

Forward Plan reference number: Not applicable

Report title: Coronavirus Outbreak – Continuation of Temporary Change to Highway Safety Inspections Regime – specifically double-crewed driven inspections and use of Road AI video software	
Report to: Councillor Kevin Bentley – Deputy Leader and Cabinet Member for Infrastructure	
Report author: Andrew Cook – Director, Highways and Transportation	
Date: 31 March 2021	For: Decision
Enquiries to: Peter Massie, Head of Highways Commissioning – peter.massie@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The Coronavirus outbreak has been a major public health emergency. The Government's current advice continues to be for the population of the United Kingdom to practice social distancing by minimising contact with other people and for people to work at home if possible, to reduce social contact.
- 1.2 This report asks the Cabinet Member to consider an extension to the existing temporary change to the standard regime of driven highway safety inspections in order to protect the health and safety of staff of ECC and Ringway Jacobs and to a more limited extent the wider population.

2. Recommendations

- 2.1 Agree that the current temporary situation relating to the highway maintenance policy and single-crewed driven inspections be extended for a further period of three months commencing 1 April 2021 as set out in Appendix 1.
- 2.2 Agree that a revised scope to the existing 'Road AI' trial be approved to enable the identification of Priority 3 and 4 defects across a wider range of asset groups (for example, signs, barriers), and to implement a revised working practice for the trial to align with best practice from other authorities. The full details of these revisions can be found in **Appendix 2**.
- 2.3 That the maintenance strategy be temporarily amended as set out in Appendix 1.

3. Summary of issue

- 3.1 In normal times, routine inspection of the carriageway is undertaken by a driven inspection using a two-person crew, with one person driving and the other

looking out for defects and recording them. As a result of the pandemic we put in place a system of single crewed vehicles with one person carrying out both roles, and the inspection scope of driven inspections was reduced to focus on the identification of Priority 1 and 2 defects only. As a result we had to suspend the part of maintenance policy to make it clear that we will not be looking for or resolving priority 3 and 4 defects on carriageways which are subject to a driven inspection. The Cabinet Member decision to change the maintenance policy expires on 31 March 2021.

- 3.2 The changes have been accepted well by the Inspections team, who have adapted quickly. The mode of operation has also kept any absences and self-isolation due to COVID symptoms to a minimum and has therefore sustained levels of service.
- 3.3 While steps have been taken to re-establish elements of society such as education and retail, social distancing is still recommended to be observed wherever possible. A discussion with Dr Mike Gogarty, ECC's Director of Wellbeing, Public Health and Communities, in September 2020 confirmed that the single-crew and 2m social distancing 'rule' should still be observed. It was confirmed by Dr Gogarty on 17 March 2021 that we should continue to follow this advice.
- 3.4 Against this context the Council has to consider the standard regime of highway safety inspections in Essex. The Council may be liable for damage caused by disrepair on the highway unless it can prove that the authority 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. The inspection regime is one of the most fundamental duties of the highway authority as it is part of our system to ensure that we have taken reasonable care to ensure that highways are not dangerous.
- 3.5 In order to continue to deliver this service whilst following social distancing guidelines, it is proposed that we continue to operate single-crewed inspections for an extended period of time.
- 3.6 All inspections, whether walked or driven, normally require the inspector to identify all defects, Priorities 1-4. Priority 1 and 2 defects are those, following risk assessment, which may represent an immediate or imminent safety hazard or because there is a risk of short-term structural deterioration and are targeted for make safe or repair within 5 working days. Priority 3 and 4 defects are those that following risk assessment are of low risk of causing harm and are considered to be defects that impact long term serviceability and sustainability of the highway asset and are considered for repair within planned maintenance work.
- 3.7 Under a double-crewed driven inspection, all defects are recorded and noted. However, in moving to a single-crewed driven inspection, priority will be given to recording priority 1 and 2 defects. These should be obvious defects of a kind that any driver would be looking out for and should therefore be easy to spot. A risk assessment has been undertaken and it has been concluded that

this can be done safely, provided drivers stop in a safe place to record defects identified.

- 3.8 Alternative options such as, the fitting of dividers/screens into vehicles, have been investigated but due to the number and different types of vehicle, the service does not consider this to be a practical solution. It will also incur additional cost and may restrict visibility within the vehicle causing additional health and safety issues. The service considers that the use of PPE such as face masks may also affect the driver's ability to drive safely.
- 3.9 Further consideration has been given to using video technology to supplement the revised single manned inspections process, enabling the identification of all defect priorities. Video technology has been under trial conditions in Essex since early in 2020 and has been trialled by a small number of authorities. A group of key Officers from Risk and Insurance, Highways Commissioning, Asset Management and Inspections has developed a proposal for implementation of a formal trial in Essex, which commenced in October 2020.
- 3.10 Following dialogue with other authorities operating a similar regime, a revised scope to this trial is proposed to come into effect on 1 April 2021, as per **Appendix 2**. This will see us trying to identify a wider range of defects from the video footage than we currently are, and also trying it on local roads.
- 3.11 If agreed, the revised scope of the trial of Road AI for defects would commence 1 April 2021 for an initial three month period, although it is expected that it could continue throughout the year, and would continue to be closely monitored by a key group of Officers (not limited to, but including representatives from ECC Risk and Insurance, Highways Commissioning, Inspections and Asset Management) who can provide monitoring reports to the Director, Highways and Transportation and other key stakeholders as required at regular intervals.
- 3.12 All other inspections will continue in line with the current strategy.

Impact of change

- 3.13 The temporary changes to the current regime of highway safety inspections are outlined in Appendix 1. The proposed changes to double-crewed driven inspections will in the short term have no additional financial implications on ECC to implement, but it should be noted that the contractual KPI performance framework for 2021/22, which Essex Highways are required to achieve, measures:
1. The timeliness of highway safety inspections (ref SE6)
 2. The quality of Safety Inspections (ref SE8)
- 3.14 Whilst the request to sustain single-crewed inspections for a further period of up to three months is considered a temporary measure, it is also noted that the requirement for social distancing could be in place for some time, hence the proposal to continue to explore alternatives such as the use of Road AI support this method with video data.

4. Options

- 4.1 **Revert to the original Inspections regime:** The Council could lawfully require the service to be delivered in its current form. This would be fully compliant with government advice and the law if it is essential for work purposes and many other organisations are operating with double crewed vehicles. Case numbers in Essex are low and vaccinations are being rolled out. However, this would to some extent pose an increased risk of COVID-19 to the inspections workforce. That risk may be reducing but these actions help prevent spread of the virus, and staff are currently reluctant to travel together because of the virus and impact it could have on their health. Additionally, this would go against the advice given to ECC staff and the view of ECC's Director of Wellbeing, Public Health & Communities. It would however be consistent with many other organisations
- 4.3 **Extend the temporary changes to the current inspection regime ONLY:** If we extend the changes originally agreed in March 2020, as per Appendix 1, we will be able to sustain social distancing for inspection staff
- This does mean that Priority 3 and 4 defects usually identified on double crewed driven inspections, will not be recorded. There is potential for insurance claims to be made in this respect, however these types of defects by their nature, are those that are not deemed to pose an immediate risk to the safety of the travelling public.
 - Removing the need to identify Priority 3 and 4 defects, as well as removing the need to take a photo of the defect (unless the inspector deems that they can do this in a safe manner) follows processes already in place for Ad hoc defects, although the character of ad hoc inspections is different.
- 4.4 **Extend the temporary changes to the current inspection regime AND maintain the current Road AI scope**
- This means that we would limit our scope for driven defect identification to the PR 1 and PR 2 network only, and also to carriageway defect identification. It would also prevent us from implementing a revised process for the trial to determine whether changes to the way in which data is collected and processed will be more efficient.
- 4.5 **Extend the temporary changes to the current inspection regime AND implement a revised scope trial for Roads AI video software (RECOMMENDED):**
- This means that we can test the identification of Priority 3 and 4 defects via video software as per the process outlined in Appendix 2, maintaining a closer to usual level of inspection compared to the approach in options 4.3 and 4.4.
 - However it will not be possible to cover all PR1 and PR2 roads in the trial and we are still learning about the operation of the trial, meaning that we cannot currently guarantee that this will be as effective as applying the full maintenance strategy.

5. Issues for consideration

5.1 Financial implications

5.1.1 These short-term measures will result in the 6 FTE existing drivers being used to carry out other inspection related programme work and therefore do not result in any further financial implications.

5.1.2 The revised scope trial, if implemented, will utilise 3 devices which are already in use across Essex Highways and hence do not require any additional expenditure.

5.1.3 By adopting this change in methodology we are continuing to ensure the risk to insurance claims is minimised and continues as normal.

5.2 Legal implications

5.2.1 As set out above the Council has a duty to take appropriate steps to secure the health of Essex residents.

5.2.2 The Council also has a statutory duty to maintain the highway and that service will temporarily be provided to a lower standard. The risk assessment undertaken by the service shows that it is possible to do this safely, although this should be kept under review. In theory there should be no increase in successful claims because dangerous defects should still be identified. However, some judges have found against ECC where inspectors have considered defects to be of a lower priority and not to cause a safety issue.

5.2.3 It is important that we keep the situation under review to restore, as quickly as possible, an inspection regime which identifies all categories of defect. This could be by restoring inspections driven by two people or by finding another way of inspecting such as by camera as set out in the continuation and expansion of this trial using Road AI video software.

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 As this change is a temporary measure in response to the Coronavirus outbreak, the impact will be short-term and minimal. We will endeavour to return to our normal level of service as the restrictions in place are lifted and our resources permit.

7. List of appendices

Appendix 1: Maintenance Strategy Update

Appendix 2: Roads AI Trial

Appendix 3: EqIA

8. List of Background papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure	27 April 2021

In consultation with:

Role	Date
Andrew Cook, Director, Highways and Transportation	22 April 2021
Director of Finance Finance & Technology (S151 Officer) Stephanie Mitchener	20 April 2021
Director, Legal and Assurance (Monitoring Officer) Paul Turner	31 March 2021