



THE LONDON TECHNICAL ADVISERS GROUP (LOTAG)

GUIDANCE ON HIGHWAY SAFETY INSPECTIONS

Date: April 2018
Version: Version no.1.1

Contents

ACKNOWLEDGEMENTS	3
VERSION CONTROL.....	3
DISCLAIMER.....	4
1. INTRODUCTION	5
1.1. LONDON TECHNICAL ADVISORS GROUP (LoTAG)	5
1.2. LoTAG GUIDANCE	5
1.3. LoTAG INSPECTION GUIDANCE.....	5
1.4. TERMINOLOGY.....	5
2. GUIDANCE IN THE CODE.....	6
2.1. SAFETY INSPECTIONS.....	6
2.2. RISK BASED APPROACH	6
2.3. IMPLEMENTATION TIMELINE	6
2.4. REFERENCE	6
3. DEVELOPING A SAFETY INSPECTION APPROACH	7
3.1. WHO SHOULD BE INVOLVED IN DEVELOPING THE SAFETY INSPECTION APPROACH?	7
3.2. CONSISTENCY OF APPROACH	7
3.3. LINKING SAFETY INSPECTIONS TO THE MANAGEMENT HIERARCHY	7
3.4. WHAT INFORMATION SHOULD BE USED?.....	8
4. ADOPTING A RISK BASED APPROACH.....	9
4.1. FACTORS TO CONSIDER	9
4.2. ASSET KNOWLEDGE	10
4.3. TAILORING THE SAFETY INSPECTION APPROACH.....	11
5. COMPETENCY & TRAINING.....	12
5.1. TRAINING	12
6. DISCLOSURE.....	13
7. COLLABORATION WITH OTHER AUTHORITIES.....	15
7.1. WHO YOUR AUTHORITY SHOULD ENGAGE WITH?	15
7.2. JUSTIFYING A DIFFERENT APPROACH TO OTHER AUTHORITIES.....	15
8. MANAGING CHANGES	16
8.1. WHEN TO UPDATE THE SAFETY INSPECTION APPROACH	16
8.2. HOW TO UPDATE THE SAFETY INSPECTION APPROACH	16

ACKNOWLEDGEMENTS

Officers and staff of the following organisations took part in workshops, focus groups and consultations to produce this document:

LoTAG Board and Chairs
LoHEG, LoDEG, LoLEG, LoBEG
Metis Consultants Ltd
London Insurance Consortium
London Boroughs

VERSION CONTROL

Version	Date	Description
1.0	December 2017	Issue
1.1	April 2018	Addition of Disclosure chapter

DISCLAIMER

Metis Consultants Limited (Metis) have prepared this Guidance Document on behalf of the London Technical Advisers Group (LoTAG). The contents of this Guidance Document have been compiled based on focus groups, workshops and consultations of which the organisations listed in the Acknowledgements section of this Guidance Document took part. No other warranty, expressed or implied, is made as to the professional advice included in this Guidance Document or any other services provided by Metis or LoTAG.

The conclusions and recommendations contained in this Guidance Document are based upon information provided by others and upon the assumption that all relevant information has been provided by those parties from whom it has been requested and that such information is accurate. Information obtained by Metis and LoTAG has not been independently verified by Metis or LoTAG, unless otherwise stated in the Guidance Document.

The work described in this Guidance Document is based on the conditions encountered and the information available during the period of production. The scope of this Guidance Document and the services are accordingly factually limited by these circumstances.

Metis and LoTAG disclaim any undertaking or obligation to advise any person of any change in any matter affecting the Guidance Document, which may come or be brought to Metis' or LoTAG's attention after the date of the Guidance Document.

Certain statements made in the Guidance Document that are not historical facts may constitute estimates, projections or other forward-looking statements and even though they are based on reasonable assumptions as of the date of the Guidance Document, such forward-looking statements by their nature involve risks and uncertainties that could cause actual results to differ materially from the results predicted. Neither Metis or LoTAG specifically guarantee or warrant any estimate or projections contained in this Guidance Document.

The User should take appropriate professional legal advice prior to implementing any recommendations made within this Guidance Document that may impact on the legal exposure of the User's organisation. Metis and LoTAG do not except any responsibility arising from the use of, or adoption of recommendations in, this Guidance Document.

1. INTRODUCTION

1.1. LONDON TECHNICAL ADVISORS GROUP (LoTAG)

- 1.1.1. The London Technical Advisors Group (LoTAG) maintains a technical network for local government professionals and co-opted members in the highway and transport fields. It provides a centre for professional advice and assistance for local policy development and service delivery on a London wide basis. LoTAG is the regional grouping of TAG comprising a group of professional officers.
- 1.1.2. LoTAG represents all London highway authorities - 33 Boroughs and Transport for London.

1.2. LoTAG GUIDANCE

- 1.2.1. LoTAG works for and with highway authorities to promote good practice and consistency in London. LoTAG guidance documents are not mandatory or a standard, their purpose is to support members and provide advice and support, including examples of good practice.
- 1.2.2. The LoTAG Guidance has been developed with reference to the Institution of Highway Engineers Risk and Liability Guide (2017)

1.3. LoTAG INSPECTION GUIDANCE

- 1.3.1. This guidance document provides guidance on an approach that members may wish to adopt when developing a safety inspection regime for their highways.

1.4. TERMINOLOGY

- 1.4.1. The Code of Practice for Well-managed Highway Infrastructure (October 2016) is hereafter referred to as The Code.

2. GUIDANCE IN THE CODE

2.1. SAFETY INSPECTIONS

2.1.1. Recommendation 16 of the Code states:

“A risk-based inspection regime, including regular safety inspections, should be developed and implemented for all highway assets” (The Code, 2016: p39).

2.1.2. The Code goes on to state:

“Safety inspections are designed to identify all defects likely to create danger or serious inconvenience to users of the network or the wider community. The risk of danger is assessed on site and the defect identified with an appropriate priority response. These inspections may include systematic testing of some facilities” (The Code, 2016: p38).

2.1.3. The safety inspection approach should be linked to the approach the authority has taken to developing a risk-based management hierarchy.

2.2. RISK BASED APPROACH

2.2.1. The Code promotes a risk based approach for developing a safety inspection regime that takes account of function and use:

“Inspections and survey regimes should be planned using a risk based approach to provide increased levels of scrutiny to areas or assets deemed to be of higher risk” (The Code, 2016: p39)

2.2.2. The safety inspection approach will enable risk-based decisions to be made regarding the response to potential defects found on the highway network.

2.2.3. Further reference should be made to the IHE Risk and Liability Guide (2017) when developing the risk based approach.

2.3. IMPLEMENTATION TIMELINE

2.3.1. The Code came into effect on 28 October 2016, running in parallel with its predecessor, which will be withdrawn in October 2018. Authorities should identify what activities and internal processes/approvals they require prior to this date and plan accordingly.

2.3.2. Independent legal advice should be sought when considering any changes to the existing safety inspection approach.

2.4. REFERENCE

2.4.1. LoTAG’s Status Reporting collates borough data for highway assets. The Guidance on Highway Safety Inspections is supported by the Guidance on Highway Safety Inspections: Addendum as a companion to this guidance.

- 2.4.2. The IHE Risk and Liability also provides a useful source of further information and guidance.

3. DEVELOPING A SAFETY INSPECTION APPROACH

3.1. WHO SHOULD BE INVOLVED IN DEVELOPING THE SAFETY INSPECTION APPROACH?

- 3.1.1. To ensure the safety inspection approach is accurate and adoptable, a range of officers within the council, alongside legal advisors, should be involved at various stages during the determination of the safety inspection approach. This list below outlines some of the various officers and external support that should be involved in determining the safety inspection process, these are not exclusive to:

- Highway Engineers;
- Safety Inspectors;
- Network Management Officers;
- Risk Engineers;
- Insurance Managers;
- Legal Representatives;
- Maintenance Contractors
- Other officers with good local usage knowledge.

3.2. CONSISTENCY OF APPROACH

- 3.2.1. LoTAG regularly compiles data on highway management practices across London. The LoTAG report on management practices, available on the LoTAG website, includes data on safety inspection regimes. Authorities should consider this information when developing their safety inspection regime and aligning with the consistency recommendation in the Code.

- 3.2.2. Recommendation 5 of the Code – Consistency with other Authorities - states:

“To ensure that users’ reasonable expectations for consistency are taken into account, the approach of other local and strategic highway and transport authorities, especially those with integrated or adjoining networks, should be considered when developing highway infrastructure maintenance policies” (The Code, 2016: p10).

- 3.2.3. Adopting consistent practices with neighbouring authorities for safety inspections, while benefitting users with consistent levels of service, will also enable authorities to more readily share data and practices.

- 3.2.4. Working together reduces the need for each individual authority to create their own safety inspection approach and provides time and cost savings.

- 3.2.5. Cross boundary agreements should continue to be adopted.

3.3. LINKING SAFETY INSPECTIONS TO THE MANAGEMENT HIERARCHY

- 3.3.1. The safety inspection regime should be linked to the approach the authority has taken to developing a risk-based management hierarchy. The management hierarchy will have already prioritised the highway network based upon its functionality and usage.
- 3.3.2. Authorities should develop a management hierarchy before developing a safety inspection regime. The LoTAG “Guidance on Developing a Management Hierarchy” provides advice on this.

3.4. WHAT INFORMATION SHOULD BE USED?

- 3.4.1. To develop an approach to safety inspections, it is strongly recommended that the outputs from developing a risk-based management hierarchy are utilised. This hierarchy should account for the functionality and usage of the highways network, as set out in the LoTAG “Hierarchy Guidance”.
- 3.4.2. Additional information that could be used to assist in developing a safety inspection approach are outlined below and are not exclusive to the following:
- Type of asset;
 - Criticality of assets;
 - Consequences of failure;
 - Network resilience;
 - Incident and inspection history (including claims and complaints);
 - Characteristics of adjoining network elements;
 - The approach of adjoining highway authorities;
 - Wider policy or operational considerations;
 - Deteriorated condition.

4. ADOPTING A RISK BASED APPROACH

4.1. FACTORS TO CONSIDER

- 4.1.1. LoTAG *Guidance on Highway Safety Inspections: Consistency Addendum* provides background to authorities on how highway authorities delivered their safety inspections. Consideration is given to frequency of inspections, investigatory levels and response times.
- 4.1.2. **Adopting the Management Hierarchy** – LoTAG’s Guidance on Management Hierarchy provides a template for adopting a hierarchy based on function to serve maintenance strategies, inspection frequency, etc based on risk presented by how the asset is used.
- 4.1.3. **Frequency of Inspection** – From the management hierarchy we understand how the asset is used and the risk presented by the identification of the hierarchy level. This can then translate into the frequency of inspection for a homogenous hierarchy level. As a suggestion, the following frequencies could be adopted.

CARRIAGEWAY

London Interpretation	Example Functionality Factor	Example Inspection Frequency
Strategic Roads	Motorway	N/A
	TfL Road Network	Monthly
	Borough Principal Road Network	
Local Roads	A Prestige	Monthly
	Very High Traffic Volume	3 – monthly
	Essential Services	
	B Major Traffic Generators	
	Very High Cyclist Volume	
	Major Bus Route	6 – monthly
	High Traffic Volume	
	Medium Traffic Generators	
	C High Cyclist Volume	
	Resilient Network	
	Minor Bus Route	Annual
	Medium Traffic Volume	
	Medium Cyclist Volume	
	D HGV Usage	
	Minor Traffic Generators	
Infrequent Bus Route	Annual	
E Low Traffic Volume		
Low Cyclist Volume		
No Traffic Generator		

FOOTWAY

London Interpretation	Example Functionality Factor		Example Inspection Frequency
Local Footways & TfL Red Routes	A	Prestige	Monthly
	B	Very High Pedestrian Volume	3 – monthly
		Essential Services	
		Major Traffic Generators	
		Major Bus Route	
	C	High Pedestrian Volume	6 – monthly
		Medium Traffic Generators	
		Vulnerable Users	
		Shared Use	
		Minor Bus Route	
	D	Medium Pedestrian Volume	Annual
		Minor Traffic Generators	
		Infrequent Bus Route	
	E	Low Pedestrian Volume	Annual
No Traffic Generator			

- 4.1.4. **Investigatory levels** - While the industry is familiar with establishing investigatory levels, Well Managed Highway Liability Risk (2017) states:

“It should be noted that the term ‘investigatory level’ has been used deliberately to infer that there is no expectation that repair action will necessarily be taken following the investigation. This is not an ‘intervention level’. Rather the action to be taken will be determined by the dynamic risk assessment undertaken during the site inspection” (WMHLR, 2017: p11).

- 4.1.5. While some authorities may continue to establish indicative size of defects to consider for repair, it will be the considered experience of the Highway Inspector that will use judgement to determine the response to a defect. For example; a surface defect under a bench may not attract the same response as a defect in a cycle track.

- 4.1.6. **Response Times** – Response times must reflect the nature of the risk posed by the defect. This will be a function of location, hierarchy and defect dimensions. The Safety Inspector must be adequately trained and competent to make such judgements. Refer to Section 5 Competency & Training. Setting response times should consider local factors.

4.2. ASSET KNOWLEDGE

- 4.2.1. Highway authorities are gaining access to ever increasing asset data, information and knowledge. It is essential this information is utilised to inform the risk process and support your decision making. Below, 4.2.2 to 4.2.4, are examples of asset knowledge that may be considered.

- 4.2.2. **Defects** – Highway authorities understand the volume of defects they identify. This information can be assessed year on year. Triggers can be established where there is a

change in trend. Where this trend shows a significant increase or decrease in volume of defects then the inspection frequency should be reviewed.

- 4.2.3. **Claims** – Highway authorities understand the volume of claims they receive. The assessment of claims varies from repudiation of claims received or value paid out. However, an authority assesses its claims there should be a trigger beyond which the frequency of inspections is reassessed. The table below indicates how a change in claims/defects may trigger the need to review inspection frequencies. Conversely, if an authority currently experiences a high level of claims and or defects and this reduces, then there may be a trigger to reduce inspection frequency.

	Defects		
Claims	Current	Increase 50%	Increase 100%
Current			
Increase 10%			
Increase 20%			

- 4.2.4. **Expenditure / Investment** – Understanding the investment need of the asset is essential to understanding if the investment levels are sufficient to achieve an authority’s performance targets. Current spend should be assessed against backlog and steady state funding to determine if there is an inherent risk in the funding levels. Where funding levels result in a deteriorating asset condition, the need to reassess the inspection frequency should be considered.

4.3. TAILORING THE SAFETY INSPECTION APPROACH

- 4.3.1. The following points should be considered when tailoring a safety inspection regime:

- Establish a risk based management hierarchy suitable for the authority
- Analyse the effectiveness of the current inspection frequencies based on the authority’s data, e.g. number and value of claims, defect numbers etc.
- Compare your current practices with other similar/neighbouring authorities
- Confirm if current inspection frequencies, investigatory levels and defect response options are acceptable and/or adjust accordingly and document rationale for change
- Assign safety inspection frequencies, based on the above analysis and comparisons, to the new management hierarchy
- Identify the changes this has introduced to the inspection frequency and resource accordingly
- Assess the risks associated with these change and amend/document accordingly
- Provide training to the safety inspection team to enable them to carry out their duties in accordance with the authority’s policies and procedures.

5. COMPETENCY & TRAINING

5.1. TRAINING

5.1.1. All staff involved in conducting safety inspections should be competent to do so. Well Managed Highway Liability Risk (2017) states:

“WMHI states that those involved in managing, developing and implementing the risk-based approach must be competent to the satisfaction of the Highway Authority. It acknowledges that competence is especially important in the case of inspections and surveys, where the quality and treatment of data and decision making could have significant legal and financial consequences. It is therefore fundamental that anyone carrying out inspections understand the concepts involved in applying a RBA and have the skills to carry out dynamic on-site risk assessments in relation to potential safety defects” (WMHLR, 2017: p11).

5.1.2. Section 5 of Well Managed Highway Liability Risk identifies the people that need to be competent and trained to deliver the highways service:

“Competence is defined as the combination of training, skills, experience and knowledge that a person has and their ability to apply these to a task consistently” (WMHLR, 2017: p32)

5.1.3. Authorities need to be able to demonstrate competency.

5.1.4. The table below outlines the groups to consider for training along with possible training and records,

Group	Role	Training Examples
Policy and Decision Makers	Allocation of resources and management of corporate risk	<i>To be developed by LoTAG in line with IHE Risk and Liability Guide</i>
Highway Asset Managers	Managing the asset with consideration of risk, liability and financial elements	
Highway Engineers	To develop appropriate policies and procedures to support a risk based approach	
Highway Inspectors	To undertake inspections of the highway asset to ensure they are safe	
Customer Service Advisors	Routinely receiving calls from the public to report a highway defect	

5.1.5. Training records should be maintained and future personal development plans recorded in line with internal personal review processes. Ensure the individual training records are easily accessible.

6. DISCLOSURE

6.1. Pre-action claims handling and disclosure of documents.

- 6.1.1. Most highway liability claims faced by local authorities arise out of personal injury accidents which are dealt with under the Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims (the PLP) and the Pre-Action Protocol for Personal Injury Claims (the PIP). Both protocols apply to claims which are valued up to £25,000. However, the PIP should also be followed in all cases (those valued over £25,000) as best practice.
- 6.1.2. There can be cost consequences if a Local Authority (LA) fails to comply with the relevant protocol.
- 6.1.3. Claims are also presented for damage only, largely as a result of vehicle damage caused by carriageway defects. Whilst the protocols do not apply to such cases, it is best practice to adopt the disclosure procedures set out below in those cases also.
- 6.1.4. Under the PLP procedure Claims are commenced by a Claimant submitting to the LA via an electronic claims portal a Claim Notification Form (CNF).
- 6.1.5. The LA has 40 days from the date of the CNF to investigate the allegations made and to respond to the Claimant indicating whether the claim is going to be accepted or liability denied. If liability is to be accepted and the claim is to be settled, there is no need to give disclosure of documents.
- 6.1.6. If liability is denied, the LA must provide brief details of the reasons why. There is no specific requirement under the PLP for the LA to provide any disclosure in support of its decision at this stage. However, it is common and best practice for LAs to provide appropriate, proportionate and relevant disclosure of documents to support the decision made at this point. These documents will be relevant to the LAs statutory defence under Section 58 of the Highways Act 1980.
- 6.1.7. If liability for the accident is denied, or allegations of contributory negligence are maintained, the claim falls out of the PLP at this point and then continues to be dealt with under the PIP. Even if the claim is worth more than £25,000 it is recommended best practice to adopt the procedures and spirit of the PIP.
- 6.1.8. The PIP details what documents should be disclosed in highway claims as follows. Documents from Highway Authority for a period of 12 months prior to the accident–
- (i) *records of inspection for the relevant stretch of highway;*
 - (ii) *maintenance records including records of independent contractors working in relevant area;*
 - (iii) *records of the minutes of Highway Authority meetings where maintenance or repair policy has been discussed or decided;*
 - (iv) *records of complaints about the state of highways;*
 - (v) *records of other accidents which have occurred on the relevant stretch of highway*

- 6.1.9. The PIP confirms that the Claimant should not go on a fishing expedition for documents.
- 6.1.10. In addition to the above documents, it is also advisable to disclose any other relevant documents (which do not specifically fall into the above list) if they are helpful to the defence of the claim. For example, any works orders in relation to the general area where the Claimant's accident has occurred should be provided to show that they are not relevant to the claim. If the defect complained of was noted on the first post accident inspection and order for repair, a copy of that record should also be produced, together with copies of the relevant repair order.
- 6.1.11. The implementation of the new code of practice and the risk based approach may lead to LAs policies being challenged by Claimants. It is advisable to have a standard disclosure pack of documents available to disclose in appropriate cases in response. It is not necessary to disclose the full pack in all cases. It will only be relevant, pre-action, if the Claimant seeks to challenge the Council's policy.
- 6.1.12. What further documents should be included within the standard disclosure pack? The document may include, for example:
- The highway policy document
 - Risk assessments used to develop the policy and risk based approach
 - Training records for inspectors and managers involved in the review process
 - Documents dealing with road re-categorisation and hierarchy development.
- 6.1.13. The above is not an exhaustive list: there may be others depending upon the review process used.

7. COLLABORATION WITH OTHER AUTHORITIES

7.1. WHO YOUR AUTHORITY SHOULD ENGAGE WITH?

- 7.1.1. When developing a safety inspection approach, it is recommended that efforts are made to engage with neighbouring authorities and/or similar authorities. This document, and the data sourced from the Status Reports in the LoTAG Guidance on Highway Safety Inspections: Addendum, is part of that process. Those with boundaries with County Councils must ensure they have appropriate levels of consistency there too.
- 7.1.2. Efforts should be made through collaboration to understand the approach of other authorities when developing a safety inspection approach.
- 7.1.3. Collaboration also provides an opportunity to share knowledge and reduce the overall workload for individual authorities.

7.2. JUSTIFYING A DIFFERENT APPROACH TO OTHER AUTHORITIES

- 7.2.1. Where reasonable, efforts should be made to align processes and practices with other authorities, however due to differing priorities and service drivers, this may not always be possible.
- 7.2.2. When engaging with other authorities, it may become apparent that there are differences between a safety inspection approach used between different authorities. This may be because of numerous factors and are not exclusive to:
 - Different political priorities;
 - Varying levels of usage between authorities (this will be especially relevant between boundaries of inner and outer London boroughs).
- 7.2.3. The Code allows for differences between authority approaches. However, work should be done to document why there are differences between approaches, and to justify why the approach taken within your authority is reasonable.
- 7.2.4. Alignment for outer London boroughs to authorities outside of London (Highways England, County Councils, Unitary Authorities) may be challenging due to the significant differences in functionality and funding. However, work should be done to understand the safety inspection approaches and efforts made to justify differences.

8. MANAGING CHANGES

8.1. WHEN TO UPDATE THE SAFETY INSPECTION APPROACH

- 8.1.1. The safety inspection approach should be regularly reviewed and updated as the network evolves. Authorities should establish their triggers for review or changes, but it is recommended that a periodic review of the safety inspection approach is conducted with all relevant staff (as described in 5.1.1) to account for any changes.
- 8.1.2. Collaboration with neighbouring and/or similar authorities should also take place at this stage to ensure any changes or deviations from either authority has been documented and the approach taken, or any differences are justified.

8.2. HOW TO UPDATE THE SAFETY INSPECTION APPROACH

- 8.2.1. Any updates to the safety inspection approach should be recorded on the allocated systems and fully documented. These will likely have impacts on activities that are based upon the safety inspection approach and hence changes should be made to all subsequent activities to ensure continuity through the operations.