

Decision maker:	Cabinet member Infrastructure and transport
Decision date:	Tuesday, 29 October 2019
Title of report:	Executive response to review of highways maintenance - pothole repairs
Report by:	Acting Assistant Director for Highways and Transport

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose and summary

To agree the executive response to the recommendations from the review of highways maintenance – pothole repairs.

The review was commissioned by the general scrutiny committee who appointed a task and finish group to consider the highway maintenance plan and seek to address concerns expressed within the community about the potential mismatch between policy and practice on pothole repairs. The review made a number of recommendations. It is proposed that all of the recommendations are accepted, with the exception of recommendations 6, 8 and 14, which are partially agreed, and recommendations 11 and 13 which are recommendations that executive cannot implement or require agreed in principle. Full responses are set out in appendix 3.

Recommendation(s)

That:

- a) the response to the general scrutiny committee's recommendations regarding the review of highways maintenance – pothole repairs, as attached at appendix 1 is approved.

Alternative options

1. None proposed; it is a statutory requirement to provide a response to recommendations made by scrutiny committees. It is open to the executive to accept, partially accept or reject a recommendation from a scrutiny committee; should a recommendation not be accepted an explanation should be provided.

Key considerations

2. The general scrutiny committee established a task and finish group on 2 July 2018 to consider the highway maintenance plan with a specific focus on pothole repairs. Members had identified during consideration of the public realm contract in January 2018 that it appeared that the local perception within parishes of conditions on the ground did not match the picture of improvement being presented by both client and contractor. The task and finish group was established to seek to address concerns expressed within the community about the potential mismatch between policy and practice on pothole repairs.
3. All Parish and Town Councils were invited to comment on the matters identified within the scope of this review. The principal issues raised in responses were: repairs being carried out to some potholes in a cluster leaving others nearby unrepaired; quality of repairs and auditing of repairs including those carried out by statutory undertakers (utilities companies); speed of repair; value for money; working practices (numbers of employees/use of surplus materials); and action on pothole prevention.
4. On 6 March 2019 the general scrutiny committee approved the report and recommendations from the task and finish group for submission to the executive. The recommendations are contained within appendix 3 along with proposed responses. The committee recognised that a response would not be provided until after the local elections in May 2019.
5. It is proposed that all recommendations are accepted in full, with the exception of recommendations 6, 8 and 14, which are partially agreed and recommendations 11 and 13 which are recommendations that executive cannot implement or require. The reasoning for only partially agreeing to recommendations 6, 8 and 13 are summarised in the following paragraphs.
6. In regard to recommendation 6, the recommendation is that the council should consult on and set a threshold for shifting resources to a more reactive approach when the number of defects reaches a certain point, involving undertaking rapid 'make safe' repairs, following up with 'permanent' repairs in time and making arrangements for this change in approach to be communicated so that the public are aware of this temporary change. In summary, it is agreed that the council may consult on the principle of setting a threshold, but cannot be expected to do so in regard to the level that the threshold itself is set. This as the consequences of the level at which threshold are set manifest as a risk that is for the council (and its provider) to manage. This having taken proper account of the circumstance that is driving the change, the law, codes of best practice and the resources that are truly available.

7. In regard to recommendation 8, the recommendation is that the council should develop criteria to assist parish councils in how to manage their contracts with lengthsmen to ensure value for money and supply opportunities for further training. In summary, whilst it is agreed that close working arrangements between the council and parish councils are key to the success of locality working, and as part of that relationship the council can impart knowledge and experience to parish councils, it is proposed that these opportunities form as part of an ongoing relationship reinforced through 'parish summits' which may lead on to the provision of some formal training.
8. In regard to recommendation 14, the recommendation is that BBLP should improve signage at worksites, including notification of: gang identification number; gang working hours; what the work is for; and a contact number in case of any problems with the site. In summary, the principle of this recommendation is agreed, but it is suggested that the methods through which a greater understanding of who is doing what, when and what work is for, are communicated to the public might differ from signage at work sites. Social media and other channels may provide a better platform for message that convey this understanding to our customers and stakeholders.

Community impact

9. In accordance with the adopted code of governance, Herefordshire Council achieves its intended outcomes by providing a mixture of legal, regulatory and practical interventions. Determining, the right mix of these is an important strategic choice to make sure outcomes are achieved. The council needs robust decision-making mechanisms to ensure our outcomes can be achieved in a way that provides the best use of resources whilst still enabling efficient and effective operations and recognises that a culture and structure for scrutiny are key elements for accountable decision making, policy development and review.
10. The recommendations contribute to the following priorities contribute to the following priorities in the corporate plan: support economic growth and connectivity (including broadband, local infrastructure, transport and economic development) and deliver the local transport plan programme, providing an enhanced, accessible, safe and integrated transport network supporting economic growth.

Equality duty

11. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
12. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected

characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.

13. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. The highway service and our provider partner BBLP will be made aware of their contractual requirements in regards to equality legislation in our implementation of these recommendations.

Resource implications

14. There are no additional cost implications in the acceptance of these recommendations, as actions will be met from service budgets and through the Annual Plan decisions going forward.

Legal implications

15. Section 41 of the Highways Act 1980 confers statutory obligations on the Council as the highway authority for the administrative area of Herefordshire to maintain the highway maintainable at the public expense including any defects, this also includes the production of a maintenance plan to demonstrate how they intend to maintain the highway. Section 41 places an absolute duty on the Council and gives no scope for interpretation.
16. In accordance with the Scrutiny Rules and specifically paragraph 4.5.44 of Herefordshire Council's constitution, a report containing the recommendations of a scrutiny committee following a review or investigation should be submitted to the chief executive to arrange for consideration by the executive. Under paragraph 4.5.50 the scrutiny committee should be notified of the response of the executive and the authority within two months of the receipt of a scrutiny report.
17. Following the elections on 2 May 2019 due to the changes in administration it has not been possible to arrange for production of a response by way of this report until now (September 2019).

Risk management

18. There are no additional risks associated with agreeing the content of this report. Risks associated with the actual activity are managed through the directorate risk register and where necessary are escalated to the council's corporate risk register. Many of the recommendations seek to promote, reinforce and enhance the highway service's ability to manage the various legal, financial, reputational and safety risks associated with the management of an extensive highway asset and the delivery of works to that asset.
19. In accord with recommendation 1 (as in appendix 3), the council will continue to take a risk-based approach to prioritising repairs as part of a proactive asset management strategy.
20. As recommendation 24 (as in appendix 3), BBLP should continue to give safety a high priority, both in terms of a) worker and public safety during repair operations, including worker health and safety, and b) continuing risk-based approach to prioritising works. The

next iteration of the Highway Maintenance Plan will continue to embrace the risk-based approach and put safety to the fore and road worker safety will continue to be promoted as part of our communications.

Consultees

21. Balfour Beatty Living Places who are supportive of the response as described in Appendix 3 and are committed to working with the council to deliver continuous improvement in the public realm service.

Appendices

Appendix 1 – Scrutiny Review of Highway Maintenance – pothole repairs – March 2019 Report

Appendix 2 - Scrutiny Review of Highways Maintenance – Pothole Repairs – March 2019 Appendices

Appendix 3 - Summary of recommendations to the executive and executive responses to the Review of highways maintenance – pothole repairs

Background papers

None