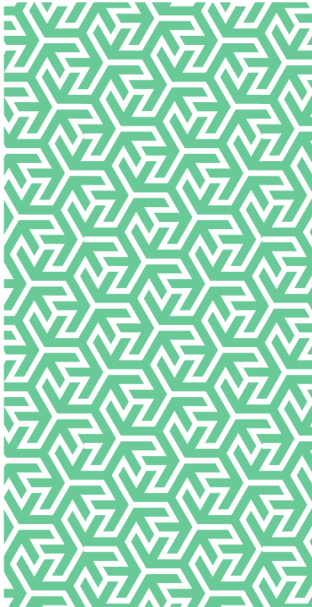


rmp

## Risk control

Highways – Responding  
to the Crisis



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# Highways – Responding to the Crisis

## A Different Landscape during Lockdown

Since the world paused, and the UK locked down to slow the spread of the coronavirus; we have seen significantly fewer vehicles on the roads. In contrast, the number of cyclists and joggers has risen sharply with individuals taking advantage of their ability to still enjoy exercise time outside of the home during lockdown. As the Government begins to relax lockdown rules, it is likely we will begin to see increased highway traffic in the coming weeks.

Local authorities have been making risk based decisions on how to 'keep the lights on' during lockdown and ensure essential services can still be delivered. The delivery method and / or frequency may be different, but wherever possible councils have worked to find solutions and ways to keep a level of service to their residents.

## Deviation from Strategy

In respect of highways, each authority will have its own Highways Policy and Procedure in place which sets out their frequency and methodology for highways inspection and maintenance regimes. These will have been determined in line with the Highway Code of Infrastructure and will be based on a predetermined set of risk criteria. Councils are now facing into the challenges brought about by the steps taken by the Government to slow the spread of the disease as these are having an impact on how highways authorities would normally have undertaken these tasks.

The social distancing rule of maintaining a 2 metre gap between yourself and the person next to you has meant that dual driven inspections cannot be undertaken without breaking this rule. There is likely to also be reduction in the number of staff working and so with potentially stretched resources; priority must be given to any higher risk enquiries which come through to the council.

What is important is that any deviation from the existing highways strategy should be discussed with the relevant people, decisions reached and documented. This will show that consideration has been given to the change in the risk environment and the influential factors outside the council's control.

It may be possible to still carry out safety patrols of the highway network in a reduced format such as individuals in a vehicle rather than dual driven detailed safety inspections. Operating the service in this way enables urgent defects to be identified and responded to as part of the emergency repair regime.

Social distancing can also be adopted for walked inspections on pedestrianised areas in towns and centres to maintain a level of service.

Your service delivery planning needs to change as the event unfolds and therefore needs to be refreshed regularly and remain 'dynamic'.

## Reasonable Precautions

The situation we find ourselves in is unique. This has meant that the usual systems and processes applied to how highways inspections are undertaken has had to change. The Health and Safety Executive has templates available on their website for many types of risk assessment. These are a very good starting point in navigating through the changes and what they may mean for your own organisation.

The council should also ensure that they have a sufficient stock of personal protective supplies available for field staff such as hand sanitiser, hand wipes, gloves and masks.

## Managing the risk...

**Communication:** Clear messages to the public on what changes are being made to normal practices and why, with details of how the council can be contacted if these are different to the normal contact routes e.g. call centres or online forms. It may also be useful to encourage members of the public to report dangerous defects if they identify them on the highway or pedestrianised walkways.

**Decision Making:** Any decisions taken to alter normal working practices need to be fully considered with the 'right' people engaged in the dialogue to reach a final decision.

**Risk Assessment:** The Management of Health and Safety at Work Regulations 1999 contains the requirement that every employer "shall make a suitable and sufficient assessment of the risks".

The phrase "suitable and sufficient" is not defined within legislation but it is suggested that to meet the criteria, the risk assessment should "identify the risks arising from or in connection with work", be "appropriate to the nature of the work" and include what an employer could reasonably be expected to know.

The Approved Code of Practice to the Control of Substances Hazardous to Health Regulations 2002 provides more specific details as to what factors need to be given consideration in the assessment to meet the suitable and sufficient criteria, including the following:

- The work activity in terms of all the substances used or produced, etc.

- The hazards in terms of the substances properties (physical, chemical, biological) and the form in which they are present (e.g. mist, gas or vapour).
- The ways in which people may be exposed and any persons especially at risk.
- The type and extent of exposure along with potential health effects.
- The control measures that may be required to eliminate or control exposure.

The second issue relates to the competency of the risk assessor. From the above, it can be easily understood that there will be a need for some form of knowledge, skills and experience of the work activities and associated risks as well as the adopted risk assessment process so as to meet the suitable and sufficient criteria when risk assessing (i.e. competency).

HSE guidance states that whoever undertakes the risk assessment:

- is competent to do so
- involves workers in the process
- Understands where specialist help might be needed.

Contextually, this means that whoever undertakes the Covid-19 risk assessment needs to be competent to do so, and that competency must extend to include a comprehensive knowledge and understanding of the risks presented by the virus and reasonable and effective controls to be implemented to prevent harm. A failure to achieve competency in this situation could bring the validity of the risk assessment into question and foreseeably place persons in harm's way from exposure to the virus if the appropriate and proportionate controls are not identified and effectively implemented.

It is for the organisation to satisfy itself that the appropriate level of competency has been established by its intended risk assessors. If competency cannot be fundamentally established in respect of internal staff, then the use of specialist external consultancy would seem the most prudent course of action.

There is guidance available from the Health and Safety Executive (HSE) on conducting a risk assessment which is free to download at [www.hse.gov.uk/risk](http://www.hse.gov.uk/risk)

## Summary

At this stage it is very difficult to anticipate how crisis borne claims will be treated in the Courts. Any claim brought against the council will have to be analysed to determine how this sits against the Coronavirus Act 2020. It is vital that decisions are documented – including the reasoning behind the decision made at the time, so that in the months ahead any potential claims can be considered against all of the available information and an appropriate defence formulated.

## Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

## Get in touch

For more information, please contact your broker, RMP risk control consultant or account director.

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