

## ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

<b>1.</b>	<b>Meeting:</b>	<b>Improving Places Select Commission</b>
<b>2.</b>	<b>Date:</b>	<b>Wednesday 23 April 2014</b>
<b>3.</b>	<b>Title:</b>	<b>Proposals for mitigating risk of Personal Injury claims on HRA Footpaths</b>
<b>4.</b>	<b>Directorate:</b>	Neighbourhoods and Adult Services

### 5. Summary

This report provides an overview of the agreed approach to managing HRA footpaths to:

1. Ensure compliance with revised accounting guidance for infrastructure assets to be adopted in 2015-16 as per Chartered Institute for Public Finance and Accountancy (CIPFA) guidance.
2. Mitigate costs arising from personal injury insurance claims on footpaths (outside curtilage of the property) managed by the HRA given this is highlighted as an area of high risk by RMBC Insurance Section.
3. Meet the Corporate priority for Maintenance of the highways infrastructure.

### 6. Recommendations

The Improving Places Select Commission is asked to note the planned approach to management of HRA footpaths and comment on the proposals.

### 7. Proposals and Details

#### 7.1 Revised accounting guidelines for Infrastructure assets

The comfort and safety in which people can move from place to place and the appearance of local streets are important contributors to quality of life. But few authorities know what their infrastructure is worth, and detailed information on what it comprises, and the condition it is in, is patchy and often out of date.

In order to address this knowledge gap the Chartered Institute of Public Finance and Accountancy published, in 2010, its Code of Practice on Transport Infrastructure Assets. The purpose of this Code is to support an asset management plan based approach to the provision of financial information about local authority infrastructure assets. This will mean the Council moving away from its current approach of holding infrastructure assets at their historic cost value to a system of appraising its current condition in order to provide an up-to-date assessment of its value. The Code comes in to effect in 2015/16, with a “dry run” required in 2014/15 to ensure the Council is able to produce information of sufficient quality to comply with its requirements.

The benefit of developing systems to comply with the Code is that the Council will hold good, evidence based asset management information which will lead to the development of more cost effective maintenance and replacement programmes, the delivery of efficiency savings and service improvements and better long term financial planning.

## 7.2 Insurance claims and costs arising from HRA footpaths

On average, over the past two years the Council has paid £20,538 per year on insurance claims associated with HRA owned footpaths, with the average claim costing £5,868. The need to continue to invest in reducing the costs of accidents via improved management systems, work environment and training is recognised and as a result we plan to implement a series of actions throughout 2014-15 to mitigate this risk. It must be highlighted that initial outlay costs may be greater than anticipated costs of average annual claims but over a period of several years this investment is likely to be recovered through reducing costs of claim.

A summary of claims received as a result of slips, trips and falls on HRA owned footpaths is contained in the following table over page:

<b>HRA Liability PI Claims Performance 2008/09 to 2013/14</b>							
<b>Incident Year</b>	<b>Claims Rec'd</b>	<b>Number On-going</b>	<b>Number Closed</b>	<b>Number Repudiated</b>	<b>Percentage Repudiated</b>	<b>Number Paid</b>	<b>Total Paid £ (inc costs)</b>
2011/12	19	4	15	10	53%	5	32,282
2012/13	28	22	6	5	18%	1	8,495
2013/14	10	9	1	0	0%	1	300

The costs over the past 3 years have been relatively small, this is mainly due to the type of injuries sustained as a result of the slip, trip and falls and the number of claims still outstanding. At the current time we have a reserve for outstanding claims of £264,080. Based on value and percentage of claims paid (including processing cost per claim) the potential average liability per year would be in the region of £47,000. In determining future management of risk associated with claims arising from slips, trips and falls on HRA land/ footpaths the likelihood of future claims and cost has to be considered. At the current time given the limited asset management information on location and condition of HRA footpaths this is considered to be an area of medium to high risk for the service.

A meeting has taken place with Highways to establish a future approach to management of HRA footpaths.

Below is an overview of three options considered to mitigate costs arising from Personal Injury claims on HRA footpaths and achieve compliance with CIPFA guidelines for Infrastructure assets currently planned to be adopted in 2015-16 financial year.

## **7.2 Options to consider**

### **Option 1 (Preferred Option) – Comprehensive review of footpaths owned by HRA and management system adopted**

This option focuses on establishing location and condition of all HRA owned footpaths across the borough, it is proposed over the 12 month period to:

- Establish location and condition of footpaths in HRA ownership
- Assessing the risk associated with HRA footpaths, this will be based on condition of the asset and footfall.
- Establishing an inspection and maintenance regime on the basis of risk assigned to each footpath.
- Factoring in future maintenance costs of HRA footpaths into the 30 Year Business Plan
- Negotiate with Highways the cost of ongoing inspection and maintenance regime once all footpaths in HRA ownership have been identified.
- Updating RMBC Land Terrier with details of HRA footpaths

It should be noted that there has never been a planned approach to management of HRA footpaths which has subsequently resulted in the current lack of information on these assets. This situation is not dissimilar to most other Local Authority housing providers. It will therefore take a minimum of 12 months to put in place an effective system to manage the assets, ensure compliance with planned CIPFA accounting guidance for infrastructure assets and mitigate costs of future claims arising for Personal injury.

By adopting Option 1 the Council will hold information which can be used for:

- scenario planning and option appraisal to model and understand the cost consequences of different maintenance strategies
- prioritising work programmes to maximise the return on a given level of investment
- reducing the amount of unplanned, reactive maintenance
- reducing the number and value of successful third-party claims
- complying with its statutory obligation to produce financial information based on the current value of its infrastructure assets

### **Option 2 – Pro-active Assessment by Housing Champions**

This will expand the current approach to maintenance of communal areas on estates where estate Caretakers and Housing Champions will report issues of Graffiti, litter, over grown areas and hazardous footpaths on an 'eyes and ears' forms.

The roll out of the approach across all estates managed by the HRA will allow us to improve the condition of footpaths without the need for appointment of a dedicated surveyor. This option does allow us to mitigate costs of slips, trips and falls through identifying footpaths in poor condition and putting in place a maintenance regime.

The main weakness of this approach is that we will not benefit from detailed condition surveys and location plans (due to Estate Officers not having the appropriate technical knowledge and experience) that would assist in future management of the assets so mitigating long term risks associated with personal injury claims from slips, trips and falls. We would only be able to update the Land Terrier with basic information on location of the footpath through data being passed to the Strategic Housing and Investment Team. This approach also does not ensure we are prepared for the planned changes to the CIPFA accounting guidance for infrastructure assets from 2015-16.

### **Option 3 – Reactive maintenance**

This will maintain the current ad hoc approach where we will continue to repair footpaths on a reactive basis following a report from members of the public or staff about a footpath in a dangerous condition. More often this is reported following a slip, trip or fall on the footpath as part of a Personal injury claim. This approach will continue to result in personal injury claims and as the assets age, will potentially culminate in more frequent incidents of personal injury and increased reactive maintenance costs. This approach also does not ensure we are prepared for the planned changes to the CIPFA accounting guidance for infrastructure assets from 2015-16.

The annual cost of reactive maintenance to footpaths outside the curtilage of properties is approximately £10,000.

## **8.0. Finance**

There is a compulsory policy excess of £100,000 on each and every claim which means that the vast majority of claims are met directly from the authority's Insurance Fund.

To assist our attempts to prevent/ minimise claims, our claims handlers, Gallagher Bassett, provide 10 free days Risk Management or Loss Control Consulting services.

The costs of each option are detailed below:

### **Option 1 (Preferred) - Comprehensive review of footpaths owned by HRA and management system adopted**

The estimated cost to identify footpaths in HRA ownership and implement a subsequent programme of inspection is estimated to be approximately £50,000 in year one (2014-15).

1 X Surveyor (Band H)	£32,138
Office Costs	£7,000
Mileage etc.	£500
Footpath Repairs	£10,000

Through implementing an ongoing inspection programme there will be a requirement for ongoing budget to maintain and upgrade high risk footpaths. Given we do not

currently have details of footpaths in HRA ownership it is difficult to quantify likely maintenance costs for budgeting purposes in 2014-15. A prudent estimate would be £10k based on current rate per sq.m for footpath repairs being £30 and approximate spend for annum to date. Once we have a record of footpaths in HRA ownership and condition then we anticipate being able to negotiate ongoing inspections through an SLA with Street pride so we have a consistent approach to inspection and maintenance of footpaths throughout the authority.

It has been agreed by the Director of Finance that £25,000 of the cost will be met from the Finance budget as this approach will ensure we are able to accommodate the planned changes to how infrastructure assets are accounted for.

### **Option 2 - Pro-active Assessment by Housing Champions**

The estimated cost of implementing a pro-active assessment by Housing Champions would be approximately £25,000 per year. This is assuming there would be an increase in the number of footpaths referred for immediate repairs (this would be greater than the number of repairs generated by dedicated surveyors) as officer's would be basing assessments on non-technical knowledge and it would be more difficult to maintain a consistent approach/ interpretation of guidance.

### **Option 3 – Reactive maintenance**

The annual cost of the reactive maintenance regime is £10,000 per annum. By remaining with a reactive maintenance approach this cost would continue (with increase for inflationary uplift).

## **9. Risks and Uncertainties**

The Council does not currently have a pro-active approach to managing risks arising from slips, trips and falls on HRA footpaths, as a result this is an area of medium to high risk for the authority. This could impact adversely on the authority's claims experience, reputation, premiums payable and place greater demand and pressures on the Insurance Fund and Directorate budgets

Positive action in this area should result in a decrease in the number of claims and settlement costs, a subsequent reduction in employee hours/ costs incurred in investigating claims and a greater likelihood of reduced insurance premiums in the future as a consequence of an improved claims history.

Implementation of the planned surveying programme will allow accurate valuation of infrastructure assets ready for adoption of revised accounting guidelines currently planned for 2015-16.

## **11. Policy and Performance Agenda Implications**

Claims Management procedures play an important role in both informing and influencing all elements of Risk Management. Risk Management is one of the dimensions of good Corporate Governance. It is all encompassing and impacts on all areas of the Council's Policy and Performance Agenda.

## **12. Background Papers and Consultation**

HRA 30 Year Business Plan

CIPFA Code of Practice on transport infrastructure assets

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