

Corporate Land Inspection Policy

November 2016



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Section/Directorate: Strategic & Executive Support

Service Impact Assessment: February 2015

External Consultation:
Zurich Municipal Risk Services

Internal Consultation:
Overview & Scrutiny Commission

Background Information:
Essex Highway Maintenance Strategy April 2008
Well Maintained Highways Code of Practice 2005

Policy Approval – Officer Level:
Commissioning Director for Resourcing & Place Shaping

Policy Approval – Member Level:
Cabinet Member with responsibility for Resources

Policy Review Date: March 2021

Service Impact Assessment Review Date: March 2018

CONTENTS

	Page
Foreword	4
Introduction	5
Executive Summary	5
Policy Statement & Vision	6
Context	6
- Links to other Service Functions	8
- Links to Council Promises	9
- Links to Relevant Legislation	9
Outcomes & Priorities	10
Key Actions	10
- Managing compliments & complaints	10
- Financial Management	10
- Training	11
- Claims Management	11
- Monitoring and Performance Management	12
Links to other Corporate Policies	12
Toolkit	13 - 16

FOREWORD

Basildon Council's land (and equipment on this land) is subject to periodic inspections and compliance monitoring. This is to ensure Basildon Council complies with current legislation and continually improves its performance.

Inspections deal with the normal daily requirements of keeping visitors, members of the public, the workforce and service users, safe as reasonably practicable. Inspections are normally conducted by operational staff at a frequency determined within this policy.

The establishment of an effective regime of inspection, assessment and recording is the most crucial element of land maintenance and provides the basic information for addressing the core objectives of land maintenance, namely safety, serviceability and sustainability.

In addition, the inspection regime process performs a distinct function in respect of incurring and avoiding liability incidents and insurance claims and it is strongly recommended as a major measure in the application of risk management techniques. All elements of the inspection and assessment regime are, therefore, applied systematically and consistently, as this is particularly important where information may be crucial in respect of legal proceedings.

The characteristics of the regime, including frequency of inspection, items to be recorded and nature of response, are detailed in this policy.

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**Cabinet Member with responsibility
for Resources**

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**Commissioning Director for Resourcing
and Place Shaping**

INTRODUCTION

The need for a robust regime of safety inspection is fundamental to land maintenance and there is an increasing understanding of the serious consequences of failure to invest adequately and effectively in maintaining Council land to an appropriate standard, in particular the progressive deterioration of safety, reliability and quality, eventually requiring even greater levels of investment in the future. There is also the potential that, should a fatality occur due to an inadequate inspection regime being in place, the Authority could be prosecuted under the Corporate Manslaughter and Corporate Homicide Act 2007.

An effective inspection regime enables identification of potential hazards before they cause damage or personal injury and provides a defence for insurance claims, as it shows that the organisation has done all that can be reasonably expected to prevent incidents. The fact that an inspection has been done, but cannot be proved to the satisfaction of a court of law, has been recognised as a common problem for many Local Authorities.

As such, the Council is looking to continually improve inspection regimes in key service areas, to ensure that (within any budgetary constraints) they are as pro-active and effectively documented as possible. This will enable the council to effectively defend insurance claims for injuries caused by slips, trips and falls on Council land and other incidents such as injuries or damage to clothing caused by damaged benches and waste bins. This is because there is a risk that without a specific policy and procedures in place, a defence for liability claims will be difficult to maintain in a court of law. This will also assist in reducing the Council's financial risk relating to the payment of insurance claims and increased premiums and will improve the Councils' reputation by reducing the opportunity for accidents to occur.

EXECUTIVE SUMMARY

Inspections of Council land are designed to identify defects likely to create injury or serious inconvenience to users of the land and the wider community. The risk of danger is identified by an inspector on site and the defect categorised in terms of an appropriate priority response.

The establishment of an effective regime of inspection, assessment and recording is a key component of the Council's general maintenance responsibilities. This regime provides the basic information required to address the safety, serviceability and sustainability of the Council's land as well as providing basic condition data for the development of more detailed maintenance programmes, such as car park resurfacing.

Inspections are carried out to ensure that the land meets the needs of its users and is based on a systematic logical approach in accordance with the principles of best value and continuous improvement.

An effective inspection regime clearly defines:

- Inspection frequencies
- Items to be recorded
- Degree of defect
- Nature of response
- Record-keeping requirements
- Monitoring procedures

Inspections will be carried out by trained staff and shall include details of the surface or equipment conditions. Additional inspections of specific defects shall be carried out to respond to complaints, as a result of a minor incident or after extreme weather conditions. Frequencies for inspections contained in section 1 of the toolkit are based on recommendations within the relevant codes of practice combined with the Council's ability to provide the resources required.

Although the extent of the inspection regime adopted by local authorities is discretionary and, therefore, the scale and scope of inspections may be determined by the Council's preferred approach, any Inspection regime needs to be considered reasonable by the courts in order to defend insurance claims effectively.

POLICY STATEMENT/VISION

The aim of the Land Inspection Policy is to encourage the adoption of an efficient and consistent approach in the collection, processing and recording of land inventory and condition and is underpinned by the Corporate Land Inspection Strategy and Toolkit. Basildon Borough Council are committed to achieving an effective and proportionate inspection regime with associated procedures, as set out in this policy.

CONTEXT

The management of land maintenance, including the establishment of regimes for inspection, setting levels of service, determining priorities and procuring contractors, are all undertaken against a clear understanding and assessment of the risks and consequences involved. The establishment of risk profiles within Covalent that clearly identify and manage the risks and opportunities associated with the inspections of land should be introduced within service risk registers where relevant.

More specific considerations then need to be addressed which form the basis of the Land Inspections Policy;

- the definition of a defect
- intervention levels for surface defects
- inspection frequency
- staff availability and competency
- budgetary constraints
- remedial measures/ timescales for repair
- contract management arrangements

Inspections of land will be undertaken by competent officers on foot and designed to identify all defects likely to create danger or serious inconvenience to users of the land, such defects include those that will require urgent attention as well as those where the location and sizes are such that longer periods of response is acceptable.

The inspection regime will consider the following:

Items for inspection & investigatory levels - a detailed land inventory or asset register is an essential prerequisite of establishing a cost effective and adequate maintenance regime and provides essential decision support information, particularly in relation to claims. All information obtained from inspections, together with the nature of response, including nil returns, will be recorded consistently to facilitate analysis. Once a land inventory has been established, it is essential to keep it up to date, which means establishing a cyclic updating regime.

Frequency of inspection – minimum and recommended frequency guidelines are included at Section 1 of the toolkit. The minimum frequencies represent those that are currently achievable within existing resources, whilst the recommended frequencies are those that are recommended by best practice and (when differing from the minimum frequency) are adhered to only when additional resources are available. Additional reactive inspections may be requested in response to user or community concern, or as a result of incidents or extreme weather conditions.

Defect recording - during inspections all observed defects that provide a significant risk to users will be recorded and the level of response determined using the standard pro-forma documents detailed at Section 3 of the Corporate Land Inspection Toolkit, as the degree of deficiency will be crucial in determining the nature and speed of response, on site judgement will be essential in this process. Adequate detailed records will be retained of all inspections to aid the defence of claims. Records will include;

- the area/item to be inspected
- when inspection carried out
- who by
- any problems identified or *if no defects present*
- prioritisation of action required
- remedial action taken

Document retention - records should be maintained indefinitely if possible and electronic recording may assist in this record keeping process, however, if this is not possible the records will be kept for a minimum period of six years for land inspections and twenty one years for play equipment inspections (in accordance with the Limitation Act 1980).

It is essential that inspection reports only contain statements of fact; personal opinions should not be expressed, as it is likely that the document will be produced for consideration within the legal process and may, therefore, be the subject of intense scrutiny by the court.

Defect categories and definitions and priority response times – defects will be identified and categorised using the officers experience and skill. As part of the overall maintenance and inspection regime services will establish priorities for:

- **reactive maintenance** – responding to category 1 defects
- **routine maintenance** – attending to category 2 defects
- **programmed maintenance** – providing schemes and projects to meet the serviceability requirements of the land and attending to category 3 defects

Links to other Service Functions

Corporate Insurance Service – improved inspection regimes contribute to the ability to prevent and defend insurance claims and stabilise future insurance premiums. In addition, operational risk management projects in this regard form a key part of the organisations effective insurance and governance arrangements, and is an enabler to effective delivery and maximises opportunities.

Customer Service Centre – all communications received are recorded by trained Customer Service Centre staff using the electronic CRM system, this is important in the management and defence of any claim against the Council for failure to maintain.

Corporate Health & Safety Service – the importance of health and safety has been heightened since new legislation has made it easier to prosecute for corporate manslaughter. The Corporate Health & Safety Service regularly update services on their health and safety requirements.

Performance, Programme and Risk Team – inspection procedures will be supported by a robust risk profile on the Corporate Risk Register for individual services and performance indicators introduced where relevant.

Internal Audit & Counter Fraud – insurance fraud arises from exaggerated, fictitious and adapted claims and the Council owes a duty to the community to protect public funds from fraudulent claimants. Systems of pro-active claims handling and sharing of data assist in the identification and resistance of fraudulent claims.

Council Promises

The table below illustrates how the Policy will assist the Council in the delivery of its corporate promises.

CORPORATE PROMISES	LEVELS OF IMPACT			
	HIGH	MEDIUM	LOW	NONE
We will support residents to develop stronger communities				N/A
We will enhance and build pride in the local environment	Provides an improved level of service delivery in relation to the maintenance of Council land			
We will enable regeneration and secure homes				N/A
We will help grow the local economy			The safer environment created will encourage businesses to locate to the Borough	
We will endeavour to keep communities safe and healthy		Provides a safer environment for the community and reduces the number and cost of insurance claims		

Links to Relevant Legislation

Even in the absence of specific duties and powers, authorities have a general common law duty of care to users and the community to maintain their land in a condition fit for its purpose. In addition to this general duty of care, there are a number of specific pieces of legislation which provide the basis for powers and duties relating to the maintenance of land:

- Occupiers Liability Act 1957
- Highways Act 1980
- Traffic Management Act 2004
- Wildlife and Countryside Act 1981
- Countryside and Rights of Way Act 2000
- Access to Neighbouring Land Act 1992
- Environmental Protection Act 1990
- Clean Neighbourhoods & Environment Act 2005
- The Health & Safety at Work etc Act 1974
- Human Rights Act 1998
- Corporate Manslaughter & Corporate Homicide Act 2007

OUTCOMES & PRIORITIES

The key objectives of the Corporate Land Inspection Policy are:

- To encourage the development, adoption and regular review of policies for the maintenance of Council land, consistent with the wider principles of integrated safety, serviceability, sustainability and best value
- To encourage the adoption of an efficient and consistent approach in the collection, processing and recording of land inventory, condition and status information for the purpose of management and performance monitoring
- To encourage a focus on the needs of users of the land and the community, whilst aiding social inclusion, by improving usage and accessibility of land for older and disabled people and for the use of pushchairs
- To encourage continuing innovation in the procurement of maintenance contracts, whilst complying with high standards of corporate governance
- To improve and enhance the Council's ability to defend insurance claims for injuries caused by slips, trips and falls on Council land and other claims relating to equipment on Council land

KEY ACTIONS

A number of actions will need to be implemented in order to achieve our outcome of embedding a positive inspection regime within all of the Council's key service areas. This section provides a summary of these key actions:

Managing Compliments and Complaints

Managing compliments and complaints efficiently and effectively can make a significant difference to the public perception of service delivery and the maintenance of land is a high profile and highly valued public service, therefore, the efficiency and courtesy of responses will determine the local opinion of the service and the Council.

Most communications received will be service requests and the main objective is to prevent these becoming complaints and to then prevent complaints from becoming claims, this will be managed through the robust use of the electronic CRM system.

Financial Management

Where possible, the funds used to provide the inspection and maintenance of Council land will be provided within the relevant sections revenue budgets and requests for budget pressures will be implemented accordingly if the current budgets do not adequately meet the needs of this policy.

All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues and there will be a clear audit trail that will be capable of standing up to scrutiny from the Council's external auditors.

Training

Adequate training is necessary to enable the people involved in the inspection regime to know;

- what is expected of them and how their job fits into the overall system
- the legal requirements and implications of their job
- what are the standards of inspection and what constitutes a defect
- how to complete and store relevant documentation

The aim of training is to promote consistency, to ensure that where different staff are inspecting the same area they are able to apply the laid down criteria and produce the same results. Without suitable training or cover arrangements in place, there is a risk that the inspections will not provide an adequate defence in court or that officers will not be valuable witnesses.

Council officers responsible for inspections need to be clear on the requirements for safety and service inspections and the practice that is to be followed, as well as being kept updated on inspection policy and practice. The Council will adopt and support relevant inspection training and vocational qualifications which establish the competence of all those involved in land maintenance and every inspector will receive training where a need is identified, particularly in relation to defect identification.

Claims Management

Claims numbers and costs are increasing due to media coverage, changing public expectation for safety, rising court costs, maintenance backlogs, and reduced budgets for repair, therefore, it is important that the Council has in place effective procedures for claims management.

These ensure the efficient processing of claims whilst allowing for the monitoring and analysis of claims trends and protecting the authority from unjustified and fraudulent claims, the electronic claims processing and recording system used by the Council to this effect is JCAD LACH's.

The efficiency, accuracy and quality of information and records maintained in relation to inspections of land are crucial to the defence of claims against the authority for alleged failure to maintain and in the longer term may provide a defence against claims of corporate manslaughter. The systems used also need to support compliance with standards of evidence provision, consistent with the Civil Procedure Rules and Ministry of justice Reforms.

In defending an action the Council will need to establish that it has acted reasonably, by the production of adequate documentation and evidence (such as policies and strategies) and has introduced a robust inspection and recording system for the identification of significant safety defects. If the Council can prove that it had an adequate policy and procedures to maintain the land, and the policies and procedures were being performed, and there was no prior knowledge of the defect before the incident date, the audit trail can convince a court that a decision or action took place at the time and in the manner claimed in the defence and a claim can be repudiated.

In the absence of an inspection report there is a risk that it would be difficult to prove that at that particular time there was not a defect in that location, especially if it had resulted in personal injury to a member of the public, this is particularly true if a number of consecutive inspections have identified no defects. Equally, it is just as damning if inspections highlight a defect at the time of an incident, but there is no record of any categorisation for repair or remedial action being taken. The Corporate Land Inspection Policy provides the basis for the Council to robustly challenge and defend such claims in the future.

Monitoring and Performance Management

Monitoring should involve periodical regular checks to ensure that the original managerial decisions are being implemented and the standards that have been applied to the inspection policy are still effective in controlling, reducing or eliminating risks. Additional centralised monitoring will assist in maintaining standards and encourage a consistent approach between services.

Performance indicators related to the inspection regime will be developed by each individual service area, recorded on Covalent and monitored on a quarterly basis. The most reliable performance indicators are those for which targets can be set that enable the Council to monitor their own performance and continuous improvement year on year. Progress against targets will be discussed and any corrective action required discussed at departmental team meetings.

The Corporate Land Inspection policy will be reviewed every five years and the approval and adoption process for the policy will involve the Corporate Management Team and relevant Cabinet Members and this process will be explicit, transparent and inclusive. Reviews and relevant updates will be carried out within the intervening period, should there be material changes in ownership of land or relevant legal developments.

Further Operational Risk Management Reviews will also be completed in the future to ensure that this policy remains effective and to explore additional mitigation measures to further increase the ability of the Council to defend claims.

LINKS TO OTHER CORPORATE POLICIES OR PARTNER DOCUMENTS

Corporate Plan 2016/20

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Corporate Land Inspection Toolkit

November 2016

INSPECTION FREQUENCY GUIDELINES

ITEM	MINIMUM FREQUENCY	BEST PRACTICE FREQUENCY
Leisure & Community Paths / Hard Surfaces/Facility Parking	Two inspections per annum	Two inspections per annum
Parks & Countryside Paths / Hard Surfaces/Facility Parking	Reactive	Two inspections per annum
CRA Paths / Hard Surfaces/Facility Parking	Two inspections every three years	Two inspections per annum
Footbridges	Inspection once every two years by ECC	Annual inspection
Bus Shelters	Reactive	Two inspections per annum
Bollards	Reactive	Two inspections per annum
Clocks / War Memorials	Annual inspection	Annual inspection
Lampposts	Inspection once every three years	Inspection once every three years
Seats / Benches	Reactive	Two inspections per annum
Play Equipment (including enclosures & gates)	Weekly inspection	Weekly inspection
Fences / Gates / Railings / Walls (main entrances & exits)	Reactive	Two inspections per annum
Inspection / Drain / Manhole Covers	As part of routine grounds maintenance contract and general walkabouts	Two inspections per annum
Life-buoys	Weekly inspection	Weekly inspection
Lakes /Water Features & Platforms / Fishing Swims	Two inspections per annum	Two inspections per annum
Pitches / Courts	Weekly inspection	Weekly inspection
Cemetery Land	Two inspections per annum	Two inspections per annum
Cemetery Memorials	Inspection/topple testing once every five years	Inspection/topple testing once every five years
Car Parks (Pay & Display)	Twelve inspections per annum	Twelve inspections per annum
Housing Land	Two inspections per annum	Two inspections per annum
Estates Land	Two inspections per annum	Two inspections per annum
Town Centre Paving & Fountains	Weekly inspection	Weekly inspection

EXAMPLE PRO FORMA INSPECTION FORM

Department:				Form Ref:
Location:				
Weather Conditions:		Inspector's Name:		
Date:		Inspection Frequency:		
Time:		Daily/Monthly/Quarterly/Bi-Annually		
Area inspected:				
Item or Location Identifier	<u>Specific Item or Location</u>	Defect Yes/No	Defect Category	Remedial Action Date reported : Who reported to: Purchase order No:
Footpath –				
Footpath –				
Footpath –				
Land –				
Land –				
Additional Items (if applicable)				
Fencing/Railings				
Gates				
Litter /Dog bins				
Seats/Benches				
Shelters				
Signs				
Posts/Bollards				
Bridges/Footbridges				
Gully/Manhole covers				
Ditches/Drains				
Photo's of defects attached:	I declare that during the inspection no defects were found other than those specified above.			
Yes/No	Signature:.....			
	Position:.....			

CATEGORY OF DEFECT and RESPONSE TIMES

Category 1 – Urgent Safety Related Defect, make safe within 7 days

Category 2 – High Priority Defect, repair within 1 to 6 months

Category 3 – Low Priority Defect, repair within 6 to 12 months or defer until high priority

Guidance for Defect Identification and Categorisation

Damage is defined as a defect in the land which impairs the value or usefulness of the land and provides a safety hazard for users of the land. Whether these defects should be treated as category 1, 2 or 3 defects and the preferred nature and speed of response will depend, amongst other things, upon the risk posed by the depth and surface area of the defect, the location of the defect and the volume and type of usage of the land.

Category 1

Defects presenting an immediate and critical hazard or risk of rapid structural deterioration that require urgent or prompt attention, will be made safe within seven calendar days.

When a temporary repair is made to a category 1 defect, permanent repair should then be carried out within one calendar month. Such defects will include:

- Pothole, trench or other abrupt level difference on general surface of 40mm in a high risk area (outside school etc.) or 75mm on other general areas of land or greater in depth and/or extending in any one direction greater than 300mm
- Trip hazards on paving with gaps wider and deeper than 20mm in a high risk area (outside school etc.) or 40mm on other paved areas
- Rocking flagstones or paving slabs greater than 20mm in a high risk area (outside school etc.) or 40mm on other paved area's
- Rapid change of footway surface profile greater than 25mm and extending less than 600mm
- Seriously damaged or defective street furniture, fencing, signs or equipment
- Collapsed or missing manhole covers or gratings
- Major debris or spillage
- Land collapse
- Isolated standing water of a depth and location

Category 2

Defects presenting a moderate level of hazard or risk which do not represent an immediate or imminent hazard, will be repaired within one to six calendar months. Such defects will include:

- Pothole, trench or other abrupt level difference on general surface of 20mm or greater in depth and/or extending in any one direction greater than 200mm
- Trip hazards on paving with gaps wider and deeper than 15mm

Category 3

Defects presenting a low level of hazard or risk with minor safety implications, will be repaired within six to twelve calendar months or deferred when budget constraints exist.

Such defects will include:

- Pothole, trench or other abrupt level difference on general surface of 15mm or greater in depth and/or extending in any one direction greater than 100mm
- Trip hazards on paving with gaps wider and deeper than 10mm



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