



**Highways Act 1980 Section 58
Highway Safety Inspections**

CODE OF PRACTICE

FOR

HIGHWAY SAFETY INSPECTIONS

PART 1 – STRATEGY

2013

CONTENTS
PART 1: GENERAL

1. INTRODUCTION	PAGE
1.1 Cheshire East Council's Policy	3
1.2 This Document	3
1.3 Highway Inspections	4
2. LEGAL FRAMEWORK	
2.1 Highway Safety	4
2.2 Definition of Maintenance	4
2.3 Highways Act 1980	5
2.4 Ensuring a Defence	5
2.5 Statutory Undertakers	6
2.6 Other Authorities & Owners	7
3. INSPECTIONS	
3.1 General	7
3.2 Information from Public & Police	7
3.3 Time to Make Safe	8
3.4 Locational Referencing	8
3.5 How the Information is Recorded	8
3.6 Archiving	9
3.7 Defect Categories	10
3.8 Usage Categories	11
3.9 Inspection Frequencies	11
3.10 Emergency Procedures	12
Local Highways Office Contact Details	13
Annex 1: Photographic Illustrations	14

CODE OF PRACTICE
FOR
SAFETY INSPECTIONS TO BOROUGH ROADS

1 INTRODUCTION

1.1. Cheshire East Council's Policy: Safety Inspections

The network of Borough highways is to be inspected to a regular frequency appropriate to each category of road. Defects are to be assessed against a Code of Practice which has been devised to take account of the provisions of Section 58 of the Highways Act 1980. Inspection is to result in action to repair defects found within a timescale that is reasonable in the opinion of the Highway Authority for the seriousness of the defect and the risk to the public.

1.2. This Document

Safety inspections are an important means of keeping the highway safe for the travelling public. They are also vitally important in court cases for providing evidence that the Council takes a responsible attitude to its duties as highway authority. If a member of the public has an accident which can be attributed to the condition of a section of highway, then the highway authority may be liable to pay damages unless it can show that it has taken reasonable care to keep the highway safe; as is its duty under S41 of the Highways Act 1980.

The strategy used by the Authority to assess the frequency of inspections follows the risk based approach for safety inspections of the 'Well-maintained Highways' code of practice for highway maintenance management. The hierarchy adopted for the network categorisation and frequency of inspection is however the national road classification ie A, B, C and U, with sub classifications of Urban and Rural.

This inspection manual sets the standard for highway safety inspections on the roads of Cheshire East Council. In most cases following the advice given will be adequate, but staff engaged on safety inspections will always be expected to apply a risk assessment approach as not every eventuality can be covered in this document. All details of inspections, defects and intended repairs must be recorded together with details of when subsequent repairs are carried out. In addition, sections with **no defects** must be positively recorded.

This document describes the Safety Inspections carried out by trained inspectors & investigators. It sets out the Standards to be followed on the Borough's roads. It is to be used by all members of staff who may be required to report defects or to visit sites to check on defect reports from members of the public, police etc.

The document will be updated from time to time by means of insertion pages, replacing or adding to those in the first edition. The recipient will be required to keep that copy up to date.

1.3. Highway Inspections

Highway visual condition inspections used to record defects in highway condition are of three types:

Safety	to visit all adopted highways to a regular schedule, record hazards defects and initiate action to make safe by the end of the next working day or 5 working days depending on the nature of the defect
Detailed	Annually to record hazards plus non urgent repairs that are to be considered for inclusion in a programme of works.
Structural	to assess the overall structural condition of Sections of the road network so that funds can be allocated where need is greatest.

This Code sets out the criteria for Safety Inspections. It does not include inspections for ice & snow. Winter maintenance policy & practice forms a separate document.

2 LEGAL FRAMEWORK

2.1. Highway Safety

The Highway Authority has a legal duty to maintain the highway. Under Section 41 of the Highways Act 1980; it may be exposed to the possibility of actions for breach of statutory duty if it fails to maintain a highway.

The policy of regular inspections and the subsequent actions to repair are designed to meet that duty. The records maintained in the 'Confirm' Business Management System assist in establishing the facts and provide evidence of the current maintenance standards.

The regular inspection / recording / retrieval system and the consequent action provide both a formal record of the condition of the highway and the defence for the Highway Authority under Section 58 of the Highways Act 1980. The recording of inspections & investigations made following notification of a possible hazard by members of the public, the Police etc. or on the receipt of a Third Party Claim is essential in establishing a comprehensive defence.

In order to provide a defence against a claim there must be written standards of maintenance, strictly followed, which are in accordance with nationally accepted criteria. The Highway Authority needs to show that it had effective policies and that they were adhered to. The 'Confirm' Business Management System is designed to be a key element in that task.

2.2. Definition of Maintenance and Repair

The ordinary meaning of 'maintain' is to keep something in the state that enables it to serve the purpose for which it exists. (Case: Shaw L.J. [1978] Q.B. 343 et 364). It is broader than just matters of repair and keeping in repair. Maintenance is defined in the Highways Act 1980 Section 329(1) as including repair. A partial definition such as this suggests a wider meaning beyond mere repair.

Maintenance includes keeping road markings, street lights and signs in a condition to serve the purpose for which they exist. The provision of an adequate system of drainage is included in maintenance. (Burneside v. Emerson [1968] All E.R. 745A). These things also have to be kept in repair.

Maintenance does not mean improvement. There is no duty on a Highway Authority to improve highways. Thus there is no duty on the Highway Authority to widen an existing

highway, even if an accident may be said to be attributable to the amount of traffic using a road which is too narrow. (Highway Law, S.J.Sauvain 1989 p 104 Sect 5-21).

2.3. The Highways Act 1980

"The Act expressly provided that the reasonableness of the Authority's actions in attempting to perform the duty of maintenance could form a defence to the action.

The burden of proof was to be on the highway authority to establish that it had taken such care as was in all the circumstances reasonably required to secure that the part of the highway to which the action related was not dangerous for traffic. This statutory defence is contained in the Highways Act 1980, Section 58. (Highway Law, S.J.Sauvain 1989 p95 Sect 5-03)

The Highways Service has the task of providing for the defence of the Highway Authority on the roads within the Borough, by taking action to make safe. Insurance against third party highways claims is carried by Cheshire East Council for all adopted highways in the Borough.

The Authority needs to establish that it has acted reasonably, which it would do by the production of adequate documentation and evidence in support of actions taken. In Cheshire East, these include a defined and monitored inspection regime, inspection records, the ordering of works of repair and the checking of compliance with instruction to repair.

2.4. Ensuring a Defence

A claimant must show that the highway was not in a reasonably safe state as a result of failure to maintain. The test is whether the state of the highway was such as to cause a reasonably foreseeable danger.

For the purposes of a defence under subsection (1) of Section 58, the court shall in particular have regard to the following matters:

- the character of the highway, and the traffic which was reasonably expected to use it;
- the standard of maintenance appropriate for a highway of that character and used by such traffic;
- the state of repair in which a reasonable person would have expected to find the highway;
- whether the Highway Authority knew, or could reasonably have been expected to know, that the condition of the part of the highway to which the action relates was likely to cause danger to users of the highway;
- where the Highway Authority could not reasonably have been expected to repair that part of the highway before the cause of the action arose, what warning notices of its condition had been displayed;

Three points have to be established if a case is taken to law:

- The claimant must show that the highway had not been properly maintained and that it was thereby dangerous to traffic.
- Secondly the claimant has to establish that the dangerous condition was the cause of the accident.

- The Authority have to prove that they took all reasonable steps to ensure that the highway was safe (Section 58 H A 1980) and/or that the plaintiff was guilty of contributory negligence. (*Burnside v. Emerson* [1968] 1 L.W.R. 1490)

but for the purposes of such a defence it is not relevant to prove that the Highway Authority had arranged for a competent person to carry out or to supervise the maintenance of the part of the highway to which the action relates unless it is also proved that the authority had given proper instructions with regard to the maintenance of the highway and that those instructions had been carried out.

2.5. Statutory Undertakers

Section 58 does not apply to damage resulting from statutory undertakers works or apparatus forming part of the highway surface.

The following sections of the New Road and Street Works Act apply to reinstatements:

Sections 70 & 71. The undertakers must ensure that their Reinstatements conform to the requirements of the "Specification for the Reinstatement of Openings in Highways" published in 1991.

Section 72. If a reinstatement is causing a danger, the highway authority may carry out appropriate work at the statutory undertakers expense.

The Highway Authority becomes responsible for a permanent reinstatement upon expiry of the guarantee period which is two years (three years in the case of openings deeper than 1.5 metres).

Statutory Undertakers are entitled to rely on the Highway Authority's inspections where they do no inspections themselves.

In *Reid v British Telecommunications plc* (1987) it was held that the Undertaker was not negligent in relying on a Highway Authority's six monthly inspections rather than itself conducting regular inspections of the condition of its manhole covers. However, if an undertaker did so rely, it was to be taken to have the same knowledge of their condition as it would or ought to have had if it had carried out its own inspection at the time of the Highway Authority's inspection. To achieve this the Highway Authority must promptly inform the utility of any dangerous defect.

Hazardous defects in undertakers apparatus, insofar as it forms part of the highway surface, or reinstatements discovered during an inspection must be recorded and a report sent immediately to the appropriate street works Inspector in order that the correct statutory undertaker may be informed.

Swift recorded action may be necessary by the street works inspector by telephone and FAX or Email. Any failure to report such defects could place responsibility for damages partly on the Highway Authority. (*Nolan v. North West Water & Merseyside County Council* 1982).

Action may need to be taken by the Highway Authority if the Undertaker does not respond within a reasonable time set by the highway authority.

"The Nolan Principal" is often cited by Statutory Undertakers and their insurers in the event of a third party claim being made against them. If the principal is upheld the Highway Authority and the Undertaker share the costs on a 50:50 basis. A Nolan agreement may be rejected by the highway authority when the highway authority has an effective inspection & repair system and can demonstrate that it was in use and that the Undertakers were told of the defect but failed to repair.

2.6. Other Authorities & Owners

An inspection or a visit to a site may reveal hazardous defects in street furniture, overhanging trees etc. which do not fall within the remit of the Highway Authority. Any hazards found must be recorded in the 'Confirm' Business Management System and a report sent immediately to the appropriate engineering supervisor in order that the correct street authority or owner may be informed. Swift action may be necessary by telephone and FAX or email. Any failure to report such defects could place responsibility for damages partly on the highway authority by an extension of the Nolan Principal.

3. SAFETY INSPECTIONS

3.1 General

Regular Inspections of the whole network are made by trained personnel operating either from a slow moving vehicle or on foot, using hand-held computers to record the dated location and nature of defects hazardous to the public.

The data from safety inspections is transferred to a central database which produces printed and Electronic defect reports at each Local Highways Office. These reports are used as instructions to carry out the repairs or make safe the hazard.

3.2 Information from the Public or the Police

Inspections, other than the specialist safety inspectors, to investigate a reported defect (reported by: Police, Public or highways staff) should be made before that defect is entered in the 'Confirm' Business Management System or work ordered. This Code sets the standards to be used.

Hazards found, action taken and the completion of the action are then entered into the Council's 'Confirm' Business Management System at a computer terminal to ensure that repair instructions and work completion dates are all recorded into the same database from which data for Third Party Claims reports and performance statistics will be drawn up.

3.3 Time to Make Safe

Clearly some defects need to be treated more urgently than others. In order to record how quickly action needs to be taken after an inspection, a “category” is applied to each individual defect.

Cheshire East Category	Description
E	Repair or make safe within 1.5 hours
1	Make safe/repair by the end of the next working day
2	Make safe/repair within 5 working days

The time scale for each category commences when the highways service provider/contractor accepts that a qualifying defect exists.

In Cheshire East a risk management philosophy has been applied and the end of the next working day action will generally be applied on the busiest locations, i.e. ‘greatest risk’ of an accident and resulting claim.

Some defects on rural C and all unclassified roads must still be recorded as Category 1 where failure to act would mean that the first person to pass by would be likely to have an accident. This would apply to fallen trees, major bank slips, or particularly potholes (more than 100mm deep).

3.4 Locational Referencing

The transverse location of a defect is recorded by using the UKPMS cross-section position referencing.

The Main Carriageway Lanes are numbered CL1 to 9 or CR1 to 9 from the edge toward the centre of the carriageway for the left and right respectively. The off carriageway features are numbered sequentially upward from L1 or R1 for the left or right respectively, away from the Carriageway. Kerbs and Kerb defects are referenced to LE ("Left Edge") or RE ("Right Edge").

The full code descriptions can be found in "the UKPMS user manual, Vol 2 Visual Data Collection for UKPMS, chapter 4: cross-Section Position Referencing.

3.5 How the Information is recorded

A defect found on the highway has to be identified by its location on the road network. Without this information it would be impossible to direct a contractor to the right place to effect a repair.

It would also be difficult to confirm or deny the presence of a defect alleged to have been the cause of injury or damage. The time of inspections and of when defects are found must be recorded.

Defects found within the highway are grouped according to an “activity” such as work to the carriageway or to signs. Each type of defect is given a description such as “pothole” or “safety barrier too low”.

Depending on the defect, its location and the materials of construction, a “treatment” is chosen from a range of permitted ones such as “adjust level” or “provide new”.

The size of the defect is needed in order for the right quantity of materials to be provided to the repair gang.

In order to make the business of recording all the information required as simple and quick as practicable, a coding system has been devised.

Each road has a unique number. Each part of the highway has a position from the left or the right across the whole width between boundaries. Distance to a defect is measured, always in the same direction from a fixed origin.

The coding system turns the English descriptions for defects and treatments into letter groups that are easy to remember because they are partly “mnemonic” and resemble the full words e.g. Ironwork difference in level = “IDLV” (the defect); Adjust level = “AJL” (the treatment).

3.6 Archiving

The details recorded into the ‘Confirm’ Business Management System of the inspections and actions are to be retained in archive form for six years following the date of inspection.

3.7 Defect Categories

Having identified a defect, it is necessary for the Inspector to use his judgement in deciding when remedial action will be necessary and to make recommendations on what work is required.

For safety inspections the response time is dependent on the severity and location of the defect and the usage of the highway. A response may be called for under emergency provisions, or it may require a ‘by the end of the next working day or 5 day response’. Once the defect & response time are determined, the defect is recorded and given one of three categories:

Emergency Response:

The defect is such that it presents an immediate and critical hazard to highway users. The response time during office hours is 1 hour for electrical defects and 1.5 hours for other defects, and a representative of the Highway Authority will remain at the site until make safe measures has been taken.

IMMEDIATE ACTION is action taken by the inspector at the time of the inspection, e.g. informing the Local Highways Office by mobile telephone of a need to initiate an emergency response, by placing signs & cones or by filling a pothole.

End of next working day Response:

Defects which are an immediate hazard and require prompt attention and to which make-safe actions or repairs should be made by the end of the next working day - Category 1

RECOMMENDED MAKE SAFE NEXT WORKING DAY ACTION is used to initiate action by the Local Highways Office staff, to order a contractor to complete make safe works by the end of the next working day this may be by signing / coning or by repair work.

5 Day Response:

Defects which are a potential hazard where the risk of injury is reduced due to their location or severity. Make safe actions or repairs to be carried out within 5 working days - Category 2.

RECOMMENDED 5 DAY RESPONSE is used to initiate action by the Local Highways Office staff to order a contractor to fully repair a defect or to affect a repair that will last at least until the next inspection.

Local Highways Office staff are responsible for ensuring that any make safe measures are kept in an effective condition until a repair can be carried out.

Road Category	C/way Target Response Time		
	C/way (>100mm)	C/way (50-100mm)	C/way Edge >100mm
Urban A Road	Cat E	Cat 1	Cat 1
Rural A Road	Cat E	Cat 1	Cat 1
Urban B Road	Cat 1	Cat 1	Cat 1
Rural B Road	Cat 1	Cat 1	Cat 1
Urban C Road	Cat 1	Cat 1	Cat 1
Rural C Road	Cat 1	Cat 2	Cat 2
Urban U Road	Cat 1	Cat 2	Cat 2
Rural U Road	Cat 1	Cat 2	Cat 2

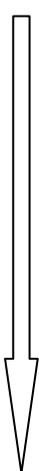
Road Category	F/way Target Response Time	
	F/way (>25mm)	F/way (>40mm)
Urban A Road	Cat 1	-
Rural A Road	-	Cat 1
Urban B Road	Cat 1	-
Rural B Road	-	Cat 1
Urban C Road	Cat 1	-
Rural C Road	-	Cat 1
Urban U Road	Cat 1	-
Rural U Road	-	Cat 1
Link	Cat 1	-

Notes:

- During periods of severe weather conditions it may not always be possible to meet the target response times for which the highway authority should not be penalised upon evidencing best use of resources in difficult conditions.

- Full details of categorised highway defects and response times are contained within the Cheshire East highway inspections detailed guidance code.
- Kerb defects within 3 No. Kerbs of a designated crossing point are to be treated as for the adjacent footway. All other kerb defects > 40mm are to be treated as Cat 2.

3.8 Usage Categories

High to Medium usage Urban Carriageway	<p>HIGHER RISK</p>  <p>LOWER RISK</p>	High to Medium usage Urban Footway
Rural High Speed Carriageways		Rural High Usage Footways
Urban Low Usage Carriageways		Urban Low Usage Footways
Rural Low Usage Carriageways		Rural Low Usage Footways

Intervention levels & inspection frequencies have been set to reflect the wear & tear on the highway plus the level of risk associated with the defect and its location.

3.9 Inspection Frequencies

TABLE 3.2 Frequencies of inspection for each road class per year

Road Class	Urban	Urban	Rural	Rural
	C/w	F/w & C/t	C/w	F/w & C/t
A	6 (3)	6 (3)	6 (1)	6 (1)
B & C	3 (3)	3 (3)	3 (1)	3 (1)
Unclassified	3 (3)	3 (3)	2 (0)	2 (0)
Higher Risk Special Areas		12 (12)		

Notes:

- Total number of inspections in a year is shown in bold.
- Inspections will ideally be scheduled evenly across the year however in times of adverse weather the time between inspections may vary.

- Walked inspections are shown in brackets, at all other times inspections may be walked or driven at a slow speed, stopping and getting out as necessary.
- Additional to the regular inspections, any member of the Highway Service staff is required to be vigilant during daily business and to report the existence of hazards.
- Higher risk special areas are busy urban shopping/business areas.

Hazards found, action taken and the completion of the action are required to be entered by Local Highways staff into the 'Confirm' Business Management System.

3.10 Emergency Procedures

If a defect is sufficiently dangerous to require an emergency response, provision has been made for rapid action.

Response times should always be as short as practicable but the maximum time to respond to an emergency on the Authority network shall be within 1½ hours of notification (2 hours outside normal working hours of 0800 hours -1700 hours Mon - Fri). In the case of electrical defects the time to respond is 1 hour.

An appropriate communication system has been put in place which enables the required response times to be achieved.

Outside of office hours, third party reports of dangerous defects will be reported to CEC staff and forwarded. A suitably qualified member of the highways staff is on 'out of hours call out' and available to attend on site without delay when called upon.

LOCAL HIGHWAYS OFFICE CONTACT DETAILS

LOCAL HIGHWAYS OFFICE	ADDRESS	TELEPHONE NUMBER OUT OF HOURS
Wardle Depot	Cheshire East Highways Wardle Depot Green Lane Wardle CW56BJ	<p>Phone: 0300 123 5020</p> <p>Email: ENGCN@cheshireeast.gov.uk</p> <p>Out-of Hours Emergencies: 0300 123 5025</p>
Brunswick Depot	Cheshire East Highways Brunswick Wharf Depot Brook Street Congleton CW12 1RG	<p>Phone: 0300 123 5020</p> <p>Email: ENGJMMACC@cheshireeast.gov.uk</p> <p>Out-of-Hours Emergencies: 0300 123 5025</p>

ANNEX 1

PHOTOGRAPHIC GUIDE TO ILLUSTRATE EXAMPLES OF DEFECTS
SHOWING THE TYPE, THE RESPONSE TIME AND THE INTERVENTION LEVEL
ACTION TO BE TAKEN WHEN A DEFECT EXCEEDS THE INTERVENTION LEVEL



Defect: Pothole (POTH)

Location: In the body of the carriageway

Category: E, 1,2

Intervention level: 50–100mm or ≥ 100 mm



Defect: Pothole (POTH)

Location: On the edge of, and extending into the carriageway

Category: E, 1,2

Intervention level: 50–100mm or ≥ 100 mm



Defect: Localised Edge Deterioration (LODT)

Location: Cracking and breaking away on the edge of the carriageway not encroaching into the carriageway more than 250mm, and not requiring vehicles to alter their course.

Category: 1, 2

Intervention level: ≥ 100 mm



Defect: Condition of Fittings (COFT)

Location: Signs over carriageways or footways.

Category: 1

Intervention level:
If in danger of falling on pedestrian or vehicle.



Defect: Slurry or Mud on Road (SLOP)

Location: A roads and other busy roads

Category: 1 (dependent on severity)

Intervention level: Slippery surface

Notes: Contact person responsible, if known, and request signing/clean up. If no response, Local office to do work and recharge.



Defect: Unauthorised Obstruction/Enclosure of Verge (UNOB)

Location: All roads.

Intervention level:
Stones, cultivation, fencing, etc, on verge.

Notes: Local office to issue notice to person responsible, and ensure removal.



Defect: Slab Profile Uneven (SLPF)

Location: Urban footways and pedestrian areas.

Category: 1, 2

Intervention level: $\geq 25\text{mm}$

Notes: Use 'Notes' on DCD to record type and number of slabs/flags to be re-laid. If other slabs/flags are broken, number of new slabs/flags to be recorded also.



Defect: Concrete Blocks/Sets Missing (CBMS)

Location: Footways, pedestrian areas and cycle paths.

Category: 1

Intervention level: Missing blocks/sets

Notes: Use 'Notes' on DCD to record number of blocks to be replaced.



Defect: Difference in level (IDLV)

Location: Footway, pedestrian area or cycleway

Category: 1

Intervention levels:
≥ 25mm (urban areas)
≥ 40mm in rural areas

Notes: Use 'Notes' to inform Area Office of the type and owner (if apparent) of cover. If Utility owned, Area Office to contact Utility, and set time for response.



Defect: Cracked or Broken cover (IBCK)

Location: All areas of highway

Category: 1

Intervention level: Cat E if in danger of collapse

Notes: Use 'Notes' to inform Area Office of the type and owner (if apparent) of cover. If Utility owned, Area Office to contact Utility, and set time for response.



Defect: Missing (MISS)

Location: All areas of highway

Category: E, 1

Intervention level: Cover not present

Notes: Use 'Notes' to inform Area Office of the type and owner (if apparent) of cover. If Utility owned, Area Office to contact Utility, and set time for response.



Defect: Obscured Sign (OBSG)

Location: All Roads

Category: 1, if at a junction with a busy or high speed road.

Notes: Applies to Stop, Give Way, Slippery Road, junctions, bends and roadworks signs. Does not apply to direction signs.



Defect. Flooding (FLOD)

Location: All Roads

Category: E (make safe/signing)

Intervention Level: Road obstructed by water.

Notes: Partial obstruction to be considered dependent on extent and location on the road. Area Office to establish cause and remedy.



Defect. Missing Door (MISP)

Location: All Roads

Category: E (1 hour make safe)

Intervention Level:
Missing door (open, off or missing)

Notes: Telephone message to Street Lighting Superintendent to arrange attendance within ONE hour. Technician to stand by column until help arrives if in high risk location (play area, school, shops, busy footway, and the like). **Technician is NOT to touch column or replace door.**



Defect. Blacktop Profile (BKTP)

Location: Footway, pedestrian area or cycleway with bituminous surface.

Category: 1

Intervention levels:
≥ 25mm in urban areas
≥ 40mm in rural areas



Defect. Rocking Element (ROCK)

Location: Any element including ironwork Urban footways, pedestrian areas or cycleways.

Category: 1

Intervention levels: ≥ 20mm when depressed at one end.

Notes: Use 'Notes' to record number of blocks to be relaid.