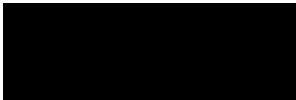



REGULATION 28: REPORT TO PREVENT FUTURE DEATHS

	<p>REGULATION 28 REPORT TO PREVENT FUTURE DEATHS</p> <p>THIS REPORT IS BEING SENT TO:</p> <p>James Healy-Pratt, Assistant Coroner, for the coroner area of East Sussex, in response to a Regulation 28 Report to Prevent Future Deaths following an inquest hearing into the death of Jennifer Dyer on 29 March 2021.</p>
1	<p>EAST SUSSEX COUNTY COUNCIL</p> <p>I am [REDACTED], Director of Communities, Economy and Transport, East Sussex County Council, St Anne's Crescent, Lewes, BN7 1UE</p>
2	<p>CORONER'S MATTERS OF CONCERN</p> <p>The MATTERS OF CONCERN were identified as follows: –</p> <p>Under the East Sussex Highway Asset Inspection Manual, this pothole fell within the definition of Cat 3 - LOW for risk and remedial works. The definition is "Greater than 40mm and less than 59mm deep and at least 300mm in all directions". Clearly, this pothole was the proximate cause of the death of a young woman, and the categorisation of potholes in East Sussex requires significant review, to prevent future avoidable deaths within the County.</p>
3	<p>Background Information</p> <p><u>Safety Inspections & Repairs</u></p> <p>Under section 41 of The Highways Act 1980, it is East Sussex County Council's (the Council) statutory duty as the highway authority to keep the highway network safe for all highway users.</p> <p>Like most local highway authorities, the Council uses The Well-Managed Highways Infrastructure: A Code of Practice (the Code) to guide maintenance policies and practices in managing the highway network it is responsible for. This recommends a risk-based approach is used for highway infrastructure maintenance and to set levels of service for inspections, responses, resilience, priorities and programmes.</p> <p>Based on the Code and intervention level policies approved by the Councils Lead Member for Transport and Environment, the Councils Highway Asset Inspection Manual sets out how the authority has assessed risk and manages defects on the road network to fulfil its statutory requirements to maintain a safe, serviceable and resilient network. The manual sets out intervention levels based on size and depth of potholes to enable the Council to target limited resources effectively and manage its liabilities. For carriageway potholes they are:</p> <p>Category 1: Greater than 100mm and at least 300mm wide in all directions - Made Safe within 2 hours</p> <p>Category 2: Greater than 60mm and less than 99mm deep and at least 300mm in all directions - Repaired within 5 days</p> <p>Category 3: Greater than 40mm and less than 59mm deep and at least 300mm in all directions - Repaired within 28 days</p>

	<p><u>Dedicated Cycleways</u></p> <p>In addition to the inspection of roads, within the Highways Inspection Manual there is a hierarchy for inspection and repair of specifically recognised cycleways that reflects the differing risks associated with shared, partially segregated and fully segregated cycle routes.</p>
4	<p>Supporting Information</p> <p><u>Enhanced Risk based approach</u></p> <p>In May 2021 a revised Highway Inspection Manual introduced an enhanced risk assessment process where the highway inspector can consider other factors, such as the location of a defect and usage, as well as the defect category in determining whether a response is required or a different response time required. This means that, following the risk assessment, they are able to change the category of a defect such as changing a non-intervention defect to an intervention defect or reduce or increase the category response time if deemed appropriate. For example, if a category 3 pothole is located on the part of the carriageway cyclists are likely to use such as the nearside edge, this could be increased to a category 2 or 1 depending on risk assessment.</p> <p>To introduce this change, inspection staff were assessed in line with the UK Roads Liaison Group's Asset Management Competence Framework and a programme of suitable training was developed to ensure the relevant officers were fully competent in their roles ahead of implementation of this policy.</p> <p>Regular reviews are held with all staff involved with inspections and the risk based approach to ensure it is being applied consistently.</p> <p><u>Cycleway Hierarchy and Road Maintenance</u></p> <p>In addition, following changes to the Highway Code introduced earlier this year, the Council have further researched best practice around cycling hierarchy, defect management and prioritisation of cycleway maintenance and road repairs. The Council are currently considering a number of potential actions that could be developed and costed to determine what additions or improvements can be incorporated to the current process. These includes:</p> <ul style="list-style-type: none"> - Asset plan for cycling that includes a further risk based weighting for prioritisation on roads where cycling is known to be popular - Opportunities for improved public reporting of defects likely to impact cyclists to enhance our own inspections - Consideration of an increased list of defects in investigatory matrix, for example surface with loose gravel, pothole with sharp upstand, poor drainage and standing water that may impact cyclists - Winter maintenance of dedicated cycleways - A joined up approach to cycle route maintenance with organisations outside ESCC that also manage cycleways - Improved cycle route hierarchy; research in collaboration with cycling groups to gain data on most popular cycle routes across the county - Walked or cycled inspections for all dedicated cycleways
5	<p>DETAILS OF ACTION TAKEN</p> <p>Since the tragic incident on 29 March 2021, the Council has introduced an enhanced</p>

	<p>risk based approach to its safety inspection regimes which allows for a more flexible approach to determining risk for all road users and defect response times. This enables the inspector to change the categorisation of a pothole to include potholes for repair that do not meet the lowest category if required or to change the category of a pothole to a medium or high risk following an onsite risk assessment that now also considers location and road usage in addition to size and depth.</p> <p>Whilst this process was not in place at the time the pothole in this incident was identified and categorised, by introducing this new process, the Council believes that a specific review of the pothole categories is not required.</p> <p>Following the incident, the pothole was repaired the same day and the road was reinspected for other potholes.</p> <p>A separate review is underway to be completed by August to consider the circumstances of this specific case and in particular if there are any lessons to be learnt to further improve the service.</p>
6	<p>DETAILS OF FURTHER ACTION PROPOSED</p> <p>In response to the Coroner raising the above matters of concern, the Council will:</p> <ul style="list-style-type: none"> - Continue to review the effectiveness of the implemented enhanced risk based approach and in particular review how it would have affected this case - Continue further research and consideration of cycleway hierarchy and cycle route maintenance in line with best practice and neighbouring authorities, including costing and trialling if required of the improvements/additions set out in section 4.
7	<p>SAFETY OF ROAD USERS</p> <p>The Council is committed to improving communication with road users and improving the safety of the roads. The death of Jennifer Dyer is a tragic loss and the Council offer its' sincere condolences to Ms Dyer's family.</p>
8	<p>Signed:</p> <p></p> <p>, Director of Communities, Economy and Transport</p> <p>02/08/2022</p>