy Document Part A (2024) – DRAFT - v2.10*
- Appendix B** *Highway Maintenance Policy Document Part B (2024) – FINAL - v2.13*
- Appendix C** *Highway Maintenance Policy Document Part C:001 – Highway Safety Inspections – FINAL – v2.12*

The following background papers have been taken into account: -

- *Highways Asset Management Plan 2023-2026 (HAMP – 3) – FINAL v1.0*
- *Cabinet Report – HAMP 3 – May 2023 – Final – v0.20*