



SHEFFIELD STREET TREES INQUIRY

Independent Chair
Sir Mark Lowcock KCB

Foreword

Sir Mark Lowcock KCB, Independent Chair, March 2023

I offered to act as the Independent Chair of the Street Trees Inquiry because, as a long-standing public servant, I am interested in the resolution of public policy problems. The goals I established for the Inquiry, which were set out in the terms of reference I published in March 2022, reflected that: our focus has been on contributing to the ongoing recovery from the dispute by supporting reconciliation, and on helping to minimise the risk of it re-emerging.

My view is that the starting point for reconciliation is a truthful and comprehensive account of what happened and why it happened. I am aware that parts of this report will make for uncomfortable reading for a number of people. The Inquiry has worked hard to ensure the factual accuracy of the report, and to draw reasonable and fair conclusions based on the facts.

The report draws on three sources of information. First, we have reviewed a large volume of documentary material. The basis on which I agreed with the Council that I would become the Independent Chair was that they would make available all the information they hold that I considered relevant to the Inquiry. To the best of my knowledge, they have honoured that commitment: I am not aware of any information held by the Council that they withheld from the Inquiry. I want again to express my thanks to Council staff who worked very hard to ensure that. I am also grateful to Amey and numerous other organisations, including South Yorkshire Police and the Office of the Police and Crime Commissioner, and many individuals for the material they provided.

Second, the Inquiry met a substantial number of people for private discussions. Those discussions were invaluable in complementing the documentary evidence. The report is drafted in a way which protects the confidentiality of all private discussions.

Third, the Inquiry held public hearings, the video recordings of which remain available.

I would like to thank those Council staff who worked to ensure the Inquiry could be conducted effectively. In particular I am grateful to Kate Josephs, Eugene Walker, Richard Eyre, Ryan Keyworth, James Henderson, Scott Fitzjohn and Gill Charters. Nothing in what follows attaches any significant criticism to any of them.

I would also like particularly to record my thanks to Julie Dore and John Mothersole. My discussions with them were valuable and provided important insight into what happened and why. John Mothersole accepted an invitation to appear at a public hearing; Julie Dore decided not to do that, for reasons which I understand and respect. Having served in senior public roles myself, I have an understanding of the challenges they faced.

The Inquiry was supported by Weightmans LLP in the provision of legal advice and hosting to enable our independence. I was also supported by a small team led by Lucy Heyes, the Secretary to the Inquiry, and I extend my gratitude to them too.

The dispute was a dark episode in Sheffield. Much has been done to recover from it, and all involved deserve credit for that. But there is still more to do, as the report describes.

Report contents

The Inquiry's assessment, conclusions and recommendations	6
Overview	7
Conclusions	12
Recommendations	14
Timeline of events 2006-15	16
Timeline of events 2016-22	18
Part 1: Introduction	20
The Inquiry.....	21
Other relevant reviews.....	23
Legal framework	23
Who runs Sheffield?	24
Amey's role and staff	26
Central government	27
Local government finance	27
The economy.....	28
Sheffield streets.....	29
Street trees	29
Part 2: 2006-12	30
Chapter 2.1: Project design and preparation.....	31
The design phase	32
Choices made in project preparation phase.....	36
Chapter 2.2: Street trees in the design phase.....	40
Assessment of street tree stock	40
Guidance on best practice in managing street trees	41
Final design adjustments to the tree replacement programme.....	43
Chapter 2.3: Inquiry observations on 2006-12.....	48

Part 3: 2012-18 The heart of the matter	50
Chapter 3.1: Narrative summary of 2012-18	51
Chapter 3.2: The contract and its implications.....	56
How the Streets Ahead contract works.....	56
Arrangements for contract implementation and Amey's work programme.....	58
Street trees operational measures	61
Contract implementation issues.....	63
Tree Compensation Event.....	66
Inquiry observations on the contract.....	67
Chapter 3.3: How the protests grew	69
Opposition emerges	69
Intensification of opposition and non-violent direct action	75
Views on the size of the dispute	80
Chapter 3.4: Attempts at compromise.....	84
The Highways Tree Advisory Forum.....	84
The Independent Tree Panel.....	85
The Inquiry's observations on the HTAF and ITP	92
Chapter 3.5: Rustlings Road.....	94
Planning works on Rustlings Road	94
Events on 17 November 2016	99
Aftermath and apology.....	101
Inquiry observations on the operation on Rustlings Road	105
Chapter 3.6: April 2017 – March 2018 The final year.....	108
The dispute escalates.....	108
The effect of the Council's injunctions	109
Protesters try new tactics	113
The Council put pressure on Amey.....	115
Events during January 2018.....	117
Council decision making in February 2018	119
Events preceding the final pause.....	122

Part 4: 2012-18 Some major themes	124
Chapter 4.1: Legal issues	125
The judicial review	125
Legality of felling	127
The Council seek an injunction	128
Inquiry observations on the legal aspects of the dispute	139
Chapter 4.2: The Five Year Tree Management Strategy	140
Producing the strategy	140
Use of the Council’s version of the strategy	145
Inquiry observations on the Five Year Tree Strategy controversy	152
Chapter 4.3: The role of the police	153
Police approach to the dispute	153
Choices made in policing the dispute	160
Inquiry observations on the policing of the dispute	166
Chapter 4.4: Contributions from experts	168
Expert organisations	168
Independent experts	170
Inquiry observations on the input of experts	171
Chapter 4.5: Media, communications and information handling	172
Media, politicians and celebrities	172
Key Council messages on trees	177
Local Government Ombudsman	178
The Information Commissioner’s Office and Bevan Brittan LLP	179
Inquiry observations on media communications and information handling	181
Chapter 4.6: Inquiry observations on 2012-18	182

Part 5: April 2018-22 The peace process and looking ahead	190
Chapter 5.1: The peace process	191
A new approach	191
Mediation	195
Joint tree inspections	198
The Sheffield Street Tree Partnership and Strategy	200
It's Our City referendum	205
Agreement to hold an Inquiry	206
Inquiry observations on the peace process	206
Chapter 5.2: Achievements, risks and opportunities	207
What has been achieved	207
Outstanding challenges and risks	209
Inquiry observations on progress to reconciliation	212
Part 6: Harms	214
Council staff	215
The protesters	217
Amey and their sub-contractors	218
The police	219
Institutions and wider reputations	219
Inquiry observations on harms	220
Annexes	222
Annex A: Terms of reference	223
Annex B: Inquiry methodology	225
List of tables and figures within the report	
Figure 1: Map showing the boundaries of the seven local area committees in Sheffield	24
Table 1: Elliott Consultancy recommended work	40
Table 2: Council original proposal for street tree replacement programme phasing	43
Table 3: Sheffield street trees by age classification	45
Figure 2: Amey Method Statement MS 6.5, Tree Replacement programme (Revised)	47
Figure 3: A zones by year (planned)	58
Figure 4: B zones by year (planned)	58
Table 4: Percentage of street trees in Sheffield by area	62
Table 5: Contract variations, timing and reasons	65
Table 6: Trees replaced by year between 2013 and 2018	70
Table 7: Achievements of Streets Ahead between 2012 and 2022	207
Table 8: Trees removed and replaced by year and cumulatively 2018 to 2022	208
Table 9: Changes to Streets Ahead service standards 6.38 and 6.39	209

THE INQUIRY'S ASSESSMENT, CONCLUSIONS AND RECOMMENDATIONS

-
- Overview
 - Conclusions
 - Recommendations

Overview

There is no dispute that, before the Streets Ahead programme, the roads, pavements and street lighting of Sheffield were in a poor state. This was a significant political issue in the city, and addressing it was a priority for every administration between 2006 and 2012.

Sheffield did not have the resources to do what was needed on its own. It had to seek assistance from central government. The only money on offer from them was through the Private Finance Initiative.

The city's senior highways engineers were largely responsible for developing the technical approach of the programme. They were, throughout, passionately committed to it, and to applying high engineering standards. Their main counterparts in central government were at the Department for Transport; and the companies bidding for the contract were dominated by highways engineers, too.

There has been a lot of debate, confusion and misinformation about the design of the street trees dimension of the project. The Inquiry's report clarifies that. In summary, the key points are as follows.

In 2007, the Council took delivery of an analysis it had commissioned from Elliott Consulting Ltd. The analysis found that 74% of the city's 35,000 street trees were mature or overmature. In March 2008, the Council produced an outline business case for the Streets Ahead programme in which it said that *"a large proportion"* of the mature and overmature street trees were *"now ready for replacement"*.

That is not what Elliott said or intended. The Inquiry did not find evidence that, in saying this, the Council was malign or intending to mislead. The assertion was more likely a result of misinterpretation, arising from the fact that the people making the key judgements on design issues were highway engineers, not tree specialists. They failed adequately to consult others with wider expertise, to understand the value people attached to trees or to apply the available best practice guidance on street tree management.

In November 2009, the Council decided to invite bidders to develop plans to remove and replace 17,500 street trees over the 25 years of the programme. Large, mature trees (many of which may still have had long, healthy lives ahead of them) were to be replaced with small, young ones. The 17,500 figure represented 50% of the total number of street trees. It was an essentially arbitrary number based on the Council's misinterpretation of the Elliott report.

The Council, at that stage, suggested to bidders that tree replacement be back-loaded. It suggested removing 450 trees a year in the first five years of the project, gradually rising to 1,375 a year in the last five years. To the extent that there was a rationale for this, it was that the mature tree stock could be expected to decline progressively as the decades passed.



In mid-2011, when it needed, in the context of austerity and in response to decisions by the Department for Transport, to lower the overall costs of the Streets Ahead programme, the Council reduced the proposed size of the tree replacement programme by half, to 8,750. That was the figure included in the Final Business Case the Council submitted to the Department for Transport in April 2012.

In response, Amey, in their final proposals to the Council in the summer of 2012, proposed to keep to the 17,500 figure while leaving the savings with the Council. Their rationale was that this would reduce tree damage to the highways, reduce maintenance costs and produce a tree population that was *“more ideal”* in terms of *“adaptability... to the road infrastructure”*. This was commercially more attractive to Amey. It was implicit in this approach that, while some of the trees to be removed would be dead, diseased, dying or dangerous, a substantial number would be healthy with potentially many years still to live.

Amey also provided a breakdown of when and where it expected to remove and replace trees as part of the detail set out in the contract. Tree replacement was now heavily front-loaded, with nearly a third of the total to be completed within the first five years of the contract. In describing where trees would be replaced, Amey divided the city into seven areas. The largest tree replacement programme, both in the first five years and over the contract as a whole, was proposed for south-west Sheffield. Under Amey’s plans, therefore, the tree street scene in south-west Sheffield would change quickly – and more than anywhere else in the city. Like the Council, Amey failed to apply available best practice guidelines on street tree management.

The Council accepted Amey’s proposals and the 17,500 figure was written into the contract.

Neither the Council nor Amey expected the tree replacement programme to attract the opposition it did. The risk assessments done on this issue before the contract was signed were inadequate. Decision-makers simply did not foresee the problem. Obvious facts – for example, that people saw a world of difference between a newly planted tree and a large mature one – were overlooked. A failure to ask the right questions of the right people helps to account for that. A consequence of failing to identify the risk was that nothing was done to mitigate it.

The Council, for years, strenuously denied that the intent was ever to replace 17,500 trees or that there was a target to do that. The Inquiry did not find the evidence it was given in support of that argument persuasive. It is, in the Inquiry’s view, best understood as an ex-post rationalisation. The point is, at present, moot; but the Inquiry believes that, had there been no campaign to oppose what the Council was doing, the programme would now be on track to replace 17,500 trees.

The Council was slow to understand the scale and nature of opposition that was building gradually in several parts of the city from 2013 up to mid-2015. Despite a large and growing deluge of information requests, correspondence and complaints, the Council and Amey genuinely thought that things were progressing smoothly. Because they were out of touch with what significant numbers of local people thought, and how the strength of feeling was growing, they were deluded into believing all was well. They dismissed as unrepresentative evidence to the contrary from experts and interest groups.



There was a hardening of the Council's mindset after a judicial review in the High Court in 2016 found that the Council was not acting unlawfully by refusing to stop the tree replacement programme. From that point until early 2018, the prevailing view in the Council was not just that they were entitled as a result of legal rulings to see off the opposition in order to deliver the Streets Ahead programme, but that it was also the right thing to do. People we have spoken to, in or close to the Council, described how words like battle, war and conflict were increasingly used in internal conversations from 2016 onwards. Others referred to the bunker mentality that developed in the Council, describing a culture that was unreceptive to external views, discouraging of internal dissent and prone to group-think.

Senior officers with direct responsibility and governing politicians in the Council genuinely thought that delivering the programme as designed was in the best interests of the city and proceeded accordingly. Decision-makers in the Highways team strongly believed that sticking comprehensively to the standards of infrastructure specified in the contract was appropriate. The Council's legal leadership focused on what the Council was entitled to do, and failed to pose questions of what would work or what it was right or proportionate to do.

Leading politicians felt they were having to manage serious consequences of austerity across the city and did not want to have to put more money into the Streets Ahead contract to placate the campaigners. They ignored those who said the dispute needed a political solution. They thought that those who opposed the programme came from relatively affluent parts of the city and that people should be more concerned about the problems of deprived areas. For understandable reasons, few of the politicians charged with handling the programme were able to grapple effectively with the legal complexity of the contract to see the leverage they could have exploited with Amey to find solutions. They did not get adequate advice from senior officers on that, partly because the political direction and mood within the Council was to prevail in the dispute not to find a compromise.



The Council relied heavily, between 2016 and 2018 on the claim that it was tied down by the contract and that amending it would be disproportionately expensive. One argument they made was that the amendment process itself was expensive. That does not hold water: the contract was amended several times, including in 2016. A different argument was that the cost of saving more trees was too high. There were two sorts of costs. First, the immediate financial costs of a different engineering solution. In some cases (e.g. leaving a gap between kerb stones) that could have been negligible or negative (because the cost of tree replacement would have been avoided). The second sort of costs related to the possibility of higher future highway maintenance expenditure as a result of accepting a lower engineering standard for a small section of road or pavement to allow a tree to be retained. Those costs were, by definition, speculative and years into the future. The Council claimed to be worried that all additional costs would fall to them. In fact, they had leverage with Amey and could have negotiated. (The contract stipulated that protest risk lay with Amey.) By early 2018, Amey were proactively offering to meet additional costs arising from saving more trees themselves. So if cost concerns alone cannot account for the Council's behaviour, what does? The Inquiry's view is that the Council was significantly motivated simply by the determination to have its way.

The consequence of all this was that the Council adopted increasingly disproportionate measures to seek to deter the efforts of campaigners and protesters to block the tree replacement programme. The public justification it offered became severely misleading. Some of the things the Council did were, in the view of the Inquiry, unacceptable. Some of the ideas it flirted with, but did not pursue, were worse. From early 2017 onwards, Amey had increasing misgivings about the Council's approach, but under threat of financial penalties acquiesced in, and provided support for, efforts to deter campaigners from hindering the programme. What happened is described in detail in the report.

The campaigners were very successful in making their case. Several senior Council people we spoke to went out of their way, including in public hearings, to praise campaigners for their success in conveying their message across the media and winning support and sympathy from people far and wide. Viewed in one way, a gracious tribute is being paid here. But there is a deeper point. The Inquiry's assessment is that what the campaigners saw as the Council's irrational, unreasonable, deceitful, dishonest, bullying and intimidating behaviour is what generated the determination, persistence, creativity and ingenuity that the campaigners displayed. The Council's behaviour, in other words, was the fuel that drove the protests. The events on Rustlings Road in November 2016, the saga of the Independent Tree Panel and the approach the Council took to seeking to enforce its will through the courts are just some of many examples of that.

By early 2018, the Council had united almost everyone against them: it was hard to find any influential outsider willing to defend what they were doing. It is however also the case that, as described in the report, some people involved in or supportive of the campaign were acting in unacceptable ways, including in harassing and abusing public officials and Amey staff.

Widely varying views were expressed to the Inquiry about the numbers of campaigners and how representative they were. Some from the Council argued to us that the campaigners were a tiny and unrepresentative minority. The Inquiry did not find the evidence adduced to support that view persuasive. More mature judgments were offered by those who said it was impossible to know precisely who felt what about trees, except in those cases where views were clearly expressed, but that by early 2018 many people across Sheffield were unhappy about the dispute and the damage it was doing to their city.

The Inquiry looked at the role South Yorkshire Police were drawn into playing between 2016 and 2018. Some of the campaigners raised concerns about some of the things they said the police did. The Council had wanted the police to be tougher in the opposite direction, and enlisted Amey in seeking to bring pressure to bear to that end. The police provided the Inquiry with valuable information. The Police and Crime Commissioner and the Chair of the independent panel he appointed came to hearings and provided detailed additional material. They told us what had, before the Inquiry, already been done to review the role the police played in the dispute. On the front line, and under pressure, there may have been individual mistakes, but there is nothing to suggest an inappropriate approach by the police. The Inquiry has not seen evidence which it thinks significantly calls into question what the police, the PCC and the chair of his panel said to us. Ultimately, the Inquiry's view is that the police were put in an invidious position because it took too long for the Council to adopt an approach which facilitated a calming of the dispute.

Conclusions

1. Eleven years ago, the streets of Sheffield were in a sorry state. Now the roads, pavements and lighting in most of the city are much better. That brings significant benefits to residents, local businesses and other organisations, visitors and the neighbouring region. It is important to keep that closely in mind in what follows.
2. The only practical option available to the Council in the years from about 2005, when it was developing ideas on how to tackle problems with the highways, was a scheme under the Private Finance Initiative. It was, essentially, a choice between PFI or potholes.
3. The Council's development, in the years up to 2012, of the Streets Ahead programme followed standard processes, as required by central government who were looking at providing £1.2 billion in grants.
4. But the approach to street trees was flawed. The provision to remove and replace 17,500 trees, about half the total in the city, was misjudged. It largely ignored the value of street trees. It failed to anticipate the views of significant numbers of people across Sheffield.
5. Developing and then adopting a flawed plan was a failure of strategic leadership. Responsibility for that rests primarily with senior Council officers and senior politicians in the administrations of the governing groups between 2008 and 2012.
6. Amey also bear part of the responsibility. Late in the design phase, they advised against a cost saving proposal from the Council to reduce the tree replacement programme by half – from 17,500 to 8,750. Amey's advice, which the Council accepted, was substantially based on the rationale that a larger and front-loaded tree replacement programme would better facilitate the upgrading and maintenance of the built highways infrastructure.
7. It was, however, not inevitable that the flawed design would lead to the serious dispute that arose.
8. Between 2012 and mid-2015, Amey and the Council thought that the Streets Ahead programme was proceeding well. They failed to take seriously advice from a number of knowledgeable people who said, at the time the contract was signed in 2012, that the tree elements would be problematic. They failed to understand the extent of the public opposition that built in the next three years, the significance of the emergence of groups of local residents concerned about what they were seeing, or how things might evolve.
9. The strategy the Council and Amey deployed was to explain the programme to people concerned about it, not to listen and respond seriously to those concerns. Some work was postponed in the light of public disquiet, but the approach was not changed.
10. In late 2015, the Council decided to set up an Independent Tree Panel. From the perspective of its proponents, the ITP was a genuine attempt to find compromise and build public support by demonstrating the Council was acting reasonably. But others in the Council, not least senior staff responsible for highways and the Streets Ahead programme, were not bought in to this approach. The ITP was misled over what could be done at Amey's cost under the contract, as were the public and, later, the courts. From 2016, the Council rejected many of the recommendations the ITP made in good faith to save trees. Setting up an independent panel, misleading it and then ignoring substantial numbers of its recommendations was destructive of public trust and confidence.
11. Starting in 2013, and in an increasingly coordinated way from 2015, campaigners launched a growing wave of correspondence (including Freedom of Information requests), gathered petitions, and continuously raised issues in Council meetings in pursuit of their concerns. The Council did not have or put in place the capacity to deal adequately with all of this.

12. Campaigners sought a judicial review of what the Council was doing in early 2016. They were granted a temporary injunction which paused some tree removals. The High Court ruled that the Council was not acting unlawfully by refusing to halt the tree replacement programme. One consequence of that was to harden the Council's position. It felt validated and endorsed, and increasingly its mindset was to defeat those opposing the tree replacement programme, not to seek an agreement with them.
13. The Council had opportunities in 2016, and later, to propose contract amendments which might have dealt with the dispute. It failed to take them. It had leverage over Amey which it could have used to seek a solution in which the costs may have fallen largely to Amey. But it did not wish to go down that route until its position became untenable in early 2018.
14. The Council did not, between 2016 and early 2018, adequately consider whether its strategy of facing down the campaigners would work. Nor did it adequately consider whether the increasingly drastic action it was taking, and was seeking from both Amey and the police, was wise. It stretched the proportionate use of its authority beyond reasonable limits.
15. The Council's behaviour amounted to a serious and sustained failure of strategic leadership. Responsibility for that ultimately rests with the political leadership – in particular, the relevant cabinet member and the Council Leader: they were responsible for setting the direction and tone.
16. The Inquiry did not find evidence of officers acting in ways that were contrary to political direction. However, political decision-makers were not well enough supported by senior officers:
 - a. Senior officers directly responsible for the highways and the contract believed strongly in the programme they were delivering, and did not want even limited compromises in the standards of built infrastructure to allow a larger number of healthy trees to be saved. They wanted their political masters to continue with the programme as it was designed and failed to do enough to develop alternatives.
 - b. The Council's in-house lawyers focused on what legal action it was entitled to take. Better legal practice would have been to ask more questions about whether the legal action contemplated would, in practice, have the intended effect of deterring the protesters, and encourage consideration of alternative approaches when it became clear that it was not doing so. It would have been better practice to have questioned whether all the legal steps the Council took were a reasonable and proportionate use of its authority. A more rounded approach should have been taken to advising on the Council's problems.
 - c. Senior executives with direct responsibility for the programme, at Executive Director level and above, sometimes failed to step in on operational issues when they should have done, and did not, before the spring of 2018, adequately take responsibility for helping their political masters resolve the dispute. On occasion, however, the most senior officers blocked some of the most egregious proposals.
17. The Council exacerbated its problems by the approach it took to explaining to the public what it was doing. It lacked transparency, and repeatedly said things that were economical with the truth, misleading and, in some cases, were ultimately exposed as dishonest. On occasion, that was inadvertent, but the Council long persisted in putting out messages that it knew conveyed a false impression. That further eroded public trust and confidence, in ways that went beyond the narrow issue of the street tree dispute.
18. Some people involved in or supportive of the campaign also behaved in ways which were unacceptable, including abusing and harassing public officials and others.

19. A combination of factors led the Council to change course in the spring of 2018. The escalated measures to deter the campaigners were not working. Amey were concerned that health and safety risks had reached unacceptable levels, and they had already offered to meet costs of a different approach, allowing more trees to be saved. The police were concerned that attending protests was diverting resources from more important work. The ruling party's backbench councillors reported to their leaders that the public mood was against the Council. Politicians from Sheffield with national responsibilities privately and publicly expressed growing concern to the Council, pressurising them to find a solution.
20. Amey paused the tree replacement programme for the final time on 26 March 2018. They could and should have done that earlier: pressure from the Council to keep going deterred them for too long.
21. In early May, after local elections, a new cabinet member was appointed to handle the issues. Through dialogue, the Council was then able to agree with the campaigners to enter mediation. The mediation, conducted on all sides with skill, sensitivity and patience over a period of months, was successful in facilitating progress towards resolving the dispute.
22. The Street Tree Partnership has been successful in developing a new, more consultative approach, to the extent that Sheffield has now earned external plaudits for its approach. But the Council and Amey have yet to resolve a number of issues hanging over from the dispute for streets not so far covered by the Streets Ahead programme, some of which are in an unsatisfactory state. These issues need to be addressed more energetically.
23. The contract for the Streets Ahead programme has another 14 years to run. The financial consequences, for all parties, of early termination mean that it is likely to be seen through. New problems – and opportunities – will probably arise. A spirit of partnership on all sides will need to be sustained if they are to be dealt with effectively.
24. The dispute did significant harm. Thousands of healthy and loved trees were lost. Many more could have been. Sheffield's reputation was damaged. Public trust and confidence in the Council was undermined. It has not been fully rebuilt.
25. And people on all sides suffered anxiety, stress, injuries and wider physical and mental health problems which, as would have been evident to anyone who watched the Inquiry's public hearings and was even clearer from our private discussions, some continue to carry.

Recommendations

Reconciliation

In public discussions at the time it was setting up the Inquiry, the Council referred to the desirability of truth and reconciliation. Reconciliation is supported by recognition of errors when they have been established, and the issuing of apologies. The Council issued a limited apology in early 2017 for some aspects of how it undertook the removal of trees in Rustlings Road. It issued a further apology in the wake of an investigation by the Local Government Ombudsman into the way it handled requests for information it received from a resident during the dispute. The Inquiry's view is that apologies issued to date do not do justice to the scale of what went wrong. Accordingly:

1. The Council should apologise for developing and adopting a flawed plan.
2. Amey should also recognise, and apologise for, its part in developing the flawed plan.
3. The Council should issue a comprehensive and fulsome apology for the things it got wrong in the course of the dispute, especially between mid-2016 and early 2018, drawing on the material presented in the Inquiry's report.

4. In the spirit of reconciliation, the Council should drop outstanding financial claims against protesters in order to relieve them of the financial and wider burdens these claims continue to impose.

The Inquiry also found examples of unacceptable behaviour – in particular, involving the harassment and abuse of public officials and their families – by a number of people supportive of or involved with the campaign. An acknowledgment of that would be appropriate and would also support reconciliation.

Minimising future risks

The Streets Ahead contract still has many years to run. The condition of a small number of roads and pavements in the city, which have not so far been addressed by the programme, is unsatisfactory. It is also likely that new problems – and new opportunities – will emerge. The financial pressures on the Council, already acute, are likely in the foreseeable future to increase further.

5. The Council should provide more staffing and senior support for the Street Tree Partnership Strategy. Amey should put more resources into enhancing its effectiveness.
6. While sustaining its current partnership mindset, the Council should consider whether it has the skills and capacity needed adequately to pursue its interests in managing the contract with Amey.
7. Amey should recognise that its part in the creation and sustaining of the dispute creates a moral and reputational obligation to be flexible and constructive in finding and resourcing solutions to legacy issues and such future problems as may arise.

Campaigners continuing to pursue complaints against, and time-consuming information requests from, the Council might, if the Council accepts the Inquiry's recommendations, and cognisant of the scale of the challenges the Council is facing and the limits of its capacity, consider whether they would now achieve more through working collaboratively with the Council to address shared concerns.

Other issues

The work of the Inquiry has exposed problems in the Council that go beyond the handling of the street trees dispute.

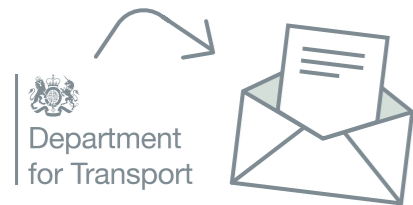
8. The Council should sustain the emphasis it has recently placed on partnership, local engagement and consultation and consider what more it needs to do to ensure that a culture conducive to that is fully embedded.
9. The Council should keep under review its approach to the provision of pastoral support to staff in stressful situations so that it can consistently act in ways which staff perceive as both reasonable and fair but also supportive and kind.
10. When considering future projects on the scale of the Streets Ahead programme, the Council should look at the option of a corporate rather than service-led management structure.
11. The Council should consider whether its strategy and resourcing to improve information management – both its record-keeping and how it manages communication with the public – needs any adjustment in the light of the Inquiry.

The Inquiry has identified a number of lessons from the dispute. Identifying a lesson is not the same as learning it. If the lessons are to be learned, they will need to be fully discussed by the Council and others, and then acted upon.

Timeline of events 2006-15

February
Department for Transport invite expressions of interest for £600 million Private Finance Initiative highways improvement fund.

September
Council submit application to Private Finance Initiative highways improvement fund.



Sheffield City Council



December
Department for Transport invite five authorities including Sheffield to refine their Private Finance Initiative bids.



March
Council awarded £674.1 million of Private Finance Initiative credits.

April
Council issue notice in the Official Journal of the European Union inviting organisations to submit Pre-Qualification Questionnaires.



May
Council receive Pre-Qualification Questionnaires from: Amey (UK) plc, a consortium led by Carillion plc and a consortium led by Colas Limited.



April
Bidders submit detailed solutions to Council. Amey (UK) plc and consortium led by Carillion plc selected to continue with bidding process.

May
UK general election leads to the formation of a coalition Government between the Conservatives and Liberal Democrats.



November
Council present Grounds Maintenance Outline Proposals to bidders. Proposals suggested programme to replace 17,500 street trees over 25 years.

November
Following the national Comprehensive Spending Review, Department for Transport ask Council to review the affordability of Private Finance Initiative Project.

January
Council submit revised proposals to Department for Transport.

March
Council reach agreement with the Department for Transport for revised funding level of £1.21 billion Private Finance Initiative credits (figure increased due to extension of period over which financing would apply to 25 years not due to increase in project size).



July
Council propose reducing some elements of the proposal, including the tree replacement programme, to make savings.

February
Amey (UK) plc and the consortium led by Carillion plc submit Final Tenders. Amey retain tree replacement programme at 17,500 while also giving the cost saving.

April
Amey informed on 11 April that they are the Preferred Bidder.

June
Final Business Case signed off.

August
Streets Ahead Contract signed on 12 August 2012 and commenced on 20 August 2012 (5-year Core Investment Period commences).



November
First trees were removed (those marked as dangerous).

June
Tree awareness events commence.



January
Interest in media begins.

November
Residents of Heeley object to planned removal of 188 trees to create new bus lane.



April
Residents on Rustlings Road notified that trees are to be removed.

May
Save Our Rustlings Trees (SORT) formed (later became Save Our Roadside Trees). Petition shared calling on the Council to reconsider plans for Rustlings Road. Following local elections, Councillor Terry Fox appointed Cabinet member responsible for Streets Ahead.



June
Highways Tree Advisory Forum launched. The first instance of (spontaneous) direct action to prevent tree replacement.

July
The Highways Tree Advisory Forum met for first time.

August
Sheffield Tree Action Groups (STAG) formed.



September
Highways Tree Advisory Forum met for the second (and last) time. Campaigners set up a protest camp in Endcliffe Park next to Rustlings Road.

October
Operation Testate commenced and remained in place until February 2018.

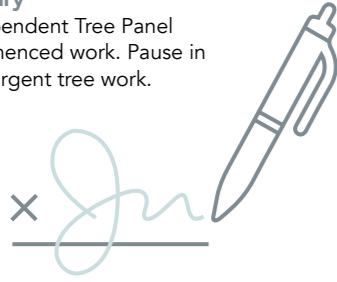
November
Independent Tree Panel announced.



Timeline of events 2016-22

2016

January
Independent Tree Panel commenced work. Pause in non-urgent tree work.



6000 SIGNATURES

February
Council publishes their version of the Five Year Tree Management Strategy. Council debate on Save Nether Edge Trees petition with over 6,000 signatures on 3 February 2016. Debate ends with vote in favour of motion that it was "the right approach to continue with the Streets Ahead programme." Protesters apply for a judicial review on 4 February 2016. Temporary injunction granted on removal of trees (except those posing a threat to public safety) on 5 February 2016 until the judicial review heard.

March
Hearing for the judicial review on 22-23 March 2016. Temporary injunction lifted.

April
Full judicial review judgement published in favour of Council.



May
Following local elections Councillor Bryan Lodge appointed Cabinet member responsible for Streets Ahead. Independent Tree Panel formally submits first advice to Council.

June
Street tree works recommenced on 6 June 2016. Police first attend a street tree related protest on 8 June 2016.

July
The Independent Tree Panel send Rustlings Road recommendations to Council.

November
First arrests of the dispute



Operation to remove Rustlings Road trees on 17 November 2016 leads to significant criticism of the Council. Council apologise for how Rustlings Road operation was conducted.

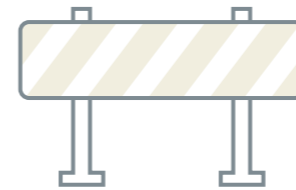
2017

January
Series of high-profile protest events garner national media coverage.

March
Crown Prosecution Service advise that they will not pursue charges for arrests under the Trade Union and Labour Relations Act.

April
Tree replacement discussion at monthly full Council meeting leads to opposition walk out on 7 April 2017.

May
Amey introduce barriers and attach notices highlighting the risk of trespass to protesters under Section 174 of the Highways Act 1980.



BARRIERS INTRODUCED



LETTERS SENT TO PROTESTORS

June
Pre-action protocol letters sent to protesters from the Council with the option of signing an undertaking.

August
Council granted injunction against 3 named people and Persons Unknown coming into force from 23:59 on 22 August 2017 until 25 July 2018.

Protesters responded on 23 August 2017 with new tactics including a slow walk blocking exit from the Amey depot.

October
Council seek committal against first protestors for alleged injunction breaches, with the first hearing taking place on 27 October 2017.



STEWARDS INTRODUCED TO GUARD SAFETY ZONES

November
Amey introduce stewards to guard the safety zones and enforce injunction.



December
Core Investment Period signed off for all aspects apart from street lighting.

2018

January
Amey authorise the use of reasonable force to remove protesters from safety zone around trees.



Amey suspend tree replacement programme from 26 January initially for one week then extended until 26 February 2018.

February
Police implement Operation Quito. Second committal hearing relating to the injunction.

March
Council release partially unredacted contract after a ruling by Information Commissioner.

Amey call pause in tree replacement programme on 26 March 2018.

April
Forestry Commission open investigation into alleged illegal felling.

May
Following local elections Councillor Lewis Dagnall appointed Cabinet member responsible for Streets Ahead.

June
Third committal hearing held relating to the injunction.

July
Injunction extended until 25 January 2020.

September
Mediated talks take place between the Council, Amey, and STAG.

December
Mediation process culminates in joint position statement, published by the Council, Amey, and STAG on 13 December 2018. First of three Local Government Ombudsman reports published.

2019



January
Second of three Local Government Ombudsman reports published. Joint tree inspections commence with representatives from STAG and Amey.

July
Launch of Sheffield Street Tree Partnership, including representatives from STAG, the Council, Amey, and other experts. Sheffield Tree Felling Investigation report published by Forestry Commission.

2020

September
Third of three Local Government Ombudsman reports published.

2021

May
Council announce street trees Inquiry.



2022



May
Street Tree Partnership publishes a final version of the Sheffield Street Tree Partnership Strategy.

December
Bevan Brittan LLP report published on 6 December 2022.

Part 1:

Introduction

- The Inquiry
- Other relevant reviews
- Legal framework
- Sheffield
- Who runs Sheffield?
- Amey's role and staff
- Central government
- Local government finance
- The economy
- Sheffield streets
- Street trees

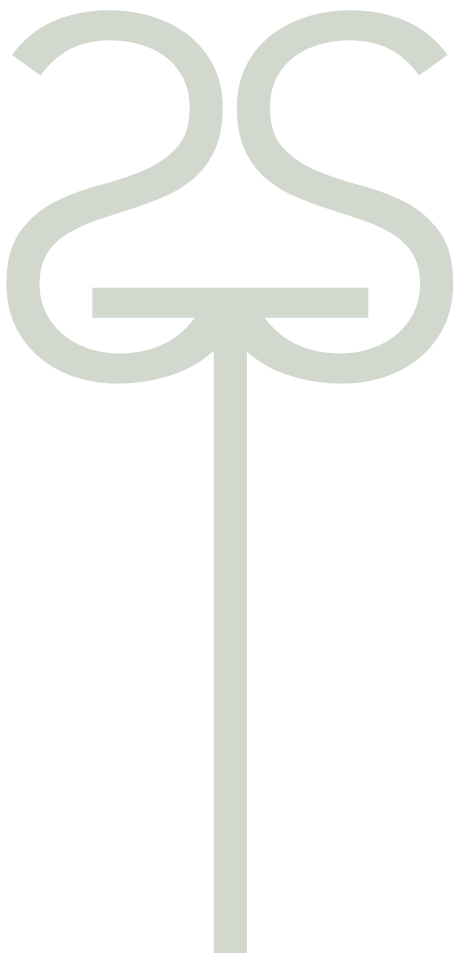


Part 1: Introduction

The Inquiry

1. Following the Sheffield City Council (the Council) 2021 elections, the new Labour/Green Coalition agreed to set up an Inquiry into the Sheffield street trees dispute under an Independent Chair. The dispute arose from a decision to replace half of the city's street trees as part of a 25-year contract to improve the city's highways. It led to a breakdown of trust between those governing and some of those governed. This attracted national and some international attention before a new approach was found. The Inquiry's goal was to support Sheffield's recovery from the dispute and minimise the risk of the dispute re-emerging in the future. The Inquiry was guided by the Council's desire for "truth and reconciliation".
2. Sir Mark Lowcock was appointed part-time Independent Chair after a competition. He appointed Lucy Heyes as Secretary to the Inquiry. She was supported by a small team of three full-time staff. A team of legal advisers from Weightmans, led by Henry Bermingham, was appointed to set up the Inquiry and to support it once it was running. The Inquiry team contracted others to support the Inquiry processes and drafting. It obtained advice from the Chartered Institute of Public Finance and Accountancy (CIPFA) on contract, finance and other issues.
3. The Chair consulted widely about the terms of reference for the Inquiry and published them in March 2022. The terms of reference included:
 - The context, including the condition of Sheffield's highways, pavement and street trees around 2008-10;
 - The decision to use a Public Finance Initiative (PFI) scheme;
 - The appointment of Amey and the terms of the Streets Ahead contract;
 - The implementation of the contract – in particular tree felling;
 - Opposition to the implementation of the contract and the emergence of the dispute;
 - How the Council, Amey and others responded as the dispute progressed – in particular, in the period between 2016 and 2018, in which the dispute escalated and then de-escalated;
 - The impact of the Streets Ahead programme, the development and implementation of the Sheffield Street Tree Partnership Strategy, and ongoing issues.
4. Full terms of reference are at **Annex A**.
5. Bearing in mind the length and cost of some inquiries this one was envisaged to take 12 months and report in March 2023, with its costs proportionate to the issue.
6. The Inquiry studied in detail the period from 2006, when the Council was invited to bid for PFI funds for its highways, up to 2022. The report is divided into six parts:
 - Part 1: Introduction;
 - Part 2: 2006-12 – The design of the Streets Ahead programme;
 - Part 3: 2012-18 – The Amey contract and main events including the protests;
 - Part 4: 2012-18 – Major themes: the law, police, experts and media and observations on the main period of the dispute;
 - Part 5: 2018-22 – The peace process, achievements and challenges;
 - Part 6: Harms caused by the dispute.
7. The Street Trees Inquiry was non-statutory and therefore did not have power to compel witnesses to give evidence. However, the vast majority of people approached spoke to the Inquiry (see **Annex B** for the Inquiry's methodology). The Inquiry invited anyone with relevant information or views to submit them at any point in the Inquiry process. It published monthly updates, which often encouraged submission of further evidence, and other information on its website.

8. The Inquiry received written evidence from over 90 people and extensive documentary evidence from the Council, Amey and others in written, audio, film and hard copy. Taken together, the Inquiry estimates that it read, watched or listened to material which, if transcribed into this report, would run into hundreds of thousands of pages.
9. It interviewed 159 people in private and 26 people at public hearings. All of those invited to attend public hearings are listed at **Annex B**, including whether they attended. This amounted to over 32 hours of public hearings, which were available for the public to view at the time and after. Where information has been provided in confidence, the Inquiry has respected that.
10. As set out in its terms of reference, the Inquiry notified individuals and organisations referred to in the conclusions and provided them with an opportunity to respond to any significant criticism of them proposed for inclusion in the conclusions. The timetable for this process was set out by the Inquiry on its website in December 2022 and was followed. Where requests for extensions were made, they were not granted: most of those in scope complied with the timetable, and it would have been unfair to them to provide more time to others; and the Inquiry was mindful of the overall timetable it had set for its work. This process gave those in scope an opportunity to respond and the Inquiry carefully considered their submissions. Anyone who the Inquiry had been in contact with who did not receive letters inviting them to take part in this process was not considered by the Inquiry to be implicated by the criticisms included in the conclusions.
11. The Inquiry will transfer non-confidential evidence on which it has drawn to the Council after publication of this report and the Council will then determine what is subsequently made public. This may become part of the Council's existing Street Tree Archive.
12. Details of the Inquiry's full methodology are at **Annex B**.



Other relevant reviews

13. The Inquiry has benefitted from other independent reviews of different aspects of the Street Tree issue, including:
 - Judicial review before Mr Justice Gilbart in the High Court (2016);
 - Information Commissioner Decision Notices on handling of Freedom of Information requests about Street Trees (particularly those between 2017-22);
 - The injunctions and committal hearings and extensions (2017-18);
 - Local Government Ombudsman's decisions on complaints against SCC's decision to remove street trees (between 2018-20);
 - Forestry Commission Street Tree Felling Investigation report (2019);
 - Advisory Panel report on Policing Protests (June 2018);
 - Review for the Council by Bevan Brittan LLP into the Council's response to Freedom of Information requests about the Street Trees Dispute (2022).
14. The report refers to these reports and their wider conclusions noting the context of the time that they occurred, the issues they covered and the impact that they had.

Legal framework

15. The activities investigated by the Inquiry are informed and bounded by the legal framework. In particular:
 - The Highways Act 1980, which gives the Council a statutory duty, enforceable in the courts, to maintain its highways;
 - The Equality Act 2010, which requires easy passage for people with disabilities.
 - The Town and Country Planning Act 1990, which clarifies when planning approval and the associated local consultation is required;
 - The Forestry Act 1967, which states that all tree felling requires a felling licence issued by the Forestry Commission unless there is an exception. Exceptions include duties imposed by Acts of Parliament;
 - The Trade Union and Labour Relations Act 1992 (TULRA) and others that were used in making arrests.
16. This legal framework will be referred to when considering the decisions made by the Council and others during the dispute. The report also touches on other legislation used by the police, where relevant.
17. The Inquiry has also paid heed to guidance available through the design period of the contract and developed since including:
 - Well-managed Highway Infrastructure: A Code of Practice. UK Roads Liaison group/ UK Roads Leadership Group, 2005, 2013, 2016;
 - Trees in Towns II: A New Survey of Urban Trees in England and Their Condition and Management. The Department for Communities and Local Government, 2008;
 - Tree Work BS 3998. BSI, 2010;
 - Common Sense Risk Management of Trees. The National Tree Safety Group, published by the Forestry Commission, 2011;
 - Trees in the Townscape: A Guide for Decision Makers. Trees and Design Action Group, 2012;
 - Trees in Relation to Design, Demolition and Construction BS 5837. BSI, 2005, 2012;
 - Ecosystem Services. Defra, 2013;
 - Trees in Hard Landscapes: a Guide for Delivery. Trees and Design Action Group, 2014;
 - Enabling a Natural Capital Approach. Defra, 2020, 2021.
18. The Inquiry has also considered evidence on Capital Asset Value for Amenity Trees (CAVAT), reports published by Forest Research and reports commissioned by the Council.

Who runs Sheffield?

19. Sheffield has a population of over 556,500 and is England's fourth largest city. It is known nationally and, to some extent internationally, as the Steel City for its former prominence in the steel industry and more recently for hosting sporting events and producing stars of popular music. It is also known as the Green City (though its city centre is more built-up due to its industrial heritage), but that reputation was questioned by what happened to its street trees.



Figure 1: Map showing the boundaries of the seven local area committees in Sheffield.

Political structure

20. Sheffield is the third largest individual local authority by population in England after Leeds and Birmingham. With the abolition of Metropolitan County Councils in 1986, it became a unitary authority with wide-ranging responsibilities, including education and adult and child social services. The Council also manages the city's physical infrastructure, including its highways and green spaces.
21. Cabinet-run councils were introduced by the Local Government Act 2000 to encourage faster decision-making and reflect the way decisions were made at national level. They could be led by a councillor chosen by the majority party or an elected mayor. The Localism Act 2011 allowed larger councils to adopt a committee system of government. Following the 2000 Act, the Council used the so-called Strong Leader cabinet model where the Leader appointed nine councillors from their party to form a cabinet, each with an area of responsibility or portfolio. These ten councillors had legal responsibility for decision-making. Cross-party committees could scrutinise their decisions and recommend change, but the cabinet did not have to accept their recommendations. The Council's annual budget did, however, require a debate and approval by a majority of the whole Council (there is a parallel with central government where parliament approves the budget).

22. In 2019, the cabinet comprised councillors from the east and north of the city. Emerging from the street trees dispute, a petition calling for a change of governance received the necessary support of over 5% of the electorate and, in the ensuing referendum, voters supported a change to a Modern Committee system. Committees are drawn from all parties in proportion to the number of seats they hold and are responsible for portfolios. COVID-19 delayed the introduction of the new system until 2022, so the Strong Leader cabinet model was in place until almost the end of the period covered by the Inquiry.
23. The Council has 84 councillors, three for each of the city's 28 wards. Elections usually take place by thirds, three out of every four years. This means that control of the Council can change regularly, as has happened:
- 2002-8: Labour-led. In 2002-3 and 2007-8, there was no overall control and the Council was led by a Labour minority;
 - 2008-11: Liberal Democrat-led. In 2010-11, there was no overall control and the Council was led by a Liberal Democrat minority;
 - 2011-21: Labour-led;
 - 2021-22: No overall control. Labour-Green power sharing, joined by the Liberal Democrats in 2022.
24. Paul (now Lord) Scriven led the Council from 2008-11, followed by Julie Dore (2011-January 21), Bob Johnson (January-May 2021) and Terry Fox (May 2021-present).
25. The cabinet member with responsibility for the Streets Ahead contract changed over time: Councillor Ian Auckland (2009-10), Councillor Shaffaq Mohammed (2010-11), Councillor Leigh Bramall (2011-12), Councillor Jack Scott (2012-14), Councillor Jayne Dunn (2014-15), Councillor Terry Fox (2015-16), Councillor Bryan Lodge (2016-17 and 2017-18) Councillor Lewis Dagnall (2018-19 and 2019-20), Councillor Mark Jones (2020-21) and Councillor Paul Wood (2021-22). Under the Modern Committee system, the Streets Ahead contract comes under the Waste and Street Scene Policy Committee currently chaired by Councillor Joe Otten.
26. Councillors are not paid a salary, but all do receive a quarterly allowance and those in positions of authority receive an extra responsibility allowance. Many councillors have other full- or part-time jobs.
27. The Council operated its consultation processes through seven Local Area Partnerships set up in 2013 to replace the Community Assemblies. These were then replaced by Local Area Committees operating from 2021.
28. Policing in Sheffield is the responsibility of South Yorkshire Police, whose headquarters is in the city. Since 2012, the force has had a Police and Crime Commissioner, a post held by Dr Alan Billings since 2014.

Sheffield City Council: Roles and responsibilities

29. The executive management team of the Council is led by the Chief Executive and comprises Executive Directors who lead the main areas of Council business including key services (including education and social care), operational services (including street scene and highways), city futures (including regeneration), resources (including legal, finance and HR), policy, performance and communications, and public health.
30. Bob (now Lord) Kerslake was Chief Executive from 1997-2008, followed by John Mothersole (2008-19), interim Chief Executive Charlie Adan (January-October 2020) and Kate Josephs (2021-present). Eugene Walker was Executive Director of Resources and the Chief Financial Officer (2014-22) and acting Chief Executive during part of 2022. James Henderson is Director of Policy, Performance and Communications (2009-present).

31. John Mothersole was Executive Director for what is now termed Operational Services until 2008, and was followed by Simon Green as Executive Director of Place (2009-17). The portfolios and their names have changed shape over time, but subsequent executive directors with highways in their portfolio were Laraine Manley (2017-20), Mick Crofts (2021-22) and Ajman Ali (2022-present).
32. Frances Woodhead was Director of Legal Services until 2010 when her place was taken by Lynne Bird (2010-2014) and then Gillian Duckworth (2014-2022) who was also Monitoring Officer responsible for Council discipline. Through the dispute, this position was called Director of Legal and Governance.
33. The original PFI contract team had a dedicated lead and project manager and was sponsored by John Mothersole. It was supported by a project board of Council directors and split into workstreams.
34. Key people holding the post of director with responsibility for the Streets Ahead programme (which we shall sometimes refer to as Director of Place, though the role name changed over the years) during the dispute years included: David Caulfield (2013-16), Paul Billington (2017-19), Mick Crofts (2019-2021) and Richard Eyre (2021-present). The Head of Highways post (the title of which also changed over time) during the dispute years was held by Steve Robinson (2012-17), Phil Beecroft (2017-20), and Gillian Charters (2020-present).

Amey's role and staff

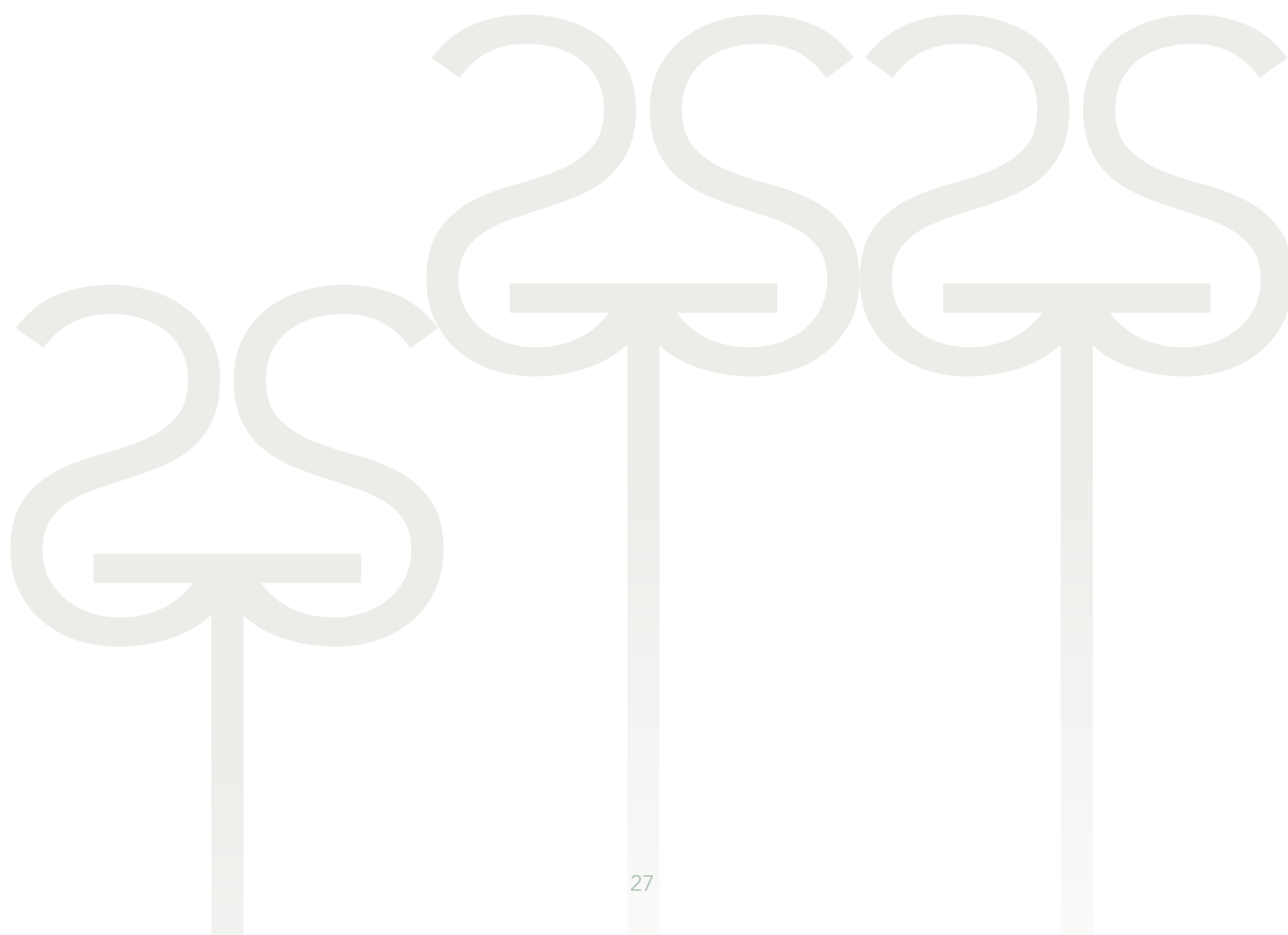
35. Amey plc were and still are a leading infrastructure services and engineering contractor. When bidding for the Sheffield contract, it had a similar contract in Birmingham from which it subsequently agreed a settlement to exit. It was owned by Ferrovial, a Spanish infrastructure services provider. Amey plc was part of Ferrovial's Services Division. Amey's headquarters is in Oxford. In October 2022, Ferrovial sold Amey's services and consultancy business to a UK private equity firm, Buckthorn LLP, for a reported £400 million. Amey currently has a turnover of about £2.1 billion and employs 11,000 people.
36. Amey Hallam Highways Limited (Amey HHL) is the so-called special purpose vehicle (SPV) created to manage the funding and oversee project delivery of the Streets Ahead contract. It was incorporated on 27 June 2012. Amey HHL is the contract counterparty for Sheffield City Council. It subcontracts service delivery to Amey LG, the contractor for Sheffield, which is wholly owned by Amey plc. Amey HHL obtained funding for the project from a syndicate of different lenders and investors. Amey HHL's board monitors the contractual performance of Amey LG using a professional management services company (currently Albany) to assess Amey LG operations and contract performance. It also provides the day-to-day general management point of contact for the Council representing the SPV. This role is currently performed by Martin Toland. Amey LG is a board member and currently represented by Katie Pearman.
37. The Chief Executive Officer for Amey LG was Mel Ewell (2001-16) followed by Andy Milner (2016-19 and 2022-present) and Amanda Fisher (2019-22). Senior staff in key positions during the dispute included: Darren Butt (Account Director, 2007-10 and 2012-21), Graeme Symonds (Core-investment Director, 2012-present) and Robert Allen (Project Business Director, 2012-18). The current Managing Director for Transport Infrastructure is Peter Anderson (2020-present).

Central government

38. Sheffield has six Parliamentary seats, including one shared with Barnsley which is currently held by the Conservatives. All other constituencies are currently held by Labour, but Sheffield Hallam was the seat of Liberal Democrat leader Nick Clegg until 2015. He was Deputy Prime Minister from 2010-15.
39. At central government level from 2006-18, the Department for Communities and Local Government (since renamed the Ministry of Housing, Communities and Local Government, and then the Department for Levelling Up, Housing and Communities) has had overall responsibility for local government. But other departments – the Department for Transport (DfT), HM Treasury for PFI and the Department for Environment, Food and Rural Affairs (Defra) for environment issues – all played a role in the Streets Ahead programme. It was seen as part of central government's 10 Year Transport Plan and a DfT Highway Maintenance Pathfinder Project.

Local government finance

40. Local government spends about 27% of all public expenditure in the UK. It has three main sources of revenue: council tax, retained business rates and central government grants. From 2009/10-2019/20, central government grants were cut by 37% in real terms. This was partly offset by council tax rises, but metropolitan councils like Sheffield saw their overall budgets cut by over 20% in real terms on average over that period. At the same time, demand for social care spending increased. With difficult-to-change commitments to PFI contracts, the Council's room for manoeuvre was limited. Councils were not normally allowed to borrow on the capital markets.
41. The Council currently has an annual budget of about £1.4 billion and around 8,000 employees.



The economy

42. Sheffield enjoyed world renown as the Steel City from the 18th-20th centuries, famous particularly for its cutlery. The process for making stainless steel was invented there. Sheffield was hit particularly hard by deindustrialisation in the 1970s and 1980s when the steel industry declined sharply with a heavy loss of jobs, particularly in the eastern and northern areas where the industry was concentrated. Unemployment rates rose to 14% by 1984.
43. Recent years have seen an economic revival based mainly on the services sector, particularly education. Sheffield has two universities with international reputations, bringing 60,000 students to the city each year, with a growing number of businesses linked to the universities. Sheffield's Gross Valued Added was £6.3 billion in 2000 and had risen to £9.2 billion in 2007. Sheffield's unemployment rate was back to the national average of 3-4% before the 2007/08 financial crash but grew again thereafter.
44. During the 2000s, the population profile was changing with a 24% increase in 20-29-year-olds from 2002-08 as university education expanded and a rise in the ethnic minority population from 5-14%. 245,000 people were employed in over 12,000 businesses, but Sheffield also had a large number of public sector jobs – around 30% of its total workforce.
45. The Council played its part in the regeneration, supporting programmes including Objective One and Housing Market Renewal. Objective One focused on South Yorkshire and aimed to build a balanced, diverse and sustainable high growth economy for South Yorkshire, recognised as a growing European centre for high technology manufacturing and knowledge-based services. The regeneration programme attracted more than £1 billion of public-private partnership arrangements.
46. A third of Sheffield, to the south and west of the city, is within the Peak District National Park and over 60 per cent of Sheffield's area is green space including 250 parks, woodlands and public gardens, and over two million trees. A study published in 2022 found it to be the greenest city in the UK on the strength of its green space but also its levels of renewable energy production. It is within Green Belt, though some of the main urban areas and surrounding villages are exempt from Green Belt planning rules.



Sheffield streets

47. Sheffield's highway network is topographically complex and covers over 1,200 miles (enough to reach from John O'Groats to Land's End and back to Sheffield), 2,000 miles of footways, 600 bridges and other structures, 66,000 streetlights and 500 traffic signals. The road network accounts for 95% of the movement of people and goods into, out of and around the city. The highway network has been valued at over £2 billion and is described as the Council's "largest and most valuable asset". Within the Council, it was managed by Street Force from 2001 until 2012 when the Amey-led Streets Ahead contract started.
48. With the decline of its main industries and tightening government controls over spending, the Council struggled to maintain the city's infrastructure. As a witness statement to the judicial review in 2016 stated: "the city was jokingly referred to as "Pothole City" and local press ran a "City of Darkness" campaign due to failed streetlights". There were high levels of public dissatisfaction: a MORI report for the Council in 2009 showed that only 13% of service users were satisfied with road maintenance and only 15% with the condition of the roads. The number of dangerous defects reported in Sheffield's carriageways rose from about 1,000 in 2006/07 to 9,000 by 2010/11. The highway budget was only 55% of the then "Standard Spending Assessment" (the government recommended amount for spending on road repairs). Sheffield was in the bottom quartile of all authorities for the condition of its carriageways and footways. 85% of its street lighting was substandard. Public satisfaction surveys regularly rated the highway service lowest of the Council services. The Inquiry received no evidence to suggest these concerns were exaggerated.

Street trees

49. In 2006, Sheffield had over 35,000 street trees, covering a wide range of mostly native species including cherry, sycamore, lime, ash and rowan. The majority were mature trees, many planted by neighbourhood communities as memorials or grander avenues planted by wealthy manufacturers either in Victorian times or in the first half of the 20th century.
50. Until 2012, maintenance of street trees was the responsibility of the Council's Street Force team. In common with the rest of the highways budget, the tree work was seriously underfunded, leading to frequent complaints about trees being poorly maintained and dangerous. Sheffield's parks and other green areas were managed separately within the Council.
51. Council staff told the Inquiry that there had been tree and environment related protests and opposition during road safety improvements in Nether Edge and the renovation of the Peace Garden (1997-98).

Part 2:

2006-12

- Chapter 2.1: Project design and preparation
- Chapter 2.2: Street trees in the design phase
- Chapter 2.3: Inquiry observations on 2006-12

Part 2: 2006-12

52. Part 2 describes the design process for the Streets Ahead project and the bid for central government funding leading up to the contract with Amey in 2012. It looks in detail at the plans for street tree replacement and finally assesses the strengths and weaknesses of the project preparation process.

Chapter 2.1: Project design and preparation

53. In 2005, the Council bid for a Department for Transport (DfT) PFI programme for street lighting improvement. In February 2006, DfT invited expressions of interest from all highway authorities, excluding Birmingham and Portsmouth which already had schemes agreed or in preparation, for a £600 million fund to help them modernise their highways and eliminate maintenance backlogs. This was of significant interest for cash-strapped councils such as Sheffield with serious infrastructure problems and years of declining support from central government. DfT hoped to fund three Pathfinder schemes, one large and two smaller, using PFI. As the name suggests, these would test the best approach. The box below provides background on the PFI approach.

PRIVATE FINANCE INITIATIVE BACKGROUND (PFI)

PFI was introduced by the Conservative government in 1992 and expanded under Labour from 1997. Its aim was to bring private sector expertise and finance to deliver public sector infrastructure and services. If risk was transferred to the private sector, the PFI credits from central government did not count as public sector borrowing, which was attractive to the Treasury.

PFI contracts often spanned 25-30 years, with an initial core investment period when the major infrastructure was built or improved, with the contractor running and maintaining the service for the remainder of the contract, often referred to as the lifecycle investment period. Where running of services was transferred to the private sector, public sector staff were usually transferred to the new service provider under TUPE regulations.

Normal practice was for public sector authorities to sign contracts with a private sector consortium, termed a special purpose vehicle, comprising a construction company, service provider and bank. The bidding process would involve expressions of interest, outline and then full business cases submitted to the central government sponsoring department. These often took several years to process and with the chance of falling at each hurdle.

Financial packages were complex, including contributions from councils, PFI credits (grants) from central government and money borrowed by the service provider commercially, usually to be concentrated on the construction phase. Payments under the contract were performance-related and based on outputs, where possible. As risk generally reduced after the initial construction period, projects could then be refinanced at lower cost. Contracts were often very complex, and how well the public was served closely aligned with how well the contract was written.

The Sheffield Streets Ahead PFI signed in 2012 was one of the later PFI projects, before PFI was abandoned in 2018. PFI was always controversial: supporters argued that it helped to resolve a backlog in public infrastructure programmes, delivering them faster with private sector innovation, and provided value for money; opponents complained that it was backdoor privatisation, hugely complicated and that the money could have been borrowed by government on its balance sheet more cheaply.

Although there are now no new PFIs, with 700 PFIs signed from the mid-1990s generally for 25 years, the vast majority remain in operation.

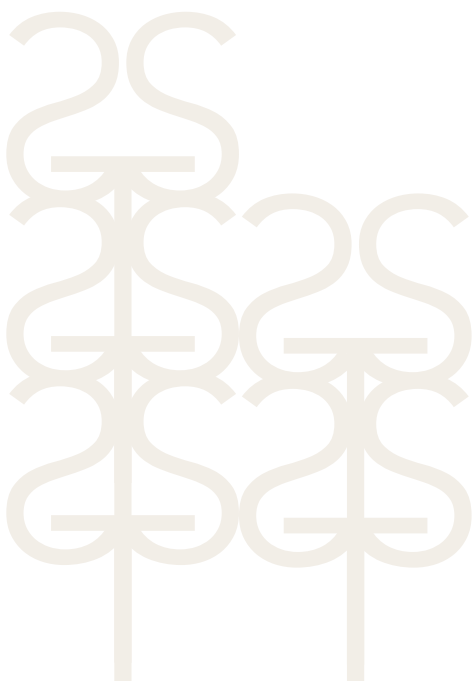
The design phase

54. In July 2006, the Council's cabinet agreed an expression of interest setting out inventory data on the current state of the highways and objectives including a step change in the condition of the city's highways and a more accessible and welcoming street scene. The Council expected this would lead to substantial physical improvements to the condition of highways through resurfacing, modern streetlighting and easier to use pavements. This in turn should result in improved customer satisfaction, fewer accidents, less crime and fear of crime because of better street lighting, more use of public transport and reduced vehicle operating costs and insurance claims.
55. In October 2007, the Council heard that their streetlighting bid had been successful. Council staff told the Inquiry that, as the highways bid was proceeding, they decided to merge the two bids to avoid having two contractors working on the network at the same time.
56. In December 2007, after a delay caused by the government's Comprehensive Spending Review, DfT narrowed the field and invited five authorities, including Sheffield, to refresh their bids.
57. The Council submitted a bid for £733 million, so more than the amount DfT had announced for highways PFI credits for all three planned projects; but this included the £78 million already bid for street lighting and £95 million they already expected from government for carriageway repairs over the next 25 years.
58. DfT would normally assess bids for carriageway works using a deflectograph test (measuring the amount of deflection caused to the carriageway by a lorry driving slowly over it). The Council successfully argued for an alternative Carriageway Condition Index to allow contractors to be more innovative in their repair works and not have to replace as much carriageway, thereby saving an estimated £150 million.
59. The Council presented its case to DfT in February 2008. It was able to demonstrate progress with its plans, including the appointment of a project delivery team in the Council with John Mothersole as project sponsor. They recruited reputable external advisers following competition: Mott Macdonald for engineering, DLA for legal and PWC for finance. Each had experience of PFI work elsewhere in the UK.
60. There was access to tree expertise via those working in arboricultural roles in Street Force and via the separate Parks and Countryside Services team. But the Council's level of expertise on trees had been eroded over time. Former staff told the Inquiry that the reduction in the Countryside Management Service left no one in a senior management position who would have advised strongly against the programme of tree replacement. They said that the remaining people with expertise did express concerns but were worried that objecting too strongly would be held against them. The Inquiry public hearings heard that there was an erosion of knowledge, expertise and institutional memory. Professor Ian Rotherham said in a public hearing that, *"you end up with policies that nobody even recalls that they were there, you don't need to overturn them, you simply ignore them"*.
61. The Council conducted soft market testing to demonstrate that potential contractors were interested and some stakeholder consultations, focused mainly on links to other council programmes, the utilities and Supertram which runs the Sheffield tram network. There was some consultation with employee representatives and relevant professional Council officers. The Council confirmed that it would make its own financial contribution to the project.
62. In March 2008 DfT announced that the three successful bidders were Sheffield, the Isle of Wight and Hounslow. The Council then had to engage potential contractors, issuing a prior information notice to alert the market to the opportunity. It held an Industry Day for potential bidders in September 2008 with an information pack.

Outline Business Case

63. There followed an approval process for the Outline Business Case (OBC) involving Sheffield's cabinet and full Council plus an assessment of it by Partnerships UK (a central government organisation consisting of leaders of industry). Gateway reviews, required by central government, were built into the development process and were planned for regular intervals. The OBC anticipated having to pass gateways for strategic assessment, business justification and procurement approach. In March 2009, the Department for Transport and HM Treasury approved of £674.1 million of PFI credits.
64. The OBC envisaged that the project would be citywide and fence to fence (meaning the inclusion of trees within the carriageway and footway areas), covering all forms of highway maintenance and services such as street cleaning. It asserted that *"the project has support from stakeholders across the city who are aware of and welcome the immense benefits that the project will deliver"*. The OBC did not recognise the risk that replacement of half of the city's street trees would be controversial or the need to consult local people, or expert organisations, about it.
65. In April 2009, the Council issued a notice in the Official Journal of the European Union (OJEU), as required by EU procedures. In May 2009, potential bidders submitted their pre-qualification questionnaires. Following this, in July 2009, three organisations – Amey (UK) plc, a consortium led by Carillion plc and a consortium led by Colas Limited – were shortlisted, invited to submit detailed bids and join a competitive dialogue procurement process. This allowed detailed negotiations between client and contractor about project outputs, how they would be achieved, and encouraged the private sector to bring its solutions to the table. At this stage, the Council provided detailed information about the programme, including the draft project agreement and output specification against which payment would be calibrated.
66. The output specification used network improvement indices rather than specifying in detail the actions required of the contractor, so it measured improvements to the condition of the carriageway rather than, for example, quantity of tarmac or number of bollards. There were about 650 service standards (rising to 752 in the final contract) organised into 10 categories in the first cut of the Highways Procurement Pack. These included: carriageways; footways and drainage; streetlighting and signs; and grounds maintenance (verges, trees, landscaped areas).
67. The aim of the output specification, at this stage, was to rehabilitate the network in seven years (shortened to five in subsequent negotiations) to be followed by 18 years (later increased to 20 when the initial period was shortened) of mostly maintenance and services, giving a 25 year project overall, including a second resurfacing of some roads. Each performance requirement included details on the financial consequences of failing to meet them; for example, allowing rectification periods, during which issues needed to be resolved before financial penalties were incurred. The service provider was to submit annual work plans to the Council for the main aspects of the work, including for the tree replacement programme.
68. The draft project agreement was prepared by the Council team and its advisers during 2009, using their experience of other PFI deals and the government's Standardisation of PFI Contracts (Version 4). The project envisaged transferring responsibility for the upgrading and maintenance of Sheffield's highways and associated infrastructure to the private sector, including the Council staff hitherto responsible, except for those retained by the Council to supervise the contract as part of the client team. The draft project agreement covered: mobilisation, business transfer and the condition of the network at the point of transfer; major events that would allow the contractor relief; employment issues such as the terms of staff transfer under TUPE regulations; and the arrangements for handing back at the end of the 25 years.
69. The payment arrangements envisaged an Annual Unitary Charge (AUC) with performance measured against milestones – condition indices for carriageways, footways, bridges, and replacement of street lights and older traffic signals. Monthly payments would comprise a twelfth of the AUC adjusted for any accruals (changes to the network during the contract) and, for example, failure to comply with performance requirements in the contract or exceeding carbon targets.

70. Meetings with the shortlisted bidders began in September 2009 to explain to them the technical detail of the service requirement, but also the legal and financial aspects. Thereafter, bids were submitted. Each bidder had to explain how they would comply with each service standard and how they would self-monitor performance. Bids included a huge quantity of detailed documents, filling reasonable sized rooms, and requiring Council staff to score each bid in detail against pre-published standards. Amey told the Inquiry that they had 100 staff working on their bid.
71. Based on this scoring, in April 2010, Amey Hallam Highways Ltd and the consortium led by Carillion plc were selected to go forward to the Invitation to Submit Refined Solutions (ISRS) stage. There followed further rounds of technical meetings before submission of final bids in 2011. The Council then had to get final approval from the DfT.
72. The General Election of 2010 brought a Conservative/Liberal Democrat Coalition into power and policies to cut the budget deficit following the 2007/08 financial crash. This became known as austerity and led to an annual cut of 7% in local council funding until 2014. All councils, including Sheffield, had to look for major savings. This shaped preparation of the Final Business Case.
73. To carry out this review, the Council fully investigated a full range of technical, financial, and commercial issues which it was believed might result in savings. The two bidders, Amey and the consortium led by Carillion plc, were fully involved in the review to ensure that all potential areas of saving identified by the Council were likely to be achievable. In March 2011, the Council reached agreement with the Department for Transport to a funding level of £1.21 billion in PFI credits.
74. In July 2011, the Council received the refined solutions from Amey and the consortium led by Carillion plc. These solutions were in response to the revised council requirements and funding levels. A series of dialogue meetings were held between the Council and each of the bidders where all aspects of their solutions were discussed in detail to assist their applications.
75. The dialogue on the bidders' refined solutions was completed in January 2012 and, in February 2012, final tenders were submitted to the Council. All the outstanding issues highlighted by the evaluation process helped form the final tenders, which comprised several documents including: a financial model, mark-up of payment mechanism, various funding-relating documents and documents relating to the pricing of non-core services. Amey's final tender included the intention to replace 17,500 highway trees over the duration of the contract (explored further in **Chapters 2.2** and **2.3**). The Council team evaluated and scored the bids, informing Amey on 11 April 2012 that they were the preferred bidder.



Final Business Case

76. The sign-off of the Final Business Case (FBC) would mark the end of the project preparation process and with an important exception – the number of trees to be replaced – reflected the concluding agreements before contract signature. It was therefore a key stage in the Street Trees story. It was approved by the Council's cabinet, submitted to DfT in April 2012 and approved by DfT in June 2012.
77. The FBC linked the project to the outcomes that the Council wanted to achieve. The City Strategy, brought together by public, private, voluntary, community and faith sectors, had a vision for 2020 where Sheffield would be *"a city of global significance, distinctive, successful, inclusive, vibrant and sustainable. A great city where people from across the world want to live, learn, work, invest and visit"*.
78. It saw the project as making a major contribution to each of Sheffield's ambitions because the condition of the highways was holding the city back. Consultation with the public had identified that the condition of their roads and pavements, access to public transport and the cleanliness of their streets were among the factors that most affected how happy they were with their local area.
79. *"If the street scene is well maintained, it gives a message of reassurance and dispels feelings of exclusion"*, said the Final Business Case. The project would deliver a big change in the condition of the city's roads, making roads and footways safer and more accessible for all forms of transport. It would help to build a strong, competitive economy.
80. The FBC states that the *"Council is committed to Sheffield being an environmentally responsible city"*, aiming to meet its carbon targets through minimising carbon emissions and energy demands; and encouraging the use of sustainable and recycled materials. Smoother road surfaces would reduce wear and tear on vehicles and reduce fuel usage. The contractor would be incentivised to minimise traffic disruption during the rehabilitation programme. In assessing benefits, these are all relatively easily measured using data already available.
81. The FBC (and OBC before it) included an assessment of risks to the project. These did not include an understanding of how people might feel about the tree replacement programme. The risk of protest was noted but not identified as a key risk. How that might vary between areas was not factored in.
82. The FBC included a Benefit Cost Ratio of 6.3, meaning that the economic benefits of the programme were expected to exceed the costs by 6.3 times. This is a very high rate of return and well above what would normally be required for a project to be funded. The calculation did not include costs associated with the replacement of street trees in terms, for example, of carbon capture, flood defence and other benefits of trees and large canopies such as psychological wellbeing.
83. DfT originally originally approved £674.1 million in PFI grants in March 2009. Through negotiation, the period over which the financing would be paid to the Council was elongated to 25 years, leading to a final PFI credits (grants) figure of £1.2 billion agreed between all parties.
84. The contract was signed on 12 August 2012 and commenced on 20 August 2012 with Amey Hallam Highways Ltd. Details of how the contract worked are shown in **Chapter 3.2**.

Choices made in project preparation phase

85. The following paragraphs analyse some of the choices that the Council made. The Inquiry had in mind best practice as noted by the Chartered Institute of Public Finance and Accountancy (CIPFA):
- The need for comprehensive stakeholder identification and consideration;
 - Identifying risks and scenarios;
 - Working in collaboration across organisations and sectors;
 - Using the business case and the contract as living documents to track the benefits, costs and risk across the lifetime of the contract;
 - Having strong governance arrangements and an escalation process across the lifetime of the project; and
 - Openness, honesty and transparency.

Was PFI the right choice?

86. Like many other local authorities in the mid-2000s, the Council had not been able to invest in maintenance and renewal sufficiently to maintain its highways. It scored badly on both technical and public perception indicators. A substantial and sustained increase in investment in the highway infrastructure was required.
87. Faced with limited ability to make compensatory increases in local taxes and growing demand for public services, the Council had three options:
- a) Carry out the work themselves using Street Force;
 - b) Hire a private company to provide the services; or,
 - c) Apply for PFI for highway maintenance.
88. A contract for services with a private contractor would have faced the same financial problems as continuing with Street Force: that they did not have enough money for the large-scale improvement programme needed. PFI enabled the Council to access large grant funding from central government, to transfer risk to the private sector and to benefit from private sector borrowing. These advantages dominated both the Council officers' and members' approaches. It meant accepting a complex contract with a strong presumption against any future change to it that might allow Amey to transfer risk back to the Council or call for extra funding.
89. Given the constraints on Council borrowing and its ability to raise taxes significantly, the offer of PFI funding – what became in effect a £1.2 billion grant from central government – made the choice relatively easy. Most parties in the Council supported the PFI application as the only realistic option. In 2012, 82 out of 84 councillors endorsed it, though the Green Party opposed use of PFI after a 2011 Public Accounts Committee report raised serious concerns.

Was stakeholder consultation appropriate?

90. Early in the process, the Council carried out a stakeholder analysis, which it reviewed and updated. The Inquiry was told that, for each stakeholder, the Council selected the best way of communicating, whether via presentations, roadshows, meetings or a combination.
91. High priority was given to consultation with gas, electricity, water, telecommunications – the statutory bodies whose collaboration would be required. The Council wanted the utilities to do as much as possible of their planned work before the Streets Ahead programme to avoid new or repaired carriageways from being dug up. A particular complication for Sheffield was the tram network operated by South Yorkshire Passenger Transport Executive. Supertram were planning to replace their rails during the early years of the contract. A protocol had to be developed to separate the responsibilities of Streets Ahead and Supertram contractors so that they were not both responsible for the same asset.

92. Presentations were made to individual groups – for example, disability action groups – but communication with the general public was mainly through the community assemblies. Streets Ahead staff gave presentations at each assembly, including on the programme for street trees. Council staff judged that the assemblies welcomed the project because of long-standing concerns about the state of the highways.

93. While there was consultation in the design process, it was limited. Environmental groups such as the Woodland Trust, who would have warned against the planned approach to street trees, were conspicuous by their absence. Both the Outline Business Case and Final Business Case stated that

“This service area [street trees] has not been subject to a public satisfaction survey but the level of nuisance reports... gives an indication of the public’s concern.”

94. Concerns were raised during the design period. For example, the GMB union told the Inquiry that its representative on the assessment panels reported:

“...there were plans to cut down thousands of trees and that they had raised safety concerns for those workers who would be tasked with delivering this. Their concerns were made clear to the Council officers that this would cause carnage in a City that was/is proud and protective of its trees. They asked that further consideration was given to this and reported that they had also raised concerns about the low bar that was being set to establish which trees should be cut down, again emphasising the backlash this would attract.

“They were completely ignored.”

95. The Inquiry heard similar evidence from mid-level Council staff. They said that they flagged concerns about the tree replacement programme. They were told not to worry, senior staff were very confident that residents would welcome the road improvements. Similarly, local business leaders who met Amey in 2012 (after contract signing) were shown slides which included the plan to replace 17,500 street trees. They told the Inquiry that they had warned Amey that they would face opposition. In response, Amey had said that they had done this before in Birmingham, to which they were told: you’ve not done this in Sheffield.

96. While Mr Justice Gilbert ruled in 2016 that no formal consultation was legally required, had the Council chosen to undertake wider consultation it could have identified problems that were exposed later. Once bound by the contract, these issues were harder to fix.

97. As Darren Butt, former Account Director at Amey, told the Inquiry’s public hearings:

“Trees weren’t a prominent factor in the bid. They were there as a highway asset to be maintained and obviously replaced where necessary but they weren’t that prominent...”

“Today it would be the opposite, I think the green estate and the green infrastructure would be very prominent in any contract now...”

“I think there would be a greater focus now, on the climate emergency and everything else we have, to look at the tree replacement in a different way in terms of greater phasing of the replacement programme but also perhaps a greater number of replacement trees for the ones being removed...”

“The other areas would be around communications... a greater mutual strategy which we could work towards would have given the opportunity to be more reactionary and get greater information out into the public domain at earlier stages.”

98. While this was said with the benefit of hindsight, it is also the case that the Well Managed Highway Infrastructure Code of Practice, available in 2005, advocated an approach to highway trees which balanced their benefits with the risks they can present. The code of practice also noted that *“Significant pruning or felling of trees, even for safety reasons, can be the subject of significant local concern and should only be done with specialist advice and support”*.

Was the tendering process properly conducted?

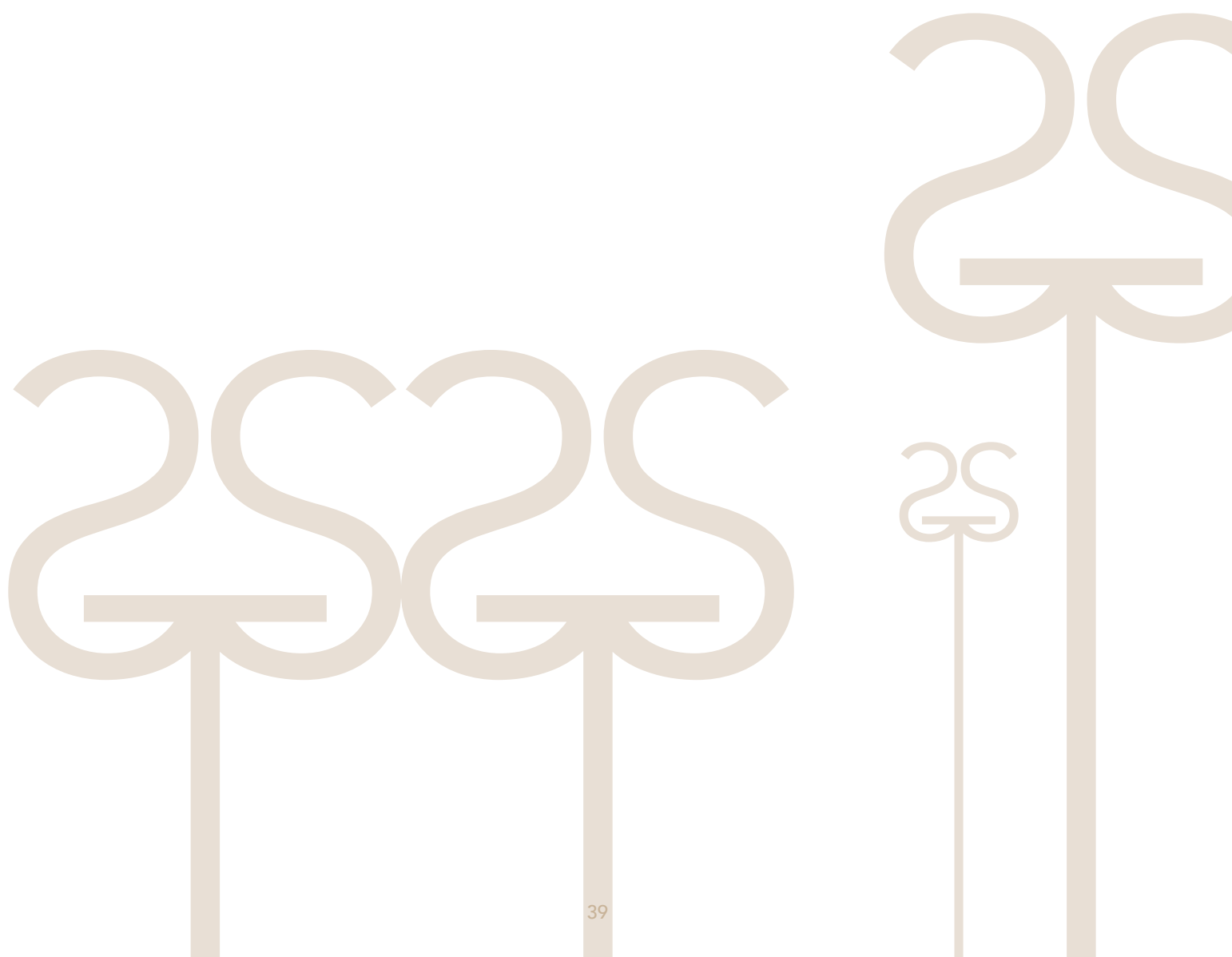
99. The competitive dialogue procurement process, set out in the EU Public Contracts Regulations 2006, was chosen for the Streets Ahead project. It is *“a flexible procedure which preserves not only competition between economic operators but also the need for contracting authorities to discuss all aspects of the contract with each candidate”*. Competitive dialogue is used for complex, innovative and risky projects where bidders’ help is needed to define solutions. Under this process, tenderers are shortlisted but then submit initial solutions that are subject to detailed negotiation. The 2006 regulations set out the stages of the process in detail. This can be a long, resource-intensive process, taking several years, particularly where many bidders are invited to participate in dialogue.
100. The procurement for Streets Ahead consisted of tender stages including publication in the OJEU, shortlisting of three contractors, narrowing to two, and detailed negotiation at each stage, consistent with the competitive dialogue procurement process as described in the 2006 guidance. The Council gave all bidders enough time and information to communicate how they intended to fulfil the requirements.
101. The final tenders were evaluated by the Council’s evaluation teams. Staff in the project team told the Inquiry that Amey emerged as the clear winners based on a comprehensive evaluation. A recommendation that Amey should be the preferred bidder was presented to the Council and cabinet members for Environment and Transport and for Finance on 10 April 2012. This recommendation was approved under delegated powers awarded to the project sponsor (in consultation with the cabinet members for Transport and Environment and for Finance), by the Council’s cabinet.

Could Amey deliver on the contract?

102. The three companies which applied for Streets Ahead were major players both in highway maintenance and the PFI market with, at that time, a strong financial standing, as well as relevant experience of delivering the type of services required.
103. CIPFA noted that Amey brought private sector innovation to the Streets Ahead contract, including: the zonal approach which tried to minimise disruption by undertaking all of the work on a street at pace; their use of contract management software; rapid replacement of old street lighting with LEDs; and probably the first highways net zero depot building.

Was the project properly prepared and scrutinised?

104. The Council argued that the project was well aligned with wider government priorities on transport, including improving local public transport. It would be the largest Pathfinder for a PFI highway programme. As such, the Council was obliged to follow best practice HM Treasury and DfT central government procedure for project appraisal. This included an assessment of the benefit/cost ratio, the value for money case and the commercial case. These were approved by DfT and HM Treasury at the appropriate stages within the procedures in The Green Book 2003, which sets out central government procedures for PFI contracts.
105. Within the Council, the process was led at senior level and suitably qualified external advisers were brought in to help with preparation. The teams across the Council followed the processes required.
106. In all, it had taken about 40 months from OJEU notice to contract award. Schools' PFIs typically took two years, but Highways was a relatively new sector with few precedents to follow. The financial crash and the Comprehensive Spending Review had delayed the process. It was therefore not unusual that this process took so long.



Chapter 2.2: Street trees in the design phase

Assessment of street tree stock

- 107. With all PFI improvement and maintenance contracts, it was essential to establish a clear baseline from which to measure the intended change.
- 108. In 2006, the Council sub-contracted Elliott Consultancy to complete a detailed stocktake of the highway trees in Sheffield. The Council did not have the capacity to complete the survey in-house and Elliott Consultancy had experience of conducting similar surveys in other cities. Over the next year, Elliott Consultancy plotted all of the street trees in Sheffield according to species, age, size, surface and condition. This provided the Council with a detailed database of their highway trees and advice on what work was required. The study was completed and presented to the Council in 2007.
- 109. Elliott Consultancy produced a database and a summary presentation, for internal Council use, of the high-level findings and advice. This showed that Sheffield had 35,057 street trees of which 25,000 trees required no work. Table 1 shows the suggested specific recommendations.

Table 1:
Elliott Consultancy
recommended work

Source: Sheffield City
Highways Tree Survey
2006-2007 completed
by Elliott Consultancy.

Work recommended	Number of trees requiring treatment
Felling	1,000
Deadwood or crown clean	1,500
Crown lift	2,900
Crown reduce	550
Crown reduce or consider removal	25

- 110. About 3% of the street trees were assessed as needing immediate felling, with the remainder requiring maintenance work. The presentation states that 25,877 (or 74%) of the 35,057 highway trees in Sheffield were "mature or overmature". A tree is considered mature when it is close to its full height and crown size, but most will continue to grow taller and wider for many years after becoming mature. The mature tree life stage should be the most productive and beneficial stage of the tree's lifespan. Overmature trees are still close to their full height and crown size while main-stem diameter increases more slowly. Depending on the species, it will be years before an older tree finally dies. An overmature tree is likely to need more monitoring and maintenance but being classed as overmature is not normally a reason for felling or an indication that a tree is dying.
- 111. Elliott Consultancy recommended that the Council should develop a tree strategy to manage its trees for the next 50 to 100 years. The report suggested a three-year rolling survey to monitor problem areas and analyse tree population changes.
- 112. As a bidder for the project, Amey LG had seen the Elliott Consultancy data in the bid data room, where information was shared with bidders, and through dialogue with the Council. This data had been used as the basis for the Output Specification, Service Standard 6 and performance requirements related to trees in the draft project agreement. The Elliott Consultancy data formed the basis of the tree-related due diligence, operational methodology and pricing included in the bid. Amey noted that Elliott Consultancy had focused only on the health of the trees and did not assess damage to highways caused by trees, many of which were parkland species. Amey's own arboriculturalists checked a sample of the street tree stock and drew on their Birmingham bid in preparation for their street tree plans.

113. In 2007, the Council's Serviceability Section conducted a survey which asked residents questions about street trees. Feedback suggested that street trees were sometimes seen as a nuisance: blocking sunlight, overhanging branches causing property damage, affecting TV reception. Requests to the Council to remove these trees or take remedial action increased 13%, from 2,553 in 2006/07 to 2,895 in 2007/08. Like the rest of the highways work, action to maintain trees suffered from shortage of funds.
114. In March 2008, the Council's Outline Business Case provided an overview of Sheffield's Street trees using Elliott Consultancy data. It states that *"a large proportion of the mature and overmature trees (74% of the stock) are now ready for replacement with younger trees of a more appropriate species for use on the highway. This should help to reduce the incidence of tree root damage to footways and private property"*. That is not what Elliott said.
115. The Elliott Consultancy data and summary report is the only data source seen by the Inquiry that was used in developing the approach to trees during the design phase. The Council misunderstood or misinterpreted Elliott's findings.

Guidance on best practice in managing street trees

116. Guidance and best practice on arboriculture has grown since the Streets Ahead contract was signed, but some was available before it. Large-scale assessments of the national stock of urban trees had been carried out and standard approaches to stock management were well documented. Trees in Towns II, published by the Department for Communities and Local Government in 2008, is a survey of urban trees in England and their condition and management. The report details resources and research available on urban trees.
117. The Well-managed Highway Infrastructure: A Code of Practice is long-standing, important guidance *"supported, endorsed and recommended"* by the DfT and other UK local government and highways organisations. Consideration of highways trees has been part of this guidance since at least 2005, balancing their benefits with the risks they can present:

"9.6.1 Trees are important for amenity and nature conservation reasons and should be preserved but they can present risks to highway users and adjoining land users if they are allowed to become unstable.

"9.6.4 Extensive root growth from larger trees can cause significant damage to the surface of footways, particularly in urban areas. A risk assessment should therefore be undertaken with specialist arboricultural advice on the most appropriate course of action, if possible to avoid harm to the tree. In these circumstances, it may be difficult for authorities to reconcile their responsibilities for surface regularity, with wider environmental considerations and a reduced standard of regularity may be acceptable."

118. This guidance makes clear that a balance needs to be struck between the risks and the damage which trees can create and their value, highlighting that compromise, such as tolerating irregularity, may be an acceptable solution. Tolerating irregularity was acknowledged at the Inquiry's public hearings by Amey CEO Andy Milner, who said:

"That [the design stage] was a very critical stage for things to be done differently. I think once you're locked into these contracts it's difficult to row out of them, to back-pedal out of them. But at the design stage I think there are a number of things that could have been looked at differently..."

"Where trees were to be replaced there was a criteria for doing that and one of those criteria was damage to the hard asset. I think in an alternative scenario looking backwards, and now taking into account all of the things around climate change and biodiversity which is much more prevalent now... it would be possible at least to reclassify the damage criteria into perhaps major and minor... and then make some adjustments to the way in which you consider the work needed to be done... to the carriage ways and footways. And consider with greater parity trees as an asset. That would be possible but it wasn't how the contract looked at those assets at the time."

119. In 2011, the National Tree Safety Group published Common Sense Risk Management of Trees guidance, produced by the Forestry Commission. The guidance is applicable to local authorities and others aiming to be proportionate to the actual risks from trees.
120. It is also reasonable to expect that the Council and Amey would have been well versed in BS5837 2005 tree surveys (since superseded by BS5837, 2012). These surveys apply to development and construction on land with trees. They enable the local planning authority to look at the impact of developments on trees for any level of development from individual householder up. The Inquiry does not suggest that these should have been undertaken for all Sheffield's street trees. But the principles could have been used to design a balanced approach to trees within the contract. In 2010, the BSI issued the BS 3998 Recommendations for Tree Work, which similarly focuses on the condition of specific trees and highlights the importance of trees as a living organism before initiating surveying, planning or work on trees.
121. Capital Asset Value for Amenity Trees (CAVAT), developed in 2008, assigns a financial value to either a stock of trees or an individual tree. CAVAT includes methods to support decision-making and strategic *"management of the stock as a whole, as if it were a financial asset of the community"*.
122. Since the late 1990s, ecosystem services have emerged as a framework for "looking at whole ecosystems in decision-making, and for valuing the services they provide, to ensure that society can maintain a healthy and resilient natural environment now and for future generations". The benefits examined can be direct or indirect and take in contributions such as resources from nature (i.e. food, oil, medicine), regulation the environment provides (i.e. water purification, pollination), the cultural effects (i.e. recreational, aesthetic) and the underlying processes which enable these things to occur (i.e. photosynthesis, water cycle).

123. While a much more complex process than cost-benefit analysis or CAVAT, ecosystem services enable the calculation of a financial value which brings in the widest range of impacts and outcomes. It accounts for the costs to humans if we had to replicate the benefits brought to us by nature. Government guidance on ecosystem services was first published in 2013 (since replaced with guidance on enabling a Natural Capital Approach). Likewise, there have been multiple updates to The Green Book since the signing of the Streets Ahead contract. Under the 2022 version it would be likely that more risk assessment would be undertaken and that the appraisal of trees would be better developed – for example, in factoring in their value and linking through to the carbon modelling.
124. Even without a systematic calculation like CAVAT or ecosystem services, cost benefit analysis processes can be used to estimate the value of trees and to appraise the relative merits of different approaches. While there may not have been market price costs for all elements when calculating the value of a tree or stock of trees, the benefits of them could have been estimated using proxies or a selection of known benefits. None of these models is perfect and all are being improved over time, but useful tools were available at the time the Streets Ahead contract was being designed.
125. The Council's Outline Business Case (like subsequent formal documentation including the Final Business Case) does not refer to any of this guidance or to any assessment of the value of the street trees. While the Outline Business Case included a Project Risk Register (Appendix 37) which assesses 66 risks, only three are rated high priority: losing the PFI contract, turbulence in international money markets and bidders dropping out. There are no tree-related risks in the list, but there is also no mention of other physical infrastructure risks – for example, to roads, traffic lights or bridges – at this stage. This absence was highlighted to the Inquiry at a public hearing by Professor Ian Rotherham, who said:

"...it [Streets Ahead] was actually dis-coordinated, uncoordinated, it had no reference to existing policies, which is what I'd asked Amey at the outset: are you aware of this, this and this policy? And they said: no we just signed the document, we didn't check any of this. I said: well these are commitments, this is our long-term vision, how does what you are doing fit with the long-term vision?"

Final design adjustments to the tree replacement programme

126. On 5 November 2009, the Council presented their Grounds Maintenance Outline Proposals to the bidders which suggested a replacement plan for 17,500 trees over 25 years, broken down as shown in Table 2.

Table 2:
Council's original proposal for street tree replacement programme phasing

Years	Number of tree replacements
1-5	450 per year
6-10	675 per year
11-20	1,000 per year
21-25	1,375 per year

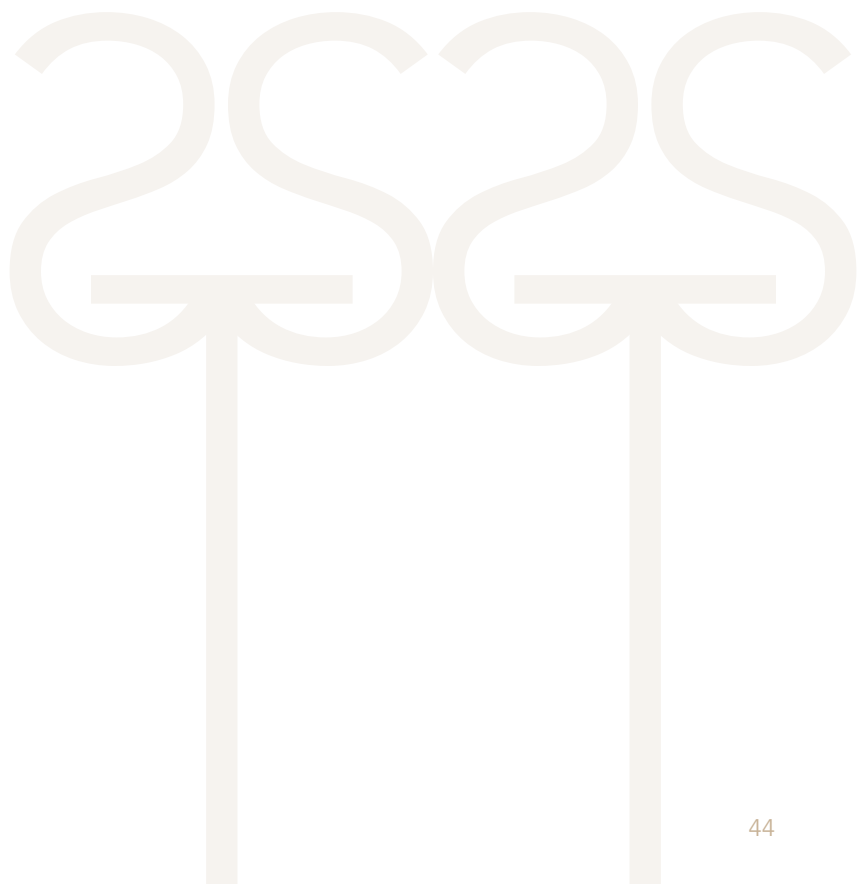
Source: The Council's Grounds Maintenance Outline presentation dated 5 November 2009.

127. This is the first mention of replacing half of the street trees which was seen by the Inquiry. This was not referred to as an insurance policy (as the Council later argued) but rather presented as the clear design aim of the tree replacement programme. **Chapter 2.3** covers this in more detail.

128. In July 2011, Amey and Carillion submitted their refined solutions. Following the Comprehensive Spending Review and the need to identify savings, the Council had reduced some elements of the contract. This included the tree replacement programme which they reduced by half to 8,750. They asked bidders to submit proposals against the reduced specification. Amey told the Inquiry they believed keeping to the 17,500 provision was the Council's preference and that doing that *"would provide a tender advantage"*.
129. In responding to the Council's request, Amey therefore highlighted the earlier specification provided by the Council, which states *"The lifecycle investment programme shall provide forward visibility of the 6.5.10 service provider's planned highway tree replacements included in the Annual Tree Management Plan; based on the highway tree's age and the predicted lifecycle of individual species, to achieve the overall replacement of 17,500 highway trees over the twenty-five-year period"*. They provided a detailed breakdown of how they planned to replace 17,500 trees, including felling 700 trees per year over 25 years within the reduced costs. Carillion kept to the 8,750 replacements proposed by the Council, but front-loaded it to include 6,000 during the CIP with 2,750 during the remaining 20 years.
130. The Final Business Case (FBC) submitted to DfT in 2012 confirmed that the Council is *"committed to Sheffield being an environmentally responsible city."* And explained the project rationale as it affected trees:

"Failure to replace the ageing tree stock would result in an increasing need to remove trees for Health and Safety reasons which would leave unsightly gaps and reduce the City's green cover."

"Residents tend to be concerned about the appearance of highway trees in terms of size, shape and spread. However, a more direct concern is where a tree creates nuisance to an adjacent frontage such as by blocking light or affecting TV reception. Requests for service to remove such nuisance situations are now approaching 3,000 per year. With proper management of the tree stock, the number of such requests should significantly reduce."



131. The FBC assessed stakeholder requirements to be:
- Smooth carriageways and footways;
 - Well-lit streets;
 - Well-signed roads;
 - Litter-free environment;
 - Clear road markings;
 - Free-draining highways; and
 - Good tree cover.
132. There is no discussion in the FBC of what good tree cover entails, but it is envisaged that Sheffield's streets will keep the same number of trees, albeit with a different mix of species. The environmental impact section of the FBC does not refer to trees; rather, it focusses on reducing traffic disruption, carbon emissions, air quality and noise levels.

133. The FBC updates the figures produced by Elliott Consultancy in 2007 as shown in Table 3.

Table 3:
Sheffield street trees
by age classification

Source: The Sheffield City Highways Tree Survey 2006-2007 completed by Elliott Consultancy.

The Final Business Case Data is from the Council's 2012 Final Business Case.

Classification	Elliott Consultancy data 2006-07	Final Business Case data 2012
Young trees	1,693	1,722
Semi-mature trees	7,487	7,450
Mature and overmature trees	25,877	25,891
Not assessed	-	743
TOTAL	35,057	35,806

134. Section 1.8 of the FBC confirms that *"All highway trees have been surveyed, providing the Council with full details of the species, age class, diameter etc of all 36,000 individual trees"*. Mature and overmature trees are said to represent 74% of the highway tree stock, with complaints about trees rising from 2,895 in 2007-08 to almost 3,000 per year. The FBC said that, if the Council could manage the tree stock better, then complaints would reduce.
135. Referring to risks the FBC stated that *"All key Project risks, constraints and dependencies have been identified, managed, and mitigated throughout the process."* The risk assessment did not include any mention of street trees though it did include protests generally as low risk but high impact. The reasons for possible public protests are not specified.
136. The value for money section of the FBC refers to central government's five objectives for transport including *"Environmental Impact"* but makes no reference to trees and no value is attached to them in the benefit cost calculation. Appendix 4 of the FBC on the details of the financial and non-financial costs and benefits of the project does, however, include two qualitative impacts relating to trees: improvements in the *"street scene, particularly through improvements in tree and grounds maintenance"* and *"increased variety of highway tree species will encourage greater bio-diversity"*. Both are seen as supporting the tree replacement programme.

Amey Method Statement

137. Section 6 of the Amey Method Statement submitted in mid-2012 (which forms part of the contract) includes more detail on their understanding of the case for the tree replacement programme:

"6.5.39 The service provider will replace fifty percent (50%) (seventeen thousand five hundred) of the highway tree stock on the projected network throughout the twenty-five year term.

"6.5.40 The service provider confirms it has selected this option for a number of reasons:

- This will lead to a significant reduction in damage by highway trees to the highway infrastructure, i.e. the footway, kerbs, highway and other project network parts and highway artefacts on the project network. It will also reduce the number of highway trees that are currently causing visibility issues.*
- This will enable the service provider to refresh the existing highway tree population to more closely reflect the nature of a modern highway network - resulting in a more ideal highway tree population in terms of ultimate size, vigour and adaptability to the road infrastructure. This will also extend the lifespan of the overall highway tree population and ultimately reduce costs of tree-related incidents, e.g. less highway tree failures by minimising stress on the highway trees and parts of highway trees.*
- This will reduce highway tree maintenance costs, as the proposed new list of tree replacement species (i.e. those that will be planted following the various tree removals) include species that require limited maintenance, e.g. aerial pruning.*
- This will allow the move from a currently "reactive" arboricultural service to one that is more proactive and able to use its resources more efficiently.*
- This will also allow the service provider to carefully plan with the highway design team the new highway tree locations in order that they do not clash with proposed highway installations, e.g. street lighting columns and signs.*
- This will result in a general increase in the biodiversity present on the project network, as the species proposed would increase and encourage the local ecology. Trees are key elements in providing ecological habitats and biodiversity and therefore if numbers are increased it will have a positive impact on the biodiversity of the project network (through an increase in different species and their populations).*
- This will mean that, where possible, new highway trees can be located evenly along a street, negating any gaps produced by the one thousand (1,000) trees currently missing from the project network and creating important visual benefits.*

"6.5.41 The service provider shall remove those highway trees that are currently damaging the project network, e.g. where roots have damaged the surface of the footway or carriageway, or where roots have undermined or damaged the foundations of the footway or carriageway. Other negative effects may result from leaves and fruit fall creating corrosive conditions and affecting the surface of the footway or carriageway. The service provider notes that epicormic growth and expansion of girth of the tree trunk and buttresses may also damage the project network.

"6.5.42 The service provider notes that a highway tree may also require removal due to advanced decline as a result of poor health caused by disease or environmental reasons.

"6.5.43 The service provider recognises that highway trees may require replacement when they have 'outgrown' their location, eg pavement or local biosphere, and become a trip hazard or (in some extreme current situations) they have grown into the road surface.

"6.5.44 The service provider shall not remove any highway tree or part of highway tree cluster without authority approval except where removal is part of the Annual Tree Management Programme or is required to make safe a highway emergency, urgent defect or category 1 defect.

"6.5.45 The service provider shall also remove highway trees that have overmatured or are naturally decayed or dead and potentially dangerous to users of the project network."

138. Figure 2 (below) from Amey, taken from their Method Statement (and included in the contract), shows their proposed tree replacement programme over 25 years with area specific indicative numbers for the initial five-year Core Investment Period and pro rata replacements after that. It is notable that, from the outset, the intent was to replace more trees in south-west Sheffield than elsewhere in the city.

Community Assembly	1	2	3	4	5	6	7	Annual Planting Numbers
Area	South East	South	South West	Central	North	North East	East	
%age of Total	8%	15%	21%	14%	16%	17%	10%	
Year 1 -	140	377	44	10	157	46	15	789
Year 2 -	53	49	518	96	54	181	114	1065
Year 3 -	88	172	231	150	176	187	110	1114
Year 4 -	96	139	221	142	168	179	113	1058
Year 5 -	68	145	210	136	160	170	93	982
								5007
Year 6 -	67	122	179	116	136	144	86	850
Year 7 -	67	122	179	116	136	144	86	850
Year 8 -	59	108	158	102	120	127	76	750
Year 9 -	59	108	158	102	120	127	76	750
Year 10 -	59	108	158	102	120	127	76	750
Year 11 -	49	119	165	80	75	125	86	699
Year 12 -	49	119	165	80	75	125	86	699
Year 13 -	45	112	155	74	67	116	81	650
Year 14 -	45	112	155	74	67	116	81	650
Year 15 -	41	105	144	67	59	108	76	600
Year 16 -	41	105	144	67	59	108	76	600
Year 17 -	41	105	144	67	59	108	76	600
Year 18 -	35	94	129	57	47	95	68	525
Year 19 -	40	69	104	72	82	90	68	525
Year 20 -	38	65	98	68	78	86	66	499
Year 21 -	38	65	98	68	78	86	66	499
Year 22 -	38	65	98	68	78	86	66	499
Year 23 -	38	70	108	63	83	86	51	499
Year 24 -	38	70	108	63	83	86	51	499
Year 25 -	38	70	108	63	83	86	51	499
								12492
TOTALS	1370	2795	3979	2103	2420	2939	1894	17500

Table 6.5.2: Proposed Tree Replacement during CIP and over LIP based on each Community Assembly Area

Figure 2: Amey Method Statement MS 6.5, Tree Replacement programme (Revised)

Source: Image replicated directly from Amey Method Statement.

Chapter 2.3: Inquiry observations on 2006-12

139. There is little doubt that the condition of the streets was holding Sheffield back. There was broad consensus behind the need for action. The offer from central government of PFI credits – in effect, a £1.2 billion grant – was the only one on the table that would enable a relatively rapid turnaround. PFI credits come with a prescribed central government approval process which the Council followed and tested through independent Gateway assessments. This is consistent with PFI contracts elsewhere.
140. The Council project team was sponsored by John Mothersole who was the Chief Executive from 2008, so at an appropriately senior level. Council members were consulted at the key stages, particularly Outline Business Case and Final Business Case approval and the project had overwhelming political support (82 out of 84 councillors). The external advisers in the process were reputable and had some experience of other PFIs. However, the project preparation work was driven by the accompanying focus on improving the condition of the highways and footways.
141. The Final Business Case approved by DfT showed a very high benefit/cost ratio of 6.3 as its base case, but it failed to assess and cost the loss of mature street trees. Nevertheless, Streets Ahead would have demonstrated a good benefit/cost ratio, even with additional factors.
142. A few people have questioned whether the award of the contract to Amey had been inappropriately influenced. The Inquiry has not conducted a detailed forensic audit, but it has reviewed extensive evidence of the process leading up to the award. It has not seen anything to suggest there was inappropriate persuasion of the Council to award the contract to Amey, or evidence that it would be possible to influence so many people. The very complex bids were assessed by a large number of people over a long time period and scored in line with prevailing central government PFI procedures.
143. The City Strategy, produced by the Sheffield First Partnership including the Council, lists five key ambitions – Distinctive, Successful, Inclusive, Vibrant and Sustainable – and a city where people could enjoy the highest quality of life. Street trees appear not to have been seen as a significant contributor to meeting the ambitions. Rather, there was a perception, supported by the number of complaints about trees, that large-scale replacement of street trees would be popular, and that street trees were a minor part of a much larger improvement programme.
144. The Council feared that, left unaddressed, the deterioration of the street tree stock would accelerate and saw the tree replacement programme as a once in a generation opportunity to reverse that trend. It would hand the next generation a street tree stock which was well managed, had a wider distributed age profile of street appropriate trees and would mitigate the risk of losing Sheffield's distinctive, green street scene. As the contract would provide a replacement for each tree removed, it was not seen as removing anything from the city.
145. Senior officers saw the replacement of half of the city's street trees as a positive step. They were receiving lots of complaints about trees (though it does not follow that those requests were in all or even most cases well justified, or that removing the trees was the right course of action). But replacement of 17,500 trees and allowing bidders to front-load the programme (to make the highways easier to upgrade and maintain) meant the contract brought a large number of healthy trees into scope for removal and replacement in a short time.
146. The dispute years would see the Council claim that there was not a target for the tree replacement programme. Internal emails at the height of the dispute saw Council lawyers explain to senior officers why the 17,500 was not technically a target. These hinge on the number of trees to be removed in a year being set not by the service standard which mentions 17,500 but by the number agreed by the Council in the Annual Tree Management Plan and documentation underpinning the contract. During the contract design period and throughout the dispute years, all of this documentation set out numbers of trees to be replaced, which aligned with Amey's proposal to replace 17,500 overall and 5,500 in the first five years. That meant the design intent for half to be removed was operationalised through the underpinning contract documentation until March 2018.

147. The Inquiry is clear that the Streets Ahead contract was written to include the replacement of 17,500 trees – 50% of the city's street trees – over 25 years. This was a clear design intent.
148. There were missed opportunities which would have alerted both the Council and Amey to the forthcoming problems:
- a) There was no consultation with environmental organisations such as The Woodland Trust that would have presented the case for retaining street trees or managing the approach through an ecological lens.
 - b) It was assumed there was no need for consultation with local people about trees, because the increasing number and the nature of complaints were assumed to represent people's views.
 - c) There was a prevailing view at senior levels in the executive and amongst members that replacing half of the street tree stock would be beneficial in the longer term by addressing issues with the age profile of current street trees. But primarily it would make the highways easier to manage. The Inquiry observed that it is generally safe to assume that complaints about potholes meant that nobody liked potholes. It was not safe to assume that complaints about street trees meant nobody liked street trees. Rather, people are generally more inclined to complain than to praise, so objectively-based surveys provide a better evidence base for policy.
 - d) The database provided by Elliott Consultancy was not appropriately used. While 74% of the street tree stock was mature or overmature, that does not make the case for its removal or replacement unless and until individual trees are diseased or dying. No attempt was made to differentiate tree species or their differing environmental benefits and lifespans.
 - e) No attempt was made to differentiate the likely response in different areas of Sheffield. The programme envisaged a larger and faster canopy reduction in south-west Sheffield than in other areas of the city, so it could have been foreseen that objections would start and be stronger there.
 - f) Trees were not valued in the Benefit Cost Analysis. At the time that decisions were being made the tools for assessing tree value were not as sophisticated as they are now, but tools were nevertheless available. There are substantial differences between the relative value of a mature tree versus a young tree and between species.
 - g) No attempt was made to reflect the value of exceptional trees, such as those planted as memorials for those who died in World War II, those which are rare and/or house rare species, such as the Chelsea Road Elm, or heritage trees – those where there are few specimens and which cannot be replaced.
 - h) The project team relied on relatively junior tree expertise and did not adequately consult more senior arboriculturalists.
 - i) The risk assessments by the Council and Amey did not identify a significant risk of protests and none related to trees.
 - j) There was guidance available, both highways and arboricultural, that was not followed.
 - k) Warnings were given by knowledgeable people but were ignored.
149. Following the DfT's request for cost savings, the Council proposed to halve the replacement programme to 8,750 trees, but then agreed with Amey's proposal to keep to their original plan of 17,500, which they thought would make the completion of the Core Investment Period easier and reduce future maintenance costs.
150. Putting the replacement of 17,500 trees in a complex, output-driven contract, albeit a small percentage (1.5%) of the contract costs, encouraged Amey to deliver those replacements.
151. The design of the tree replacement programme was flawed. That prepared the ground for the dispute but did not make it inevitable. The damage that the dispute did would have been avoidable, or easier to address, if the strategic leadership of the Council and of Amey had done a better job.

Part 3:

2012-18 The heart of the matter

- Chapter 3.1: Narrative summary of 2012-18
- Chapter 3.2: The contract and its implications
- Chapter 3.3: How the protests grew
- Chapter 3.4: Attempts at compromise
- Chapter 3.5: Rustlings Road
- Chapter 3.6: April 2017–March 2018: The final year

Part 3: 2012-18 The heart of the matter

152. This part covers the period from the start of the contract, through the escalating conflict until the Council and Amey changed course in 2018. It contains the following chapters:
- 3.1 A summarised narrative timeline of the main events and decisions
 - 3.2 The contract and its implications
 - 3.3 The developing protests up to spring 2017
 - 3.4 The Highways Tree Advisory Forum and the Independent Tree Panel
 - 3.5 What happened on Rustlings Road in November 2016
 - 3.6 The 15 months before the final pause in March 2018
153. The term “protesters” – people who publicly demonstrate opposition to something – can often be used to describe those opposed to the removal of street trees. It is not necessarily how everyone involved would describe themselves. Opposition took many different forms with a diverse group of people choosing which activities they joined. At times, the word “campaigners” is also used. Both terms are shorthand for people who, in one way or another, objected to the tree replacement programme.

Chapter 3.1: Narrative summary of 2012-18

Streets Ahead commences

154. After six years of hard work and preparation, the Council, apart from Green Party members, regarded the Streets Ahead contract as a fresh start. There was a real prospect that the contract would put Sheffield’s highways in an enviable position when compared to other councils – far better than could have been achieved without central government investment and private sector borrowing. It also supplied an answer, at last, to the many years of complaints and insurance claims which had clogged councillors’ mailbags. It should resolve the issues for many years.
155. Amey took responsibility for Sheffield’s highways and other services in August 2012 and began implementing the five-year Core Investment Programme. The contractual arrangements, in particular for trees, are described in **Chapter 3.2**.

Trees replacement starts and concerns are raised

156. The first year of the contract saw 185 miles of road resurfaced and 4,000 street lights replaced. The first trees were removed and replaced in November 2012, starting with those judged dead, dying or dangerous. Amey also began planting new trees to replace those removed but not replaced prior to the contract.
157. Amey started their roadshows in 2012 and held a tree awareness event in June 2013 which was followed by tree walks. These continued until 2015. The Council and Amey treated these as opportunities to inform people about the programme for their streets. They put out positive stories about the programme, but got limited traction in the press.
158. The scale of the replacement programme took time to become visible. The Sheffield and Rotherham Wildlife Trust had early concerns and in 2013 held a public Evening with Amey. Later in 2013, the Green Party convened a public meeting. Concern built through 2014 with the removal of a veteran oak on Melbourne Road in Stocksbridge and the start of media coverage. A successful campaign against a bus lane (which would have seen 188 trees removed) and complaint after the removal of mature trees on Meadowhead roundabout raised public interest in the Council’s broader approach to street trees. The origins and growth of the protest are described in detail in **Chapter 3.3**.

159. From 2014 protestors used democratic processes to ask the Council questions and to raise petitions. Demand soon outstripped Council capacity, leading to delays to responses and similar questions from different people on occasion attracting different answers. This began to erode trust and campaigners started to organise. But at this stage there was no disruption to Amey's work programme.
160. Following leafleting and road shows in late 2014, Amey's work programme in 2015 brought them to Rustlings Road. After a full Council debate of a Rustlings Road trees petition, Councillor Fox, the cabinet member responsible for Streets Ahead, proposed establishing a new forum to bring the Council, Amey and the protestors together. The Highways Tree Advisory Forum was launched in June 2015. It aimed to explain the Streets Ahead programme better to the protestors. The protestors were not satisfied with the answers they received. **Chapter 3.4** explains the Highways Tree Advisory Forum and the Independent Tree Panel which succeeded it.
161. The protestors were becoming better organised: the Sheffield Tree Action Groups (STAG), first chaired by David Dillner, was formed in August 2015. This provided a forum for the different groups of protestors and began coordinating some of their activities.
162. The Highway Trees Advisory Forum met only twice, the second time in September 2015. The minutes of that meeting were never agreed or released.

Lines are drawn

163. By the second half of 2015, the Council was flooded with questions and complaints about Rustlings Road tree replacement plans. A meeting between the Council and the protest groups failed to find common ground. The Council and Amey began to see that the protests could affect the work programme. Payments depended on progress and progress depended on only working in each zone once.
164. The Highway Trees Advisory Forum was followed by the Independent Tree Panel in November 2015 with an independent chair and experts. It worked from January 2016 and submitted its last advice in June 2017. The Panel's remit was to advise the Council on the case for tree replacement following a survey of residents on a street-by-street basis to assess their wishes. The Council said it would take account of the Panel's advice but would itself make the final decision on whether to replace trees.
165. Prior to a Council debate on a petition on tree works in Nether Edge on 3 February 2016, the Council published a Five Year Tree Management Strategy. This was widely understood to be one of a series of documents of the same title produced annually by Amey for Council approval under the contract. But it was different, which would be controversial in legal proceedings and a long-running source of mistrust. Elements of it would be criticised by the Local Government Ombudsman. **Chapter 4.1** looks at legal topics and **Chapter 4.2** looks at the Five Year Tree Management Strategy in detail.
166. The Council supplied the ITP with a list of 25 alternative solutions encouraging them to believe these were available and considered routinely. The Council rejected the ITP's recommendations on a substantial number of occasions, even though their recommendations were based on the list the Council provided. This reduced confidence in the ITP and the Council. Amey was not part of the ITP process, but it had advised the Council before it presented its 25 alternative solutions to the ITP that many were not viable or provided for in the contract. Amey did not tell the ITP about their concerns until late 2016.
167. By the end of 2015, Amey had replaced 32,000 street lights, repaired 87,000 potholes, resurfaced over 350 miles of road and replanted 2,000 trees. It was under increasing pressure from the Council to get the work done as planned and it was reluctant to intervene in ways that might damage its relationship with the Council.

168. The Council vote in favour of a 3 February 2016 motion that it was “the right approach to continue with the Streets Ahead programme” (including tree replacement) led campaigners to apply for a judicial review and a temporary injunction on tree felling (brought by David Dillner, chair of STAG). An interim injunction was granted, pausing the tree replacement programme. The Council were also working through the ITP process at this point, which meant pausing tree replacements while the ITP deliberated. The injunction was lifted before the final ruling but the Council decided not to resume the tree replacement programme until the judgement was released.
169. At the full judicial review hearing in March 2016, Mr Justice Gilbert found in favour of the Council, drawing particular attention to its legal duty to maintain the highways fence-to-fence which included footways and the trees thereon. The judgement emboldened the Council to press ahead with the tree replacement programme but the protestors became more determined. The judicial review and other legal aspects of the dispute are described in detail in **Chapter 4.1**.
170. Following elections in May 2016, Councillor Bryan Lodge took over lead responsibility for the Streets Ahead programme from Councillor Terry Fox.

Rustlings Road and increasing protests

171. Work on Rustlings Road was initially delayed because of local concerns but, by mid-2016, it was rising up Amey's and the Council's list of zoned work needing to be done. It would involve the replacement of 8 (reduced from 11) mature trees. Within the Council, plans were developed for the operation.
172. Protests were expected and the police worked with the Council to define the risks and agree appropriate police presence. The operation to remove the trees was undertaken from 4.45am on 17 November 2016. The fallout was swift and damning. It drew greater numbers into the campaign and hardened others against the Council. The Council apologised for how the operation was done but not for doing it. The police were unhappy that immediate communications implicated them unjustifiably. The Rustlings Road events are described in detail in **Chapter 3.5**.
173. From November 2016 to February 2017 the police were increasingly called to street protests. Arrests were made including under the Trade Union and Labour Relations Act. The campaigners sought pro bono legal advice on the legality of the use of this legislation and it was not used thereafter. Compensation was later paid. The Council wanted tougher police action and sent them a strongly worded letter expressing disappointment. **Chapter 4.3** explores the role of the police.
174. The Council struggled to persuade people and the press that trees were being removed as a last resort. Nor did they convince people that alternative approaches would result in unaffordable, multi-million pound costs or a catastrophic decline in the urban canopy. Specific trees such as the rare Huntingdon elm on Chelsea Road and the Western Road memorial trees became focal points for opposition. The Council's approach to communication, the media and information handling is covered in **Chapter 4.5**.
175. During this time, the Council thought itself hemmed in by the contract and wider, austerity induced pressures on its budget. Through the second half of 2016 negotiations were underway between Amey and the Council to refinance the commercial debt taken out to help finance work in the Core Investment Period.
176. At the same time Amey sought relief from the Council for delays to the programme from the tree protests. This resulted in the so-called Tree Compensation Event, which enabled the transfer of some responsibility from Amey back to the Council for delays caused by the protests. Both the refinancing and the Tree Compensation Event were concluded in December 2016. There were six contract variations up to 2022. These are described in more detail in **Chapter 3.2**.

Legal intervention as the leading option

177. From May 2017, ahead of legal action, Amey began to protect all tree work areas with barriers and attached notices highlighting the risk of trespass charges for protesters under Section 174 of the Highways Act 1980. Amey also worked with the Council to create communications to explain the programme.
178. By June 2017, protester action meant Amey's operations were being significantly delayed. With the police reluctant to intervene and Amey more willing to change course but under pressure from the Council to stick to the programme, the Council sought further ways to control the protests.
179. At the end of June 2017, the Council decided to apply for an injunction to prevent certain protesters and so-called "persons unknown" from entering areas beneath trees due for replacement. The Council included a Green Party councillor, Alison Teal, in the injunction application. Amey declined to be party to the application for injunctions. The approach to undertakings and injunctions is described in detail in **Chapter 4.1**.
180. The injunction did not have the desired impact of deterring protesters. The Council moved swiftly to bring committal proceedings against protesters for breaching the injunction. The Council worked closely with Amey to secure evidence of breaches of the injunction.
181. Staff wellbeing within the Council and Amey worsened from this period. Many have characterised the protests as good natured until 2017, when relations deteriorated. Verbal and online abuse increased and unsubstantiated allegations of corruption and criminal activity were made against some public officials.
182. Some people involved in or supportive of the protests intimidated Council and Amey staff, approaching them in parks, shops, leisure centres, pubs and outside court, and insulting them, including in front of children. The Inquiry was told that some staff were forced to move home, having had their addresses made public. Politicians reported receiving hate mail and tree cuttings pushed through their doors.
183. Part 6 describes in detail the harms arising from the dispute.

Escalation and end of the Core Investment Period

184. While the Council continued their legal pursuit of the protesters in the autumn of 2017, the protests showed no signs of abating. Protesters found loopholes such as standing between barriers and property boundaries outside of the safety zone but under the tree canopy (geckoing). Others ignored injunctions by either stepping into the safety zone unmasked, sitting masked under trees (bunnying) or climbing trees masked (squirreling). This escalation on both sides made the atmosphere on some streets tense and febrile, increasing the chances of frayed tempers and injury.
185. Under pressure from the Council, Amey had already made operational changes, including to fencing. They contracted security services from Servoca to protect the safety zone through passive stewarding from November 2017. This was seen as a provocative move by protesters. The Council pressed Amey to take every action possible to continue the programme.
186. Through 2017 and into 2018, campaigners continued to raise awareness, ask questions, draw in external views, appeal to official organisations and hold events, including vigils and art workshops around trees. The Council came into conflict with politicians, celebrities, experts and organisations, as well as large numbers of residents. The dispute united many across the political spectrum at local and national level.

187. In 2017, the then Environment Secretary, Michael Gove, intervened. At the Conservative Party Conference, he described the Sheffield Streets Ahead programme as “*wanton ecological vandalism*”. The Woodland Trust offered to mediate in 2017, and Shadow Environment Secretary, Sue Hayman, in March 2018, but the Council declined both offers.
188. The worst of the protests took place between January and March 2018. Under pressure from the Council, Amey authorised the use of lawful reasonable force to remove protesters from the safety zone around trees from 16 January 2018.
189. By this time, the highways element of the Core Investment Period had been signed off. Work on some roads remained to be completed, including replacement of, the Council estimated, around 250 trees. At this stage, Amey were willing to meet the costs of some engineering solutions. The Council considered its options but decided to press Amey to continue with tree replacement and the police for stronger action.
190. Protests attracted further media, political and expert interest. The police worked with Council officers, Amey and Servoca to advise on the operational approach. Citing staff safety, the Council often had little representation on the streets, leaving Amey and the police to reluctantly handle the protests.
191. Due to the severity of protests in late January 2018, Amey suspended works between 26 January and 26 February 2018. From late February 2018, when the programme resumed, the police implemented Operation Quito, working alongside Amey. Both were increasingly concerned at what they were witnessing at the protests.
192. The intensity of the dispute meant that a police presence was needed when trees were removed. But the police were being criticised in the media and by national politicians who questioned the proportionality of the approach, the cost to the public purse of the policing and the priorities from which resources were being diverted. The Police and Crime Commissioner repeated his earlier call for a political solution.
193. In March 2018, a senior council officer provided the Chief Executive with advice on the delivery and reputational risks of the tree replacement programme and set out options. These included: continue, accelerate, pause, mediate, stop and change approach. The recommended approach was mediation.
194. The pause, which would turn out to be the end of the original tree replacement programme, was called by Amey on 26 March 2018. In March 2018, following a direction from the Information Commissioner, the Council released a redacted version of the contract, including the intention to replace 17,500 trees. This led to the Forestry Commission initiating an investigation into allegations of illegal felling in April 2018.
195. Part 5 takes up the story from late March 2018.

Chapter 3.2: The contract and its implications

196. This chapter describes the contract and some of its implications, the main elements of its approach to street trees, and its implementation up to the end of the Core Investment Period.

How the Streets Ahead contract works

197. In August 2012, the Council entered into a project agreement (contract) with Amey Hallam Highways Limited for works and services related to the rehabilitation, maintenance, management and operation of the project network. On the same day, Amey Hallam Highways Limited entered a subcontract with Amey LG Ltd to *“provide services relating to rehabilitation, maintenance, management and operation of the highways in or around the Sheffield area”*; in effect, subcontracting delivery in its entirety to Amey LG which would go on to subcontract as appropriate, a common practice in similar contracts.
198. The project agreement is a performance-based contract under which the Council contracts with the service provider, Amey Hallam Highways Limited, to manage most of the operational, legal and commercial/financial risks relating to the maintenance of the entire project network. Excluded were highway authority functions such as: traffic management and regulation; grounds maintenance of public realm land; decisions on highway improvement schemes; roads maintained by National Highways (the M1 motorway, Tinsley Viaduct and Stocksbridge Bypass); private structures such as Network Rail bridges and unadopted roads.
199. Amey took on the majority of operational, legal and financial risks associated with providing a full highway maintenance service. That included liability for highway-related insurance claims. They carried the risk if they underestimated how much a service or activity would cost. They also took on the protest risk. Clause 19 of the project agreement states *“as between the authority and the service provider, the service provider shall bear, without recourse to the authority, any loss suffered by any person which is caused by any protestor or trespasser, including any damage to property, any personal injury or death, and any loss of income (including any reduction in the monthly payment)”*. In a public hearing with the Inquiry, Amey Managing Director for Transport Infrastructure Peter Anderson said:

“There’s a clause in the contract, clause 19, which puts the obligation of managing protesters on Amey LG. During the tender stage that clause was reviewed as part of the tender process and, because there was an existing programme of tree removal in Sheffield, without replacement is my understanding, before the start of the PFI, our assessment of that clause and the requirement for Amey to deal with protesters was more around national protesters that one might expect to see on the streets...more political protests... than actually protesting about the core delivery of some of the street scene services.

“So our assessment was because there was an existing tree removal programme in place that was going on without incident, our assumption was that under clause 19 we would be happy to accept the responsibility of dealing with protesters because we felt that they would come from national, political protests, be an inconvenience to the works but not significantly impact on the works.

“In no way did we anticipate the level of passion and interest and commitment of the tree campaigners to protect the trees in Sheffield, and didn’t in any way price or programme or foresee that level of management of that issue.”

200. The contract comprised a 5 year Core Investment Period containing the main investment in bringing the network up to the standard agreed, followed by a 20-year Lifecycle Investment Period during which it would be sustained and services provided. Amey and the Council agreed on the geographical boundaries for the project and the condition of the network at the point of takeover. Having compressed the Core Investment Period from the proposed 7 years down to 5 years during the contract negotiation, an intensive programme of work was required to upgrade the network.
201. The contract was managed through milestones for the delivery of improvements to the network during the Core Investment Period and 752 service standards to be met throughout the 25-year contract. Amey's performance against the milestones was assessed on an improvement in standards, such as the proportion of the highway that they had brought up to the agreed level across the city, not by unit of work such as miles of tarmac laid or number of trees replaced. There was no payment per individual tree replaced or specific allowance or contingency to cover different engineering or other solutions to felling and replacement.
202. From the start of the contract, Amey were also required to provide the full service as set out in the 752 service standards. Throughout the life of the contract, Amey must also do routine maintenance such as road sweeping, waste disposal and gritting. They also did small scale maintenance works to the highway, such as crack repairs and maintenance of the trees. Improvements to the network were to be sustained until the end of the contract to guarantee a high standard of network was handed back to the Council.

Finance and payments

203. The Core Investment Period required about £400 million of capital spending to bring the highways up to a good standard. About £135 million of this was provided by the Council over five years (linked to milestone completion) using borrowed funds. The balance came from investment and bank loans taken out by the SPV at an initial interest rate of 3%.
204. Throughout the 25 years of the contract, the Council is required to pay Amey an Annual Unitary Charge divided into 12 monthly payments. During the Core Investment Period this charge grew as milestones measuring improvements were met. The Annual Unitary Charge payments started at £26.9 million for 2012/13 and are projected to rise to £86.9 million by 2036/37 averaging about £66 million annually across the contract. The contract allows adjustments for inflation. Penalties can be deducted for failure to meet service standards and the scope of the project may be changed by contract variations. It is therefore not possible to say now what the final cost of the contract will be. The PFI-related debt is expected to end in 2037, at the end of the contract. The total cost of the Streets Ahead programme was estimated in 2012 at £2.2 billion but, given the terms of the contract, the Inquiry cannot confirm the accuracy of that projection.
205. Money to pay the Unitary Charge comes from Council budgets (Transport & Highways budget plus additional amount approved by cabinet/Council) and PFI credits: £1.2 billion over the life of the contract, provided by the Department for Transport.
206. The Chartered Institute of Public Finance and Accountancy (CIPFA) told the Inquiry that currently about 40% of the Annual Unitary Charge goes to pay for management and maintenance; 20% for major capital upgrades; and 40% to service and repay the debt taken out by Amey.
207. The Service Standards include grace periods and rectification periods, but failure to meet the service standards could lead to reductions in the monthly unitary charge. Repeated failures could lead to other penalties, including, in the extreme, contract termination.

Arrangements for contract implementation and Amey's work programme

208. Amey told the Inquiry that the Core Investment Period had been developed to minimise disruption across the city, with works to be completed on a zonal basis. The city was split into 27 A zones (strategic and arterial roads) and 84 B zones (local roads) as shown in Figures 3 and 4, below.

Figure 3: A zones by year (planned)

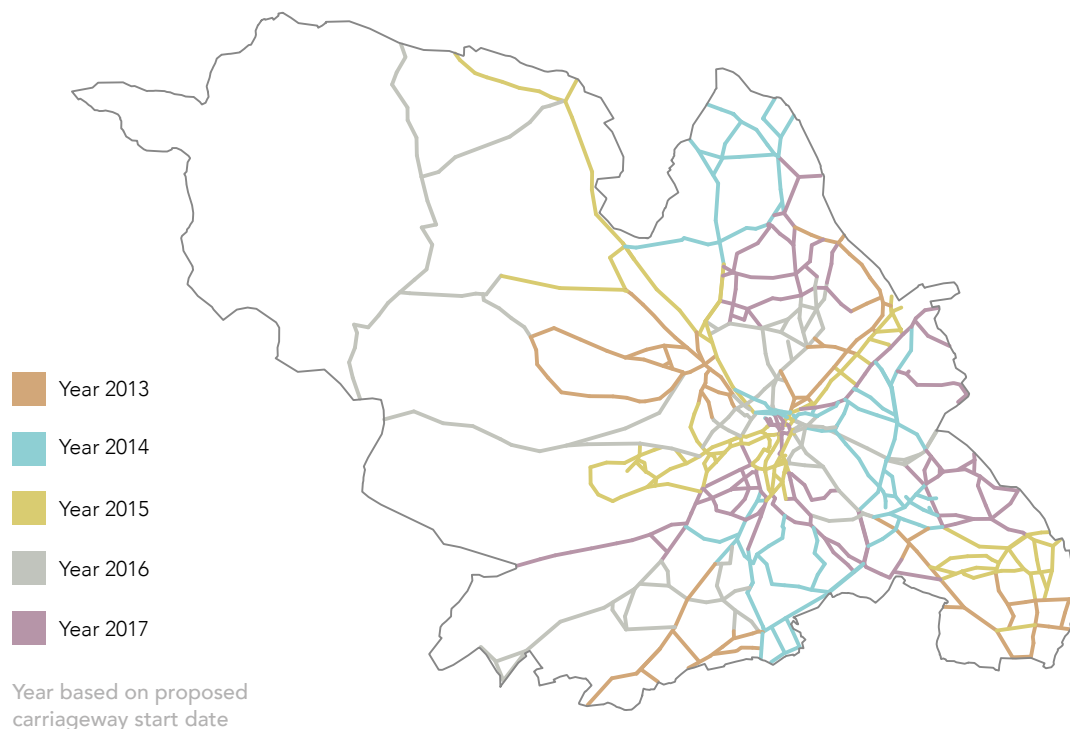
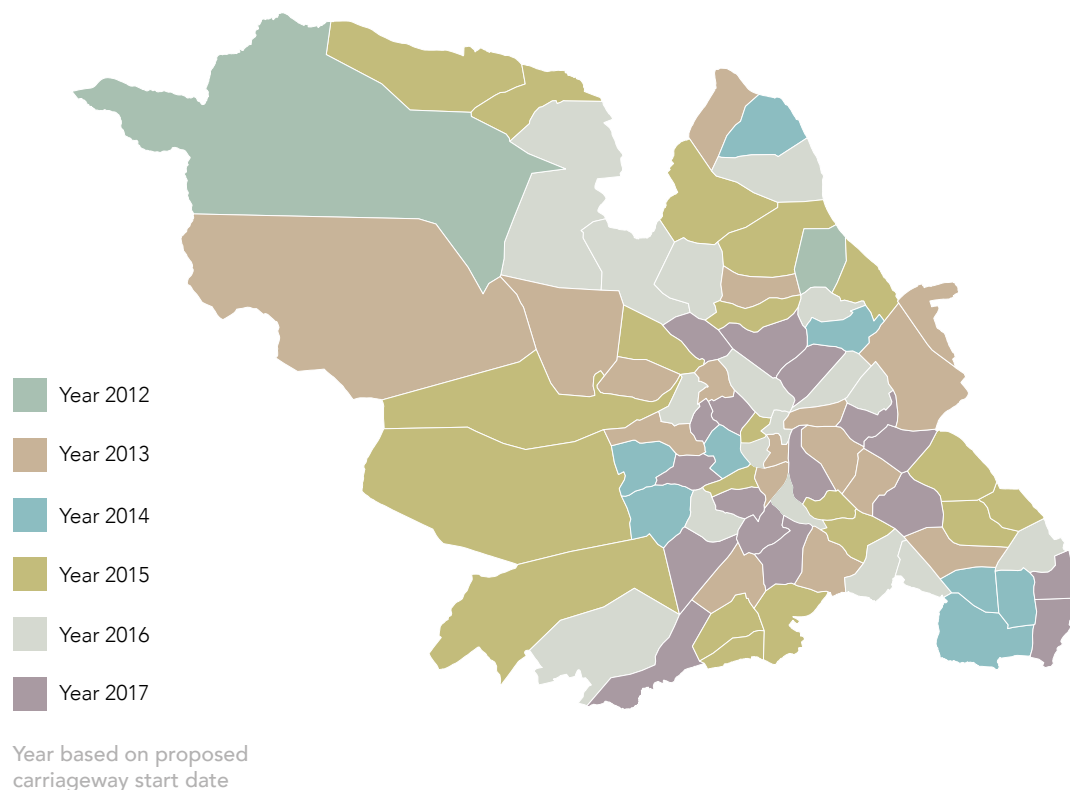


Figure 4: B zones by year (planned)



209. Work on each section was sequenced to ensure efficiency – usually drainage followed by trees as necessary, street lighting, footway and carriageway works, dictated by need. Amey told the Inquiry that the work programme was designed to allow an intensive effort on each section, after which they would not need to return to it for several years. This would avoid disruption to local people and businesses. It created pressure to replace trees in the early part of each section's work schedule.
210. There was also a requirement to upgrade each region of the city at a broadly similar pace to spread the benefits of Streets Ahead evenly. They also aimed to avoid working on adjacent zones at the same time to reduce disruption.
211. Work in each zone was expected to take 3-6 months to complete. Allowing for a mobilisation period, it was expected that around 24 zones would need to be completed in each year of the Core Investment Period. Members of the Council's highways client team told the Inquiry they considered this a challenging target.
212. Most of the carriageways and footways would receive a second treatment later in the contract, during the Lifecycle Investment Period.

The Council's client team

213. Around 600 Council staff were transferred to Amey under TUPE regulations on 20 August 2012 when Amey took responsibility. The Council, as client, retained a small number of staff to supervise contract implementation. This included approval of annual work plans, detailed adjustments to implementation of the contract and approval of the monthly payments to Amey.
214. There was also a Contract Management Team, which remained as part of the Council's Commercial Services Directorate. They were involved in all major contract management decisions. They came together with the technical team operationally and within the governance structure for the project (comprising a service operations board, a management board and a strategic board, at all of which Amey were represented).
215. Communications were generally led by the Client Team with a junior-level embedded communications officer. The Council's Communications Director intervened (not always successfully) at different times during the dispute but was not part of the project management team. Most media lines and other public communications were approved from within the Highways team, usually with relevant councillor approval. Staff across other areas, including legal, also had a defined role in supervising the contract.
216. Steve Robinson was appointed as Head of Highways, managing four teams: Technical, Operational Processes, New Works and Highway Records, and Development Control/Highway Adoptions. The Operational Processes and Technical teams were most directly involved in the daily management of the contract. The Technical team had four sub-teams led by a technical officer supported by an engineer: Carriageways/Footways/Drainage; Street Lighting/Signals; Structures, and Grounds Maintenance/Street Cleaning/Winter Maintenance.
217. It took time for the Council to agree the client structure, as most posts were new and funds had to be found. Its cost was included in the project budget, but there were financial pressures on the Council. The Inquiry was told that this resulted in a reduction in the grades of some posts, which discouraged existing staff from applying. This led to the need to recruit new staff at lower levels. Some posts had to be readvertised, resulting in the structure not being fully staffed when the contract started. This put an extra load on the staff who remained. Council staff involved in the set-up told the Inquiry that, for many years, the team carried vacancies.

Contract requirements for street trees

218. The service standards include detailed specifications relating to the condition of the highway. Service Standard 6 covered grounds maintenance, including grassed areas, hedges, shrubs, weeds, and tree maintenance services. It specifies three requirements relating to trees:

"1.5 - maintain the positive amenity value of highway trees and highway tree clusters;

"1.6 - prevent any negative impact on free flowing and safe use of the project network that might arise from the presence of highway trees and highway tree clusters;

"1.7 - ensure that an Annual Tree Management Programme is developed, approved by the authority, and carried out with all highway trees (and trees forming part of highway tree clusters) replacements being undertaken having regard to the requirements of the Highway Tree Replacement Policy."

219. There are over sixty Performance Requirements in Service Standard 6, with twenty relating to trees. Most are uncontroversial, such as *"there will be no overall decrease in the number of highway trees"* or *"that each highway tree shall not cause danger or obstruction to the network"*. But two are of particular significance:

"6.38 - The service provider shall replace highway trees in accordance with the Annual Tree Management Programme at a rate of not less than 200 per year so that 17,500 highway trees are replaced by the end of the term, such replacement to be in accordance with the Highway Tree Replacement Policy, unless authority approval has been obtained for deviation from this policy..."

6.49 - The service provider shall not remove a highway tree or tree forming part of a highway tree cluster without authority approval except where such removal is in accordance with the Annual Tree Management Programme or where such removal is required to make safe a highway emergency, an urgent defect, or a category 1 defect."

220. In selecting trees for replacement, the contract stated the following requirements from the service provider:

- *"Remove trees causing damage to the network;*
- *In advanced decline as a result of disease or environmental reasons;*
- *They have outgrown their location, e.g. becoming a trip hazard or have grown into the road surface;*
- *Removal must have the Council's permission through the Annual Tree Management Programme or is required for safety;*
- *The service provider shall also remove highway trees that have overmatured or are naturally decayed or dead and are potentially dangerous to users of the project network."*

221. Amey's Method Statement does not provide any engineering or other alternative solutions to tree replacement and states:

"The service provider shall remove those highway trees that are currently damaging the project network, e.g. where roots have damaged the surface of the footway or carriageway, or where roots have undermined or damaged the foundations of the footway or carriageway."

222. Amey were also required to replace 1,000 trees removed but not replaced in the years running up to the commencement of Streets Ahead. This number was quoted in the trade press in 2012, also confirming that the plan involved *"replacing half of the city's 36,000 highway trees"*.

223. Council staff also told the Inquiry how the contract required Amey to ensure straight kerb lines. This incentivised a low tolerance of the effect of trees on the regularity of the kerb and disincentivised tolerance of irregularity. This was also brought up by protesters. At his public hearing with the Inquiry, former STAG co-chair Chris Rust said:

"Its unfortunate I think that Amey were obliged to jump through some astonishing hoops. We had some of the most arcane bits of sculpted kerb made to fit round tree roots in order that a continuous straight kerb could be achieved."

Street trees operational measures

224. The contract's approach to street trees was put into operation through the Highway Tree Replacement Policy, the 5 Year Tree Replacement Plan and Annual Tree Management Plan.
225. The Annual Service Report recorded the work on trees and other services in March, at the end of each fiscal year. The Annual Tree Management Plan uses a calendar year whereas the Annual Service Report uses a fiscal year, making comparisons difficult.

Tree Replacement Policy

226. The Tree Replacement Policy document negotiated in 2012 provides strict guidance to Amey on tree management. Key points are:
- The species of trees that are suitable for replacement are provided and that where possible the character of an area must be preserved by using similar species of tree.
 - The planting season for replacing trees is from November to April.
 - If all trees on a street are identified for replacement, or the number of trees is six or more, they must be replaced in a phased approach so that no more than one third of the trees are replaced in any phase.
 - Where there are five or less trees on a street and all have been identified for replacement, all of the trees shall be replaced at the same time.

Tree work plans

227. By 2012, the data provided by Elliott Consultancy was out of date and Amey required a new tree stock update. They completed an initial Tree Condition Survey – an inspection to ensure trees were in a safe, viable condition – and identified any trees requiring remedial works or removal. This survey did not look for trees causing damage to the highway. By the end of September 2012, over 300 trees had been identified for removal, of which 89 were approved by the Council for replacement because they were dead, dying or dangerous. The first trees were removed in November 2012.
228. After the safety survey Amey began more detailed tree surveys as part of its so-called walk and build survey on a road-by-road basis aligned with the overall Core Investment Period programme. These surveys were to assess the asset overall (drainage, street lighting, carriageway, footway, as well as trees) and to programme works in line with the requirements of the Output Specification.
229. Throughout the Core Investment Period, Amey repeated the process on a three-yearly cycle across the different areas of Sheffield, for example in the Southeast, Woodhouse was surveyed in years 1 and 2, Beighton in years 1 and 3, Birley in years 1 and 4 and Mosborough in years 1 and 5. The results of the Tree Condition Survey fed into the Annual Tree Management Programme which set out the following year's tree maintenance and replacement.

230. As noted in **Chapter 2.2**, the Method Statement confirms the intention to replace fifty per cent – or 17,500 – of the highway tree stock throughout the 25-year term. The Method Statement includes a table (replication in this document in Figure 2) that proposes the following replacement programme to make up the 17,500: Southeast Sheffield (1,370), South (2,795), Southwest (3,979), Central (2,103), North (2,420), Northeast (2,939) and East (1,894). 5,007 were due to be replaced during the Core Investment Period.
231. The first column in Table 4 shows the percentage distribution of street trees by area in Sheffield, with the largest proportion of street trees in the Southwest (21%). The second column is from Amey's Method Statement and shows Amey's planning assumptions for tree replacement in each area. The final column shows the percentage distribution of planned replacements in each area of Sheffield, again showing that the highest proportion of trees to be replaced was in the Southwest (23%).

Table 4:
Percentage
of street trees
in Sheffield
by area

Area	% of street trees in Sheffield by area	Planning assumption figures for tree replacements	% of planned tree replacements in each area
North	16%	2,420	14%
Northeast	17%	2,939	17%
East	10%	1,894	11%
Central	14%	2,103	12%
South	15%	2,795	16%
Southeast	8%	1,370	8%
Southwest	21%	3,979	23%
TOTALS	100%	17,500	100%

Source: % of street trees in Sheffield by area is from the Amey 2013 Annual Tree Management Programme. Planning assumption figures for tree replacements and % of planned replacements in each area are from the Amey Method Statement. Due to rounding numbers from the original source, columns with percentages in Table 4 sum to 101%.

The Five Year Tree Management Strategy

232. As part of the Streets Ahead contract, Amey were required to produce and follow a document called a Five Year Tree Management Strategy. Amey created a first version in November 2012, then created four revised versions from February to July 2013 as they iterated the document. The first annual submission of the document was then made in November 2013, with this version called revision number 5.
233. The controversies surrounding the publication and use of a 2016 Council version of the Five Year Tree Management Strategy, are set out in **Chapter 4.2**.

Annual Tree Management Programme

234. The first Annual Tree Management Programme was submitted to the Council alongside the Five Year Tree Management Strategy and approved in July 2013. It required line-by-line-sign-off and, thereafter, was contractually binding. It presented Amey's planned tree maintenance and replacement work for the following year to the Council for approval. Amey used the data from their tree surveys to provide a breakdown of the location of each tree, the species and the reason for replacement.
235. Neither the contract nor annual plans, including those for trees, were designed to be published, but the Council and Amey conducted roadshows aimed at explaining to local people the work that would be done.

Contract implementation issues

Penalties

236. The contract is structured so that, if Amey failed to meet milestones during the Core Investment Period or service standards during the whole of the contract, the Council could charge penalties in the form of reductions in the monthly unitary charge payments. While the average deductions are under £1 million per year on annual payments of around £66 million, in late 2017/early 2018 the deductions peaked at over £600,000 per month and, in a five-month period, totalled about £2.5 million.
237. This scale of deductions shows that the Council had the power to exert significant pressure on Amey, should it choose to do so. In late 2017 and early 2018 it was under wider financial pressures to make savings but also was keen to apply pressure on Amey to take firm action against the protesters preventing tree removals.
238. Amey told the Inquiry that there was:

"A relatively low level of monthly performance adjustment levied by SCC in accordance with the 752 performance requirements up to Apr 2015 when the deduction for Busgate was levied. This was after lengthy discussions between Amey LG Ltd and the Authority regarding mitigation and corrective actions including escalation to a senior level between Nick Gregg, MD of Amey LG Ltd and Simon Green, Exec Director, SCC. Despite this SCC chose to levy a £1.1 million performance deduction...for a failure to remove a temporary traffic management sign adjacent to a bus lane during CIP works, which occurred in July and Aug 2014. The timing and significant magnitude of this Busgate deduction brought particular focus to all parties, Amey LG Ltd, SPV and Lenders of the huge financial penalties of failure of comply with any one of the 752 performance requirements and, moreover, the Authorities [sic] willingness to exercise their contractual right to levy these significant performance adjustments.

"From May 15 to late 2017, there was a marked increase in the level of performance adjustments levied up to 5 times the monthly average pre-Busgate, with a further significant increase in deductions in late 2017 to early 2018, at the height of the tree replacement programme protests. This demonstrates the increasing pressure that was being applied through the Contract payment mechanism on Amey LG Ltd to comply with the performance requirements."

239. In their analysis of the use of deductions across the contract, CIPFA commented that:

"In our experience care is needed with respect to deductions in a PFI unitary charge. It is better to be receiving a good service and PFI deductions should not be seen as an efficiency and way of saving monies, regardless of how challenging the public body's financial standing might be."

240. CIPFA told the Inquiry that Amey had incurred deductions related to:

- a) Delays in delivering during the Core Investment Period;
- b) Shortcomings in road quality (including roads impacted by tree damage);
- c) Issues with road quality where trees were not removed; and
- d) In relation to the dispute.

Contract variations

241. The milestones, performance requirements and risk transfer were designed to motivate Amey to raise the standard of the highway quickly and maintain it at a high level. The project agreement does allow for changes in the services specified in the contract. As CIPFA advise, this is standard and necessary as the requirements for a contract which spans 25 years should be expected to shift and change. Changes to the contract had to be signed off by central government. A shared concern was ensuring that the Council did not take any actions which would lead to Amey's borrowing needing to be categorised as government borrowing. The Inquiry has not seen any evidence that central government rules were at any time an insuperable hurdle.

242. Variations (i.e. amendments) to the contract were agreed in 2014, 2016, 2019, 2021 (twice) and 2022 (there was also a drafting inconsistency correction between the subcontract and project agreement in 2013). These variations are summarised in Table 5.

**Table 5:
Contract
variations,
timing and
reasons**

Source: Amey HHL.

Variation	Timing	Reason
Deed of variation 1	21 June 2013	A drafting inconsistency was identified between the subcontract and the project agreement which required realignment of the payment schedules so they better reflected the intention of the parties.
Deed of variation 2	8 September 2014	After the first year of the core investment phase, it was agreed that the forecast milestone index for a number of footway milestones for years 2, 3 and 4 should be revised, in order to reflect the actual condition of the project network at inception. This variation was in consideration of future programming of works, which determined a more realistic delivery profile, whilst maintaining the agreed zonal approach.
Deed of variation 3	14 December 2016	The authority and service provider undertook a refinancing of the project to support the savings targets set by the authority. Alongside the refinancing, there were some project agreement changes documented at the same time, including the tree compensation event, a contract monitoring process, and a small number of performance standards which were varied to better reflect working practices.
Deed of variation 4	28 June 2019	The authority proposed certain changes to the contract as a result of the need to realise monetary savings as part of the authority's savings challenge at the time. These changes included amendments to the street cleaning and grounds maintenance performance standards.
Deed of variation 5	18 February 2021	The authority proposed certain changes to the contract as a result of the need to realise monetary savings as part of the authority's savings challenge at the time. These changes included amendments to the following services: customer experience, highway maintenance fault categorisation, management information system definition and street lighting performance standards. The opportunity was also taken to update the contract for data protection legislation and document changes to the highway tree replacement policy by including the concept of the agreed retain and phase strategy, which included the broadening of the excusing cause definition to include for relief associated with the retain and phase strategy.
Deed of variation 6	31 March 2021	This most recent variation was a result of a joint review with the authority regarding operating contract efficiency and sustainability. It included changes to the payment mechanism in relation to non-critical, non-safety related services and provides a more stable and predictable framework for the subcontractor to operate the contract in future, whilst delivering an ongoing annual saving to the authority.
Deed of variation 7	30 March 2022	The authority and service provider undertook a further refinancing of the senior debt portion of the project to support the savings targets set by the authority. This refinancing secured more favourable terms for the project's senior debt portion from a substantially new set of lenders and with no other project amendments.

243. PFI arrangements typically involve some private sector borrowing to help pay for the capital investment to bring infrastructure up to the required standard. The interest rate charged reflects the higher risk of the investment period and so there is an incentive to refinance the loans at a cheaper rate when the investment period ends. Refinancing requires the agreement of the Special Purpose Vehicle on which Amey was represented alongside the bankers. The Council was under wider financial pressure and was keen for an early refinancing because they would get some of the savings.
244. The savings from any refinancing were shared between the Council, Amey HHL and central government, so they all had an interest. The 2016 refinancing saved a total of £0.645m per year. There was a further refinancing in 2022, which saved another £0.651m per year.
245. Executive Director of Resources, Eugene Walker, discussed the first refinancing in a public hearing with the Inquiry, saying that:

"A long way through the core investment period you can start to look at refinancing and by that time obviously austerity was 6 years into biting and there was a considerable impetus about making a saving on the contract through refinancing. Ultimately that proved disappointing, I remember at one time we were hoping to get a couple of million out of it, but the restrictions I talked about meant that actually for various reasons it didn't save that amount, it saved around £645,000 per year."

246. He also explained that there had been other savings from contract variations:

"a budget related saving in 2019 of a fairly similar £660,000 saving. Year after, 2020, some minor changes to energy costs... 2021 £330,000, again, a lot of this was around some changes to some customer experience and the customer interface and some things about defects. There was the revised approach to street trees and retaining them was built in at that point in time... The biggest saving [in 2021], £1.7 million by changing the payment mechanism where basically we took out some of the things that penalised Amey that weren't appropriate and got a significant ongoing saving of £1.7 million a year in return."

247. CIPFA noted that the first refinancing coincided with Amey recording a loss of £35 million in 2016. Amey report that this was essentially due to a swap breakage cost of £35 million incurred in the 2016 refinancing. It was an accounting requirement to show this immediately in the special purpose vehicle, Amey Hallam Highway Ltd's accounts. It is expected to unwind over time. AHHL told the Inquiry that it has a healthy cash position.
248. Several people told the Inquiry that a large PFI contract was hard to vary. Councillor Joe Otten told a public hearing with the Inquiry that *"I was also advised that any change to the contract is £100,000 in legal fees before you've done anything"*. Councillor Bryan Lodge was quoted in the media during the dispute saying that the *"cost of violating the contract could be into the millions"*. However, CIPFA noted that variations to PFI long-term contracts are common.

Tree Compensation Event

249. During 2016, Amey were concerned that protest-related delays were affecting their work.
250. Amey told the Inquiry that *"a compensation event is the Council's risk during the Core Investment Period which results in increased cost or delay to full service commencement and for which the subcontractor (Amey LG) should be compensated and given extensions of time"*.
251. Pauses in tree work and associated pauses in highway works were agreed by the Council in early 2016 to await the recommendations of the ITP and the outcome of the judicial review. Amey initially coped with this by reprogramming its work to avoid controversial streets and trees, but it had limited options for this. It applied pressure on the Council for compensation within the contract, arguing that the protests were outside its control and the ITP-related pause was a Council decision.

252. During 2016, the Council and Amey held private discussions to try to resolve these issues. This included the first mention of de-accruing (removing) sections of the highway from the contract. There were different views on how best to proceed with this, but the result was the Tree Principles Paper agreed in July 2016.
253. This was adapted to become the Tree Compensation Event, an amendment to the contract, agreed in December 2016. This enabled the removal of 10-metre stretches of highway affected by controversial trees from the contract and Amey to claim from the Council certain extra costs arising from the protests. It therefore granted relief to Amey on a no-worse, no-better basis. It meant that *“some affected streets were assumed to have achieved carriageway condition scores”* and so prevented Unitary Charge deductions arising from service failures resulting from the protests. It also allowed Amey to claim for extra contract costs from the Council in the event of downtime or for more tree inspectors, overtime or employment of new subcontractors. CIPFA noted that this process took some time and could have been expected to be resolved more quickly.
254. However, the Tree Compensation Event did not specify particular stretches of road to be de-accrued. That remained for agreement, case by case. Nor did it change the incentives. The Council remained very keen to complete the Core Investment Programme works and not to incur any extra costs. This is demonstrated by the escalating pressure they put on Amey during 2017 until the final pause in March 2018.

End of the Core Investment Period

255. The CIP was signed off in December 2017, except for street lighting which followed in April 2018. It was planned as a five-year period and had taken a few months longer. In signing it off, the Council recognised that the highways had been brought to the standard required by the contract. It did not mean that every road had been resurfaced, as that was not the intention of the contract or CIP milestones. But it did trigger the full payment of the unitary charge from the end of the CIP.
256. By August 2018, six months after the CIP was signed off, Amey had replaced 55,000 street lights, repaired 145,000 potholes, resurfaced over 755 miles of road, and replanted 5,500 trees.

Inquiry observations on the contract

257. The Streets Ahead contract was large and complex, but not out of line with similar public-private contracts for the upgrading and maintenance of major infrastructure. It is likely the contract detail, that runs into hundreds of pages, was not well understood in the wider Council, either amongst members or some senior officers. This led to a focus on physical improvements to the highways over the Council's stated broader objectives of improving the Street Scene for the wider benefit of the community: a focus on outputs rather than outcomes.
258. The payment arrangements followed practice elsewhere and were designed to incentivise performance. This gave the Council potentially strong leverage over Amey through the power to enforce penalties. This, in turn, made Amey reticent to challenge the Council when it might otherwise have done.
259. Clause 19 of the contract allocated protest risk to Amey. This was a powerful tool. Although Clause 19 of the contract had given the Council power to require Amey to absorb the costs of the protests, and while the Tree Compensation Event offered a contractual way round some tree issues, the Council did not use this consistently and effectively. In 2017, it continued to apply pressure on Amey but resorted to other means of bearing down on the protesters, as well, through injunctions and the police.

260. The Council argued that the complexity of the contract made it hard to change – for example, to accommodate a different approach on street trees. However, it is common for PFI contracts to be changed as circumstances change. This contract has now been varied seven times, including three before the March 2018 pause. The Inquiry agreed with CIPFA that the Council could, had it wished, have amended the contract to take a more accommodating approach to street trees.
261. The treatment of trees in the contract set the incentives for Amey’s programme of work. The contract is clear that the intent is for 50% – or 17,500 – street trees to be replaced over the 25-year period. Amey and the Council agreed this number, as well as the geographical distribution and front-loading of the replacements because that would facilitate progress on highway improvements in the Core Investment Period. This would help to meet highway condition milestones and reduce long-term highway maintenance costs, which was commercially attractive to Amey and was the desired approach of the Council’s highway engineers.
262. While the contract made provision for routine tree maintenance, it made no provision for alternatives to tree replacement or any alternative engineering solutions and so made no provision for how these would be handled. Nor did it contain any provision for dealing with pauses such as those introduced by the Council to allow the Independent Tree Panel to do its work. Amey coped with this initially by working on alternative streets, but this only provided a short-term solution.
263. The Tree Compensation Event enabled removal of trees from the work programme but it did not change the Council’s intention to complete the tree replacement programme and to minimise costs. The Council still did not want to incur any additional costs or to remove trees and parts of the highway from the programme, so they were keen to avoid using the Tree Compensation Event. Rather, they wanted Amey to continue replacing trees and bringing the highway up to the agreed standards.
264. Amey told the Inquiry that they saw the project as *“predominately a large, long-term highways and street lighting improvement and maintenance contract which commenced with focus on rehabilitating the highway network...”* and that the Tree Replacement Programme was a small element of the overall Core Investment Period *“constituting 1.25% of the total spend and of the tree stock only c.20% was expected to be replaced during the Core Investment Period”*.

Chapter 3.3: How the protests grew

265. Protests against the Streets Ahead tree replacement programme unfolded over a number of years in varied and complex ways. They involved individuals and groups, using a range of tactics, which changed over time.
266. This chapter provides an overview. It begins with the period from 2013 through to February 2016, covering the initial Amey tree work and emergence of opposition. It traces the origins and tactics of the first campaign groups and their first large-scale actions, up to the application for a judicial review by protesters.
267. It then covers the protesters' response to the judicial review, the intensification of opposition, protest and non-violent direct action, through to April 2017 when the Council began considering injunction proceedings.
268. The period from 2017 through to the final pause in March 2018 is covered in **Chapter 3.6**.

Opposition emerges

Tree work in 2013

269. The contract did not oblige Amey to consult local people about tree replacement. Amey's plan was to inform the public about the wider programme, including trees, stating that *"A proactive communication plan has been developed with press releases and radio interviews held to publicise the management of the highway tree population"*.
270. Amey employed seven community stewards whose role was to lead community engagement on Core Investment Period work, including on trees. Amey organised these events, but a communications officer from the Council was usually involved.
271. Amey organised a Tree Awareness Event at the Woodland Centre at Ecclesall Saw Mill on 3 June 2013 attended by local MPs, councillors, interested organisations and the wider community. Amey told the Inquiry that the event sought to promote the management strategy for trees by *"addressing any myths, with a team present to answer questions to demonstrate assessment techniques and technology involved in addressing tree health"*. Amey judged that the event was *"very well received and generated widespread local publicity for the project"*.
272. Tree walks began in July 2013 to provide information to local people about the approach to trees. Amey told the Inquiry in written evidence that tree walks were *"arranged initially with a number of local councillors from Topley and Dore, including interested resident associations, these low key walks provided an opportunity to discuss Amey's approach to a number of different scenarios regarding trees"*. Amey told the Inquiry that feedback from the walks was *"generally very positive as the majority of people wanted the trees removed and replaced, as most had outgrown their current location. Interested parties were also keen to understand the process and consideration given to retention before the final decision to remove"*. Further tree walks were focused on streets where more than ten trees were to be replaced or where replacement would make a significant difference to the appearance of the street.
273. Amey told the Inquiry that, overall, their engagement was well received. This approach continued through to early 2015, by which time Amey said *"the public's interest changed to interested parties beyond immediately affected residents seeking to substantively affect the outcomes"*.

274. In the first year of the project, only 162 trees were replaced, which did not attract much attention. The Inquiry looked at multiple sources of data that gave similar but not identical figures for tree replacements. Table 6 shows the numbers of trees replaced from 2013-18 during the dispute. This was taken from data provided by the Council to the Forestry Commission and is broadly consistent with other sources.

Table 6:
Trees replaced
by year between
2013 and 2018

Source: The Forestry Commission's Tree Felling Investigation published on 18 July 2019.

Years	Forestry Commission data: trees replaced
2013	605
2014	1,042
2015	1,632
2016	825
2017	1,096
2018	301
TOTALS	5,501

Initial campaign activity

275. In January 2014, as residents became more aware of the planned replacement of trees in their area, they started to express discontent. The replacement of an oak tree on Melbourne Road, in Stocksbridge, was a focal point.

276. In an editorial from 18 January 2014, the Sheffield Star reported that:

“with the exception perhaps of the closure of Don Valley Stadium and the proposal to close libraries – both cost-cutting measures – it is the programme of tree-felling that has generated the largest postbag to The Star, as well as comments on our social media sites.”

277. Interest from politicians outside the Council also began. On the same day, the newspaper ran an article about the Council's plans to fell 1,200 trees between August 2012 and March 2014. This included a quote from local MP and Deputy Prime Minister Nick Clegg expressing uncertainty about the approach to street trees.

278. This was followed, on 23 January 2014, by another article including interviews with residents and the councillor for the ward for Melbourne Road. It reported that a campaign to save the tree had been launched. This tree was estimated by Professor Ian Rotherham to be one of the oldest street trees in Sheffield, perhaps 450 years old. It was inspected by Amey's arborists on 25 and 27 January 2014. Streets Ahead decided to fell it, based on this advice. The decision was disputed by protesters who sought copies of the technical advice. The tree was felled on 1 April 2014, though correspondence about it with campaigners continued for months after this.

279. On 3 April 2014, Councillor Jack Scott, cabinet member with responsibility for the environment, and Professor Ian Rotherham were interviewed on BBC Radio Sheffield about street trees and public concerns about their management. Professor Rotherham's blog about this interview raised concerns about the communications around the street tree programme. He summarised this in a public hearing with the Inquiry:

“It basically told people what was going to happen, it didn't engage people in the process. I said: “Consultation is a two-way process, at this stage you should be listening to people, telling them what your concerns are and listening to them”. No, not interested.”

280. A similar concern was raised in the Sheffield Star articles in January 2014, and was noted by early street tree campaigners. David Dillner told another public hearing with the inquiry that, *"It turned out that what the Council were calling consultation was nothing of the sort. It was notification. They were telling us what they were going to do"*.
281. A Green Party councillor organised a public meeting on 9 October 2014 at a venue on Bramhall Lane, including a presentation by Professor Rotherham. This was only the second public meeting about the street trees approach, after the local Wildlife Trust had arranged An Evening with Amey in July 2013, for the public to discuss the biodiversity impacts of Streets Ahead.
282. Further location-specific campaigns began in November 2014, as residents of Heely objected to the planned removal of 188 trees to create a new bus lane. While these were not technically street trees, the opposition was led by David Dillner, with a local group. By 27 March 2015, a petition against this project had gathered over 1,500 signatures. The Council agreed not to proceed with it.
283. Residents of Rustlings Road began a campaign in May 2015 – Save Our Rustlings Trees (SORT). By 27 May 2015, a petition was launched calling on the Council to reconsider plans to fell lime trees on Rustlings Road, asking instead *"that sensitive engineering solutions be adopted and implemented to enable the long-term retention of these trees"*.
284. Councillor Terry Fox, the cabinet member responsible for Streets Ahead, responded to the SORT campaign by offering a meeting, which took place on 8 June 2015. This was followed on 10 June by a meeting between Councillor Fox, other local councillors (including opposition councillors representing the interests of SORT campaigners) and Council officials.
285. The SORT petition gathered about 10,000 signatures. It was presented to the Council on 22 June 2015, passing the required threshold required for debate by the full Council. SORT followed up their petition with an extensive briefing document, which they distributed to all councillors on 26 June, before the debate on 1 July 2015. After the debate, content from the briefing document was included in a detailed letter to Councillor Fox.
286. The letter included issues and solutions applicable to the whole city. It is extensively researched and cites best practice guidance and scientific research. Some of the topics covered recurred regularly throughout the dispute, such as:
- The request that the Council consider sensitive engineering solutions to retain the trees. They challenged the Council to present alternative options.
 - Challenges to inaccuracies in the information published by the Council. For example, they cited one tree on Rustlings Road, identified in the plans as a sycamore, suffering disease, which they claimed was in fact a lime, with no visible sign of the reported fungus. They also challenged the rationale for replacing the Stocksbridge oak.
 - Arguments against the classification of some trees as dead, diseased or likely to cause danger.
 - Arguing that trees classified as discriminatory should only require the Council to consider alternatives following a balanced assessment, not necessarily to remove them or resolve every issue.
 - Asking that the Council's assessment considers the total benefits derived from the trees, including the wider environmental benefits that the trees provide.
 - Requesting the Council produce a tree strategy for the city.
287. Following the debate in full Council on the petition, Councillor Fox proposed that *"a Tree Forum was established to help discuss and consult with people in relation to highways trees"*. The Highway Trees Advisory Forum is covered in more detail in **Chapter 3.4**. Liberal Democrat councillors proposed that the petition be referred to the Council's Scrutiny Committee, but this motion was defeated.

First non-violent direct action

288. The first instance of direct action to prevent tree replacement was on Wayland Road in June 2015. It was good natured. Streets Ahead operatives arrived early to begin work, but residents expressed opposition. In the book *Persons Unknown: The Battle for Sheffield's Street Trees* (by C. Payne, S. Crump, J. Stribley, 2022), one resident describes that:

"The first time the felling crew arrived on Wayland Road with the chipper, they parked right outside my house. I just rushed out and I hadn't got any make-up on. I don't think I'd even done the flies of my jeans up. I looked like a wild woman; my hair is bad enough at the best of times... On that first day people appeared out of nowhere. It wasn't a deliberate plan, but nothing got felled that day."

289. When the crew returned around two weeks later, on 22 June, the opposition was more organised:

"Just after nine o'clock on Monday 22nd June the felling crew arrived on Wayland Road to be greeted by a group of residents and supporters. Around a dozen supporters from across the city... helped local residents to maintain a presence on the street throughout the first day. We politely told the crew that we didn't trust the decision-making process and would be taking it further. They said they would report back to their bosses and someone would get back to us. And that was that."

Campaigning intensifies

290. Campaigners continued to correspond frequently with the Council to maintain pressure about street tree issues. As the volume of letters rapidly increased, protesters became frustrated with the Council. In testimony sent to the Inquiry one protester said that, *"No letters I wrote to SCC leadership about it... were answered"*. Where they did receive replies, other protesters felt the Council had not properly addressed their concerns. This frustration increased the amount of correspondence and FOI requests being submitted. By 4 August 2015, the volume of FOI requests was putting pressure on the Council's resources and they felt they had a case to decline some requests. The Council's Information Management Officer wrote to a SORT campaigner formally refusing to comply with any further FOI requests about Rustlings Road street trees as they had submitted 31 FOI requests already. They linked this to the campaigner's membership of SORT and other FOI requests about Rustlings Road received by the Council. This showed that other residents were also submitting large volumes of FOI requests.
291. Around this time, residents from other parts of the city formed groups. They started to realise there were other concerned groups around the city and meet to discuss collaborating. For example, one protester told the Inquiry that:

"I soon realized that the various neighbourhood action groups beginning to form around the tree issues needed to be organized as a federation in order to campaign effectively at a city-wide level. I was contacted by... the Rustlings Road campaign to save trees [and asked to] convene a meeting between the SORT neighbourhood tree group and two other tree groups."

292. Groups began to come together around shared aims. As David Dillner from the Save the Heeley Trees group described in a witness statement for later court proceedings:

"I became aware of concerns over the disruption of trees elsewhere in the city, specifically Rustling Road, Greenhill and Wayland Road. It became apparent to me that Sheffield City Council were using what I perceived to be divide and rule tactics, treating each group differently, with different promises. I emailed the three other groups and invited them to a meeting at Heeley Institute on 25 August 2015, explaining what I perceived to be happening and proposed that we all unite under a common banner which would, if accepted be called STAG (Sheffield Tree Action Groups). Thus STAG came into being."

SHEFFIELD TREE ACTION GROUPS (STAG)

Sheffield Tree Action Groups is an umbrella organisation, seeking to represent the interests of local groups in different parts of the city. These groups, and STAG itself, were all formed during the dispute by residents who cared about street trees and were united against the Streets Ahead tree replacement programme. During the dispute, there were around 13 local groups involved in STAG, from different parts of the city.

As an umbrella organisation, STAG brought together a broad group of people, with many different views. They undertook many different activities and expressed their opposition to the street tree programme in different ways. They did not always agree. For example, some preferred to campaign through official channels and organised protests, whereas others chose non-violent direct action.

Throughout the dispute, STAG were led by a steering group, convened by a chair or co-chairs, which included representation from different local tree action groups. Rather than control the actions pursued, they aimed to coordinate activity that would further their common aim, citywide, of forcing a change in the Council's approach. This included activity across Sheffield, in the local and national media, and working with experts.

Many protesters worked together online, using social media, or through WhatsApp and text groups. STAG, as an umbrella group, did not monitor all of these groups, though the STAG Facebook page, website and other social media channels became a go-to place for many people to discuss issues and co-ordinate protest activity. People holding positions in STAG told the Inquiry that they sought to maintain standards in these fora (e.g. showing no tolerance for messages with violent content).

STAG also led some fundraising activity – for example, when protesters collaborated to bring judicial review proceedings against the Council, or when protesters were defending legal cases. STAG raised money to meet some costs for these and other activities through public donations.

STAG's leaders entered into mediation with the Council in 2018 and negotiated an end to the dispute, representing the local tree groups and protesters within STAG from across the city.

In 2023, STAG changed its structure to introduce membership and a formally elected committee.

293. Instances of direct opposition to the replacement programme increased. For example, it was reported on 29 August that residents of Greenhill had been *"confronting workers from Council contractor Amey twice in just days"*.
294. In the two months after STAG was formed, further local groups were established in Dore, Crookes & Western Road and Nether Edge. Each group also became part of STAG.

295. In September 2015, campaigners set up a protest camp in Endcliffe Park which remained for several weeks and appeared in the national press. One of the protesters leading this camp explained in the book *Persons Unknown* that he set up:

"a permanent camp at Endcliffe Park, Sheffield which is near Rustlings Road. This was a twenty-four hour camp. I myself used to stay overnight and during the rest of the day this was manned on a rota basis.

"The camp was set up when general knowledge of the tree felling programme was very minimal. The response to the camp was phenomenal. Members of the public who I did not know gave food to me and others three times a day.

"We were visited several times by the Council's Park Department. They allowed our presence and we agreed to their terms such as to be tidy and quiet. The police also visited us on a daily basis and were fine with us."

Other formal channels for engaging the Council

296. Protesters raised street trees issues with the Council through all of the channels available to them, intensifying public scrutiny.
297. Protesters attended each of the Highway Trees Advisory Forum (HTAF) meetings (in July and September 2015), asking significant numbers of public questions. After criticism from opposition councillors and protesters, acknowledged by Council officials, the HTAF was succeeded by the Independent Tree Panel (ITP) in November 2015. This is covered in detail in **Chapter 3.4**.
298. This did not immediately placate campaigners, who asked public questions about street trees in every meeting of the full Council between October 2015 and January 2016. Questions covered a range of topics, including costs, engineering solutions, reasons for replacing specific trees and statements about the developing protests. It also led to questions in full Council about the ITP itself, with questions about the membership and who they would consider expert advice from.
299. One protester provided testimony to the Inquiry about what it was like to attend full Council meetings and raise public questions around this time, describing what they felt was an unpleasant atmosphere:

"As it was my first Council meeting I was shocked at the boorish way in which they behaved; openly jeering the member of the public. They treated all the public questions in a similar way and I came away with an impression that councillors have utmost contempt for those they purport to serve."



Further public campaigning activity

300. Demonstrations and further petitions showed opposition remained strong at the end of 2015. On 14 November 2015, STAG organised The Big Tree March and Rally. People were invited to wear green and meet outside the City Hall. It was advertised as a family-friendly event, with guest speakers again including Professor Ian Rotherham.
301. A further petition was launched about tree works in Nether Edge. This gathered over 6,000 signatures, so again exceeded the threshold to be debated by the full Council. It was presented to the Council meeting on 3 February 2016, with an introduction setting out that:

"We, the undersigned, refute the assertion that the felling of trees in Nether Edge, Sheffield, is necessary. Instead, we demand, and believe it imperative, that sensitive engineering solutions be adopted and implemented to enable the long-term retention of these trees.

"Evidence indicates that such large trees contribute significantly to local climate regulation, filtration of atmospheric pollutants, sustainable urban drainage, biodiversity, ecology: health and wellbeing and amenity; through their beauty and our pleasure of its enjoyment, which enriches our lives."

302. The Council debated the petition, with Councillor Terry Fox's closing statement concluding that *"It was the right approach to continue with the Streets Ahead programme"*. The Council passed a motion in support. The following day, David Dillner applied for a judicial review of that decision.

Intensification of opposition and non-violent direct action

303. In the months following the judicial review proceedings, from April 2016 to July 2017, non-violent direct action became common in the dispute. People stood under trees to prevent tree replacement on their own street, or took part in a so-called flying squad, a small group of Sheffield residents who travelled round the city to stand under trees and prevent works wherever they were taking place.
304. This approach was controversial within STAG, with some objecting to non-violent direct action. As a large group, it was to be expected that people would take different views on how to protest. Many of the tactics of the preceding period continued: marches and rallies, and campaigning through formal channels, including FOI requests, petitions and questions in Council meetings.
305. In this period, campaigners also actively sought to bring outside voices into the campaign, to gain visibility and support. This included experts on urban trees, national charities and cultural figures as set out in **Chapters 4.4** and **4.5**.
306. The Independent Tree Panel's work continued through 2016, providing independent expert advice to the Council. In parallel, other independent experts from outside Sheffield offered views in support of protesters.

A pause in formal channels for campaigning

307. The judicial review proceedings ran from February to April 2016. This overlapped with the Council pre-election period which typically leads to a short break in full Council and committee meetings, as well as some limitations to the Council's ability to comment on issues publicly. These combined to lead to a break of a few months in tree replacement and some campaigning activity.
308. The Council meeting in May 2016 took a different form, as it was the annual post-election meeting to confirm new office holders and protocol for the year. No public questions or petitions were considered at this meeting.
309. In this period, responsibility for Streets Ahead within the Council cabinet, and so also for the street trees dispute, changed from Councillor Terry Fox to Councillor Bryan Lodge. Also at this election, Alison Teal was elected as a Green Party councillor for the ward of Nether Edge and Sharrow. In her campaigning for the election, she said that the majority of residents she had spoken to raised concerns about street tree works.

Tree replacement restarts after the judicial review, so does protest

310. From 6 June 2016, the Streets Ahead tree works recommenced, following an interim injunction on street tree replacement during the judicial review proceedings. The judgement did not diffuse opposition to the programme and protesting resumed immediately.
311. The first post-judgement tree removals on 6 June 2016 were on Bannerdale Road. Evidence submitted to the Inquiry by protesters suggests that Amey workers arrived at around 6 a.m. A number of protesters acted to prevent the work on the trees along the road. One protester recounts (in the book *Persons Unknown*) that:

"I stepped up and sat on top of a wood-chipper, which immediately stopped work... Breaking social norms to stand up for something feels exciting and scary; I was full of both nervous energy and a sort of calm resolve to stay there for as long as I could..."

312. When taking non-violent direct action that morning, they intended to keep it peaceful and polite. David Dillner told a public hearing with the Inquiry that *"I stood under many trees and quickly developed what I felt was a good rapport with the arboriculturists on the ground"*. This is also a common theme in feedback from protesters about these early protests. For example, in testimony sent to the Inquiry, one protester recalls that:

"My first poetry performance [was] within a safety area to entertain the crowd... my intentions were to use words as a mean of protest rather than resorting to any physical action. When safety zones were delimited only by plastic barriers, they conveniently constituted a stage for me to bring a bit of a comedic break for a few minutes..."

313. Open Council meetings also resumed in June. On 8 June 2016, two petitions were raised in the full Council meeting, relating to trees in Greenhill and a request to stop all replacement of mature trees in Sheffield. Compared to the previous petitions (on Rustlings Road and Nether Edge), these were smaller, with hundreds of signatures rather than thousands. After this, public questions or petitions continued to be raised in every full Council meeting from September 2016 to July 2017.

Possibility of arrest

314. After the events on Bannerdale Road, non-violent direct action increased. On 2 November 2016, two protesters were arrested on Marden Road for standing underneath a tree, preventing the Streets Ahead arborists from replacing it. They were arrested under the Trade Union and Labour Relations Act (TULRA) legislation. These were the first arrests in the dispute (the role of the police is covered in **Chapter 4.3**).

315. From this point, protesters understood that arrest was possible. Not everyone agreed that non-violent direct action was the right approach. In testimony to the Inquiry, one protester said:

"It all felt very surreal watching a large group of people peacefully protesting the unnecessary felling of healthy trees being led away under arrest. I recall the furore within STAG concerning the number of people who had taken the decision to stand their ground and risk arrest. There was panic within STAG steering group about where STAG would find the funds to support so many arrestees, a difference of opinion amongst campaigners that caused a huge division amongst key campaigners that remains to this day."

316. The protesters were drawn from a number of local groups, co-operating under the STAG banner. Tactics were not discussed in any single forum or directed by any central body. Some people acted spontaneously, while others discussed in local groups which tactics to pursue. With a wide range of people becoming involved and disagreements about what would be most effective, many different tactics were used simultaneously. Still, the breadth of the tactics chosen by different people continued to increase pressure on the Council and Amey.

317. Non-violent direct action started becoming more common in two ways. First, some residents who opposed the street tree programme would take action to prevent tree removals in their own local area, often collaborating on their own street, even though they sometimes found it challenging. One protester provided testimony to the Inquiry that:

"I would be part of a small 'team' who monitored the bottom of Abbeydale Park Rise from 5.30/6.00am ish to around 8.00/8.30am ish every weekday morning, often in the freezing cold. ... we felt it was important to act as an early warning system and we watched for any Amey activity attempting to drive up the road... ...as each person made a big difference, you never knew if your precious trees would be there when you got back home. ... you felt uncomfortable to leave the trees unprotected".

Another said that:

"Getting under trees to protect them when crews arrived was stressful and I often felt panicky inside... At one point my panic was affecting my health and my GP gave me a portable ECG to wear. I have also seen a fellow campaigner have a panic attack when crews arrived, visibly shaking."

318. Second, there was a small group of protesters who would travel all around the city, aiming to co-ordinate efforts and prevent tree replacement wherever it was planned. One member of this group said in testimony to the Inquiry that:

"...a few other people had been similarly standing under trees to stop fellings in other areas of the city. We all started posting about our separate successes on the STAG Facebook page and then linked up informally, coordinating and supporting each other. This group of people who were able and willing to travel to various areas of the city, often at short notice, became known as the Flying Squad."

319. This approach remained controversial. A protester described in testimony sent to the Inquiry that it could be difficult, especially when some local residents objected:

"On another occasion, someone was stood under a tree there and an angry onlooker shouted "you don't live here". The tree protector said, "yes I do, up the road." After a short pause; "how long have you lived here?" That was how polarised it got."

Another said that:

"When you turn up to the location of a reported felling you have seen on Face Book [sic] or on a What's App Group [sic], especially if you are by yourself, you always want it to be a false alarm. Well I do, I'm not one for confrontation really. However you can hear the awful chainsaw noise and you know a tree is being killed. Adrenalin surges through your system and you know you will try and do something to stop the felling if you can. You hope others will be there, but sometimes it's just you. So, alone you feel excited, shaky and you know you are likely to be shouted at."

320. After events on Rustlings Road (**Chapter 3.5**) more Sheffield residents were also spurred to take action and form local groups. One protester told the Inquiry that:

"I was shocked to see that some very healthy mature trees were going to be removed for damage to the pavement... Even though these trees were a big part of my life the Council had excluded me from any discussion. My wife and I felt that this was such a terrible thing to do we started Save the Trees Of Millhouses Please (STOMP)."

321. In November and December 2016, new tree action groups were founded in Millhouses, Burngreave & Pitsmoor, Ecclesall Road and Norfolk Park. Existing groups expanded to take in new areas too, such as Walkley, Wadsley, Hillsborough, Topley and Bradway.

322. There were also more public events. For example, on 6 December 2016, Professor Ian Rotherham hosted a public lecture at Sheffield Hallam University called The Sheffield Trees Debacle – an Avoidable Crisis, followed a few days later by many residents joining a rally outside the Town Hall to show their displeasure.



Protesters seek to raise the profile of the dispute nationally

323. Protesters continued to seek input from external voices, including urban planning and forestry experts. This is covered in **Chapter 4.4** and **4.5**. In testimony sent to the Inquiry, one protester explained who they sought to engage with their campaign and why, in their view, it was important:

"[I was] engaging wider networks of supporters, including subject matter experts in urban forestry, arboriculture, related third sector organisations and related fields. I was particularly concerned to maintain flows of accurate information taking a regular lead in challenging a steady stream of inaccurate statements (or deliberate disinformation), originating from Sheffield City Councilors [sic]..."

324. On 21 January 2017, STAG organised a conference in Sheffield "on the role of highway trees in 'cutting edge' civic planning", which they said included presentations from "foremost experts from the UK and abroad".
325. They also sought to raise the profile of their campaign by increasing arts activities within their community campaigning and seeking to bring the voices of cultural figures into the dispute.
326. On 18 December 2016, the Huntingdon elm tree on Chelsea Road was awarded the runner-up prize in the televised Tree of the Year awards. This tree had been scheduled for removal by Streets Ahead but was particularly contested because of its rarity and ecological value. Paul Selby, who nominated the tree for this award, told a public hearing with the Inquiry that this tree was what brought him into the dispute:
- "There was still a belief at that point that surely even if they were going to fell some of the other trees, that this famous tree wouldn't get felled. It's a rare tree... The example I always use, it's not equivalent but it's close, in Africa there are more Black Rhinos than there are old elm trees in the UK, outside of [protected zones]. Less than a thousand, it is estimated."*
327. From 7 January 2017, an exhibition began at Bank Street Arts in Sheffield, called In Celebration of Trees: A photography exhibition of street trees in Sheffield. The same day, protesters gathered to tie a long yellow ribbon around the Town Hall building. They had been tying yellow ribbons around the trees scheduled for replacement for some time. This rally, beginning with a march to the Town Hall, was attended by hundreds of protesters.
328. A contest to identify and recognise the Great Trees of Sheffield was launched on 20 January 2017. The launch event included speeches by Nick Clegg, and members of the judging panel, such as well-known Sheffield musicians Jarvis Cocker and Richard Hawley.
329. 19 March 2017 also marked the 100th anniversary of the planting of street trees by residents of Oxford Street and Tay Street, as a living memorial to the seventy-seven local residents who died in WW1. Nine of these trees were scheduled for replacement, so protesters planned an event around this, with nine young men (including current and former military personnel) marching in WW1 uniforms from the central train station, past the Town Hall, to the memorial trees. One "stood guard" in front of each tree scheduled for replacement.

330. A STAG member created an artistic protest in the Winter Garden, a Council-run building adjacent to the Town Hall, on 1 April 2017. They launched an exhibition including satirical cartoons critical of the Council. The arranging of this exhibition was described by protesters, to demonstrate their criticisms of the Council:

“Performance Artist Paul Brooke created an entirely fictitious art club named ‘Meersbrook Community Arts Club’ and booked an exhibition space in the Winter Gardens (a Council managed public space). Paul Brooke said “The purpose is to raise awareness of the destruction of Sheffield’s street tree heritage and the failure of the Council to read and understand contracts, by using satirical art. [...] We submitted information with our application that clearly stated that the ‘Art Club’ was fictitious but evidently the Council did not read the contract, this reflects one of the concerns many residents have about Sheffield City Council’s oversight of the ‘Streets Ahead’ PFI contract with Amey”.

331. The story of protests from this point is picked up in **Chapter 3.6**.

Views on the size of the dispute

332. As the protests developed, what started small spread to other parts of the city and drew national and some international attention. It gradually drew in more professional support and more political and celebrity attention. The numbers involved grew and tactics became more sophisticated and, at times, confrontational.
333. The Council and Amey both sought to present the protesters as a small minority from a wealthier part of the city campaigning against the broader wishes of the people of Sheffield and supported by experienced campaigners from outside the city. These are difficult arguments to address using hard data, but the following paragraphs consider these issues.

The majority of Sheffield residents support the Streets Ahead programme?

334. Throughout the dispute, the Council said that the protesters were not representative, instead claiming that the majority of residents supported their programme. In a press release from October 2017, Councillor Bryan Lodge is quoted saying:

“It’s important to remember that we never wanted to be in this position; we had hoped that the small group of people who were trespassing within the barriers would realise the distinction between unlawful direct action to prevent works and peaceful protest- which we have always supported...”

“Our objective remains the same – we want our city to benefit from better roads, pavements and street lighting as well as an increased and sustainable street tree stock that can be enjoyed by generations to come. The Streets Ahead contract enables us to achieve this and ultimately we know that the majority of Sheffield residents are supportive of this programme of works.”

335. When asked about this in a public hearing with the Inquiry, Councillor Lodge also made this point, saying that, for example, in council meetings the Council had *“a large number of questions, asked by a handful of people”*. Following this, he added that:

“There were petitions that were presented with many signatures on them, and you know I suppose I’ve been guilty as well, where I’ve signed petitions on things and not really fully understood...”

336. The Council did not advance more than anecdotal evidence for this view, during the dispute or when asked by the Inquiry. Councillors and staff pointed to anecdotal stories and correspondence they had, before and during the Streets Ahead programme, from residents asking for individual trees to be removed. They also cited general support for improvements to the roads, though the protesters were not objecting to road improvement. A policy paper written by James Henderson, the Council's Director of Policy, Performance and Communications, in September 2015, refers to *"increasing evidence that the majority of people are in favour of the Streets Ahead programme and are taking action in support of it"*. The Inquiry has not seen evidence to support this.
337. This claim was also made directly to STAG when they suggest mediated talks to resolve the dispute. An email from Director of Place, Paul Billington, on 13 April 2018 to a STAG representative says that *"STAG commands little support amongst the wider Sheffield public – the numbers at rallies or even on Facebook prove this and we know it to be true from our general contact with residents (the media support is way out of step with public support)"*.
338. But others refute this assertion by the Council. At a public hearing with the Inquiry, Councillor Douglas Johnson said that:
- "It wasn't just a one-off process. This was a committed and persistent campaign over many years, which just tells you that people must have felt strongly about this issue in big numbers. Really big numbers. Bigger than anything else we've had a protest on in Sheffield. And it was across the city. I think something I hadn't mentioned earlier on was the political aspect of weaponizing class issues. So often I've heard it said that the protests were only a few people in the leafy suburbs who were worried about their house prices... and of course that's not true."*
339. The numbers of people opposing the Streets Ahead street tree programme are difficult to quantify. However, it is verifiable that hundreds attended rallies, marches and a significant number of protests on the streets. The Council asserted at the time that some rallies were attended by about 800 people. It is not possible to say with certainty that all of these people were Sheffield residents. The Inquiry heard evidence from the protesters and others that the overwhelming majority of protesters were from Sheffield.
340. Petitions opposing the street tree works in Streets Ahead gained thousands of signatures. This is presented by protesters as demonstrating extensive opposition to the programme. STAG social media pages had thousands of followers, and STAG was an umbrella group for 12 local tree campaign groups, each with their own pages including hundreds of members on social media. Online activity, campaigning, rallies and on street protests were sustained over a number of years, so may have also included different residents at different times.
341. There were certainly residents of Sheffield who supported the Streets Ahead street tree works. The Council quoted some residents in their communications and legal activities, presenting a counter narrative to the protesters. For example, a video, created by Amey includes interviews with a handful of residents speaking out in favour of the programme. One featured resident gives the view that *"These protesters have made life very difficult for the whole of Sheffield in my opinion... and Sheffield people are pretty cross about it"*. However, this does not prove that this view is representative.

342. As well as claims protesters were a small group of residents, from only the affluent areas in south west Sheffield, some painted protesters as objecting primarily because of concerns about the impact on their house prices and the look of their leafy suburban streets. For example, in this open letter of 18 February 2016, signed by a group of residents and a Labour councillor in a personal capacity:

"We also feel it important to state that the opposition to these tree-felling operations is solely concentrated in the most affluent neighbourhoods within Sheffield, with the local groups that compose Sheffield Tree Action Group ranging from the Rivelin Valley through Crookes, Nether Edge and Dore. It is difficult to escape the conclusion that opposition to the tree felling has as much to do with the protection of house prices in the leafy suburbs as it does with environmental protection."

343. In the Inquiry's view, this characterisation was unfair. There were protesters from many different parts of the city. Their campaign included thoughtful events concerned with Sheffield's heritage, such as at the WW1 memorial trees on 19 March 2017, and incorporated humour and concerns about good governance, as illustrated by the satirical exhibition on 1 April 2017 in the Winter Garden. The material produced by campaigners from at least May 2015 shows that they were greatly concerned about the overall impact trees have on their surroundings and their value in terms of environmental services. They speak in terms that apply to the whole city, not just to the areas in which they live.
344. Asserting that questions in public council meetings or petitions are unrepresentative does not change that they are parts of the democratic processes of the Council. They should not be discounted based on anecdotal evidence. The Council is a public body, serving a defined group of people. A large enough group objected to the street trees replacement programme to surpass the threshold for considering petitions at full Council meetings on a number of occasions. They brought sustained pressure on the Council, through a range of channels. Members of this group arranged activities and protests throughout the city. Many were professional people who had not been involved in protest before. People within the group were willing to campaign over a number of years. They faced arrest and were not deterred from their cause by the risk of significant legal penalties.

An electoral mandate?

345. The Council is run by elected representatives and, in Sheffield's local Council elections from 2011-21, Labour retained power and supported the Streets Ahead approach on trees. Some told the Inquiry that if people objected to the Streets Ahead programme, they could have voted for other candidates. In a public hearing with the Inquiry, Councillor Bryan Lodge referred to the number of seats won by different political parties in May 2016, saying that people's votes for Labour endorsed the Streets Ahead programme:

"Of the 28 seats contested that year, Labour won 19 seats, so you could say that the majority of people who went out and voted, voted for the Labour candidates and one of our policies was the Streets Ahead programme... So in looking at where the [Streets Ahead] policy came from and the delivery of the policy, that was clear from our manifesto commitments that that was what we moved to do, and the majority of people who voted in those elections through those years backed that proposal and supported the Labour candidates."

346. While the street trees dispute was undoubtedly an important and growing issue amongst residents during the period of the dispute, it was far from the only issue affecting how people voted.

347. One protester said, in testimony sent to the Inquiry, that they did not think the street tree dispute should be the defining influence on their (or anyone's) support or dismissal of the Labour party as a whole:

"The activists who saved the trees in this road were and are Labour supporters, including me. I didn't change my values because this instance of Labour, a small group of them, made a lot of badly informed and defensive decisions; although I did vote Green locally, where I valued the actions of the candidate. I knew a range of Council officers who supported the campaign and I didn't like the tree 'story' being co-opted by people, not themselves tree people, using it as a way to diminish Labour".

348. The changing numbers of councillors from different parties may, however, suggest that the dispute had some influence. In 2012, Labour had 60 of 84 councillors. By the time of the elections in 2019 (the first after mediation to end the dispute), this had reduced to 49. In contrast, the Green Party (some of whose councillors regularly campaigned against the Streets Ahead street trees programme) increased their numbers from two to eight in the same period. These trends have continued: in the 2022 local elections, Labour was down to 39 seats, with the Green Party winning 14.
349. In 2021, a referendum was held on the governance structures within Sheffield City Council. The campaign and petition to effect this change had its origins in the Street Trees dispute. This is considered further in **Chapter 5.1**.

Chapter 3.4: Attempts at compromise

350. This chapter describes, in detail, the work of the Highway Tree Advisory Forum (HTAF) and the Independent Tree Panel (ITP) and why neither succeeded in resolving the dispute.

The Highways Tree Advisory Forum

351. The full Council meeting on 1 July 2015 debated a petition arranged by Save Our Rustlings Trees (SORT). Councillor Terry Fox, as cabinet member responsible for Streets Ahead, responded for the Council. He suggested *“that a Highway Tree Forum be established so that people including residents, lobby groups and specialist groups could have discussions and the Council was able to consult people about policy”*. He proposed a motion that the Council *“welcomes that the Administration has asked officers to set up a “Highways Tree Forum” so we can have strategic conversations with representative bodies, also allowing residents to have a say in their own neighbourhoods.”*

352. Officers planned for a forum on this basis. It was brought together quickly. On 13 July 2015, a press notice was published entitled Tree lovers invited to Sheffield’s first Highway Tree Forum. The press notice said that:

“The forum has been set up to give people an opportunity to hear a variety of experts from various fields from across the city debate how highway trees should be managed.

“Experts from the fields of civil engineering, arboriculture, the wildlife trust and biology/ ecology professors will make up the forum and debate and answer questions...”

“Cllr Terry Fox, Cabinet Member for Environment and Transport, said:

“Alongside the experts that will sit on the forum I have invited interest groups such as members from the Access Liaison Group, the Over 50’s Group and the Sheffield branch of the Royal Society for the Blind. I am also inviting Councillors from all parties that represent the city to hear from as wide a selection of people who may have a view about our highway trees. I would like anyone who cares about the trees on our streets to come along.”

353. The first meeting followed on 23 July 2015. Published minutes of the meeting show that the expert panel included Councillor Fox, opposition councillors from the Liberal Democrat and Green parties, Council highways officers, communications and woodlands officers, Amey staff, a local political journalist, experts from four local organisations, the deputy chair of the Access Liaison Group and two members of SORT (21 people). The minutes record that over 60 members of the public attended to put questions to the panel and observe their discussion.
354. The first meeting focused on a presentation by the Council’s Head of Highways, Steve Robinson, on the so-called 6Ds – the six categories of trees: dangerous, dead, dying, diseased, damaging and discriminatory. These terms were used to explain why individual street trees had been selected for removal and replacement.
355. When the meeting was opened to questions, 41 were raised. Many were detailed policy questions, citing specific evidence; others were negative statements, for example: *“I just wanted to make it clear that we are not accepting the 6D’s – it is not acceptable.”*
356. A panel debate followed, including detailed points about Council policy and themes that would recur throughout the dispute: the treatment of discriminatory trees, balancing the need for a good quality road surface with tree roots, the asset value of trees and the environmental benefits they provide. The meeting closed with a statement from Save Our Rustlings Trees (SORT).
357. The Highways Tree Advisory Forum met again on 2 September 2015. The minutes of this meeting were never published and the Inquiry has not seen details of who attended. The agenda was similar to the first meeting, with a focus on engineering solutions.

358. The Inquiry has seen a copy of a presentation written for the second meeting, again from the Council's Head of Highways, Steve Robinson, which set out 25 alternatives to felling and replacing trees that he said were available to the Council. He explained that 14 of these came at no additional cost to the Council, while 11 were possible, but incurred additional costs. This is covered in more detail in **Chapter 4.2**.
359. Within the Council, some thought that the Highways Tree Advisory Forum was not going well. A briefing document by Director of Policy, Performance and Communications, James Henderson, on 3 September 2015 included the following:

"The communications response to date has been unhelpful... The response has been largely driven by trying to keep the programme on track, without adequately recognising the wider strategic reputational harm that could ensue as a result.

"This has been manifested in the establishment of the Trees Forum, which appears to be widely regarded as a sham by the campaigners. To them, the Council appears to be paying lip-service to the idea of consultation, to listening to concerns, and to working creatively to find alternative solutions. This does not fit with our aspirations to be an in-touch organisation."

360. At a Council meeting on 7 October 2015, a member of the public asked when the minutes of the second meeting would be published and a Green councillor, who had been on the HTAF expert panel, put forward a motion, including that the Council:

"regards the establishment of the Tree Forum as a potential first step in restoring public faith and trust in Sheffield City Council's management of the City's tree stock, including street trees;

However, believes that, under current arrangements, the Tree Forum has not lived up to its potential, and in fact risks serving to validate the current tree felling and replacement policy rather than offering the opportunity for genuine changes to the Council's policy direction to be made..."

361. This motion was amended by Councillor Fox and his version approved, but it was clear that people beyond the Council officers also felt the HTAF was not working.

The Independent Tree Panel

362. The Council's communications team continued to lead on advice about a new approach. On 18 September 2015, Council officers met Councillor Fox about communications around the street trees dispute. This resulted in a further paper from James Henderson, which said that:

"Our current tactics around reputation management and communication on this issue are not working sufficiently well, and we need to reconsider and revise our strategy. We have not been able to convince the tree protestors that their arguments are wrong, nor have we been able to convince other residents to speak out sufficiently in favour of the programme."

363. This paper suggested new objectives, including that the Council must *"strike an appropriate balance between the views of local residents and the Council's legal duty to ensure the safety of the general public using the city's roads and pavements"*. To help achieve this, it included a proposal for a new system of surveys to be sent to Sheffield residents to obtain their views on tree works happening on their roads. This was the beginning of a new engagement initiative, led by the Council's central communications team, that they hoped would herald a more open approach.

364. On 4 November 2015, a press notice was published announcing a new Independent Tree Panel (ITP):

"The panel, which will be chaired by Andy Buck will consist of a team of impartial experts who will give their advice on issues relating to highway trees..."

"If more than half of the residents responding to the survey about their street raise objections about the proposals for the trees, then the proposals for works will be referred to the Independent Tree Panel."

"The panel will convene and take into account all the available evidence, including the views of residents and then provide advice to the Council about the proposals for work."

365. Andy Buck, who was asked to chair the Panel, was an experienced and highly regarded public servant from Sheffield, having been a senior leader in a number of local NHS organisations and CEO of Sheffield Citizens Advice.

366. This announcement was followed the next day by, *"an informal suspension of certain categories of tree replacements"*, agreed between the Council and Amey. This was formalised on 2 December 2015 when, according to a paper titled Principles Paper: Suspension of Tree Replacements and the Independent Tree Panel process, *"SCC wrote to AHHL [Amey Hallam Highways Limited] requesting that all tree replacements were to be suspended (save for the removal of "dangerous" or "dead trees") pending SCC surveying residents living on the affected streets to ascertain their views on the planned tree replacements"*.

367. Having developed the idea, the communications team also led on setting up the panel including its scope and ambition. In a public hearing with the Inquiry, the ITP's chair Andy Buck said that:

"I was approached by James Henderson, the Council's Director of Policy Performance and Communications, in late 2015. And he explained to me that the Council had decided to set up an independent panel to review its plans for street trees. It was clear from the outset that the review would take place within the framework of the Streets Ahead contract, the core question being whether an alternative to removing and replacing a number of street trees was possible given the provisions of the contract..."

"I genuinely believed the Council was looking for a way to resolve or at least diminish the dispute."

368. The Council agreed terms of reference for the Panel with Andy Buck, including two provisions that he also highlighted in his public hearing with the Inquiry:

"There were two things I was really clear about. Firstly, that all the panel could do would be to offer advice. It would be for the Council to make the decisions and to bear the responsibility for those decisions. Secondly, I was really clear that the panel's relationship would be with the Council, not with its contractor Amey. That doesn't mean to say we didn't have some interaction with some Amey personnel, we did. But the primary relationship would be with the Council."

369. Though the HTAF was acknowledged not to be working well, the ITP was not initially announced as a replacement for it. In the December 2015 Council meeting, a tree protester asked, *"when the next bi-monthly Tree Advisory Forum would be held, given that the last Forum meeting was three months ago, on 2nd September?"* Councillor Fox replied that there would be a further meeting in the new year to discuss a draft tree strategy. There were no further meetings of the HTAF in 2016 and the Independent Tree Panel came to be seen as a replacement.

Operation of the ITP

370. The membership of the Independent Tree Panel was announced on 19 January 2016. It included a chair, an arboricultural consultant, an independent health and safety advisor, a highways engineer and a lay member.
371. The process for referral to the Independent Tree Panel included a survey of residents and followed these steps:
- a) Amey identified trees for felling and replacement. These were scheduled in advance for the year in the Annual Tree Management Plan, which was approved by the Council.
 - b) On each street where trees were planned to be removed, the Council sent information about the planned works to all households with a short survey asking if they approved of the plans.
 - c) Of the households who replied, if more than 50% agreed with the plans, they continued with the removal and replacement. If more than 50% disagreed, the street was referred to the ITP.
 - d) The ITP surveyed the street and provided advice to the Council, either agreeing that replacement was appropriate or advising they consider other specific solutions. The Council were not bound to act on this advice but committed publicly and to the ITP to take their views into account in their decisions.
372. Protesters criticised the survey and referral process. They complained that, because it gave one vote per household, rather than per person, people with differing views in the same household could not register both views. They argued that awareness of the survey was low: it was delivered in a plain white envelope, marked to the occupier and so could easily be discarded as junk mail. Whether this is the reason or that many people were not interested, there was a low response rate on many roads.
373. The Independent Tree Panel was quick to start inspecting trees and streets where half of the households who responded to the survey had disagreed with the tree proposals. Their first inspections began from 28 January 2016, visiting Ashfurlong Close, Abbeydale Park Rise and Chatsworth Road.
374. On 7 March 2016, a highways officer put a paper to the Streets Ahead Strategy Board, setting out the progress made by the ITP and the challenges they were experiencing. The paper explains that *"The ITP have considered Phase 1 and have their findings but not yet shared with SCC. They want a meeting... to discuss their advice"*, but also that *"Even if the court injunction is overturned the problems will not go away if SCC continues with the tree panel as this is also taking far longer than envisaged to give clear guidance on what work should be carried out"*.

375. On 16 May 2016, Andy Buck submitted the ITP's first advice to the Council. This covered trees on Ashfurlong Close and Rushley Drive. They provided the rest of the advice on phase one streets on 1 and 15 June.
376. All of this initial ITP advice was framed around the possible engineering solutions presented by Head of Highways, Steve Robinson, to the HTAF on 2 September 2015 and then published in the Five Year Tree Strategy (covered in **Chapter 4.2**) on the Council website in February 2016. Each letter contained a paragraph referencing these sources. The ITP advice also referred to whether additional costs would be incurred for their suggested solutions. Andy Buck explained in a public hearing with the Inquiry that:

"We were advised by the Council that the Streets Ahead contract provided for fourteen engineering solutions. They were listed in a presentation we were given and they were listed in the five year strategy. Reference was also made to another eleven solutions which would require additional funding which is not available. Now our understanding was that if one or more of the fourteen solutions was appropriate, could be used to retain a tree, then Amey the contractor was obliged to use it, or them, in some instances more than one such solution. And we therefore advised in numerous cases that such solutions should indeed be used."

377. Once the ITP submitted their advice, the Council considered it and took a decision. Decisions were made by the senior officer responsible for highways. The process was as follows:
- If the ITP agreed with Amey that the tree should be removed and replaced, then Amey would proceed. If the ITP disagreed, the Council continued with the decision-making process (below);
 - The Council gathered a second opinion which is noted as the Streets Ahead view in their records. Amey were unequivocal in telling the Inquiry that they were not involved in this decision-making process. The Streets Ahead view was provided by the Council's highways team, led by Steve Robinson.
 - Based on the advice from the ITP and the Council's highways team, the executive director (Simon Green) or later the director (Paul Billington) responsible for Streets Ahead then decided whether to accept their recommendations.
378. Where the ITP agreed a tree could be replaced, this was because there was no engineering solution on the list usable to retain the tree, not because there was no way to retain it, or no choice but to remove it. As Andy Buck explained in a public hearing with the Inquiry, he had told James Henderson:

"You do realise that the absence of an engineering solution within the contract, for trees where the trunk is growing into the carriageway... or where the trunk overhangs the carriageway... would result in trees being removed, and replaced, that could otherwise remain in situ."

379. The Council made final decisions on this first tranche of advice from the ITP on 8 July 2016. There were subsequent decision points, each covering ITP advice on a group of streets, throughout 2016 and 2017.
380. While the ITP was conducting inspections and providing its first recommendations, the Council was still working through how they would contractually manage their advice. This was covered in the Tree Principles Paper, negotiated between the Council and Amey, with the final version agreed on 21 July 2016, leading eventually to the Tree Compensation Event in December 2016. This is described in **Chapter 3.2**.

381. The Tree Principles Paper set defined roles for Amey and the Council when considering and implementing solutions other than tree replacement. The Tree Compensation Event allowed the Council and Amey to delay solutions on some sections of highway, without incurring contract penalties. However, some confusion remained about how the Council took decisions on the ITP's advice. This is covered in more detail below.
382. The ITP continued to survey streets and provide advice to the Council throughout spring and summer of 2016. For example, on 22 July 2016, they provided advice on 21 roads.
383. The Council published the ITP advice and the decisions they subsequently took on their website. The Inquiry could not identify a date when the first collection of advice and decisions were published, but a second set was published on 15 September 2016, including some of the advice provided by the ITP between 16 May and 22 July.
384. In autumn 2016, Amey submitted a paper to the ITP about the viability of the list of engineering solutions that had been published by the Council and supplied to the ITP previously. This is covered in more detail in **Chapter 4.2**.
385. The ITP continued their work through the rest of 2016, then the first half of 2017. They submitted their last advice letters on 2 June (Aldam Way and Ridgeway Road) and 5 June 2017 (Ecclesall Road).
386. In the ITP advice letters from 2017, the standard text referring to the engineering solutions, as presented to the HTAF and published in the five year tree strategy, changed to:

"We considered whether the engineering solutions provided for in the Streets Ahead programme could be deployed to enable each tree to be retained, and hence whether to advise the Council to consider deploying one or more solutions for this purpose. We took account of the information provided by the Council about the engineering solutions."

387. The Council published their final set of decisions, based on ITP advice covering 14 streets, on 12 July, then one final street on 1 August 2017.
388. Andy Buck summarised the outputs of their process at a public hearing with the Inquiry:

"My records indicate that we inspected 782 trees on 149 streets. 26 had been removed before we got to them. We advised the Council to replace 440 trees... we advised the Council to deploy alternative measures, engineering solutions, to retain 316 trees. My understanding is that in the first instance the Council decided to accept our advice to retain trees in about 25% of cases, therefore of 782 trees referred to us, therefore about 75 or so were to be retained, which is less than 10%."

389. The Council therefore did not accept the advice in about 75% of the cases where the Panel recommended retaining the tree. As Andy Buck put it:

"It's very clear to me that in a substantial number of cases, our advice was not accepted by the Council..."

"I think arriving at a position whereby you've established an independent panel, the panel gives advice, as I've said on more than one occasion this afternoon I think professionally and independently, and then in a significant number of cases deciding to reject that advice does call into question the wisdom of setting up the process in the first instance."

How did the Council respond to Independent Tree Panel advice?

390. The Independent Tree Panel understood there to be a potential list of 25 alternative solutions. If they recommended one of the first 14 of these, they understood it would create no extra costs for the Council. Amey would have to implement it if the Council accepted the recommendation. However, this does not align with descriptions of the process in the Council's internal documents.
391. While the ITP was operating, the Council and Amey were still trying to agree how they would handle the new requirements created by the ITP and other events in the dispute contractually. In relation to the ITP, they needed to agree how any alternative solutions would be funded, then who would be liable for those sections of the highway. They did this through the Tree Principles Paper and Tree Compensation Event.
392. The Council were apprehensive about the potential implications. In a paper for the Streets Ahead Board on 7 March 2016, a highways officer wrote:
- "If [the ITP's] recommendations are to leave trees in place, and these are acted upon, this will bring risk back to SCC that we cannot manage with current resources. It may be necessary to de-accrue sections of highway and this will begin to unravel the contract. SCC will then need a resource to manage these sections of highway."*
393. The Tree Principles Paper defined roles for the Council and Amey when agreeing on alternative solutions. It said that the Council must provide funding for exploratory work to consider the feasibility of most alternative engineering solutions. The Council must provide funding, and take ongoing responsibility for their future maintenance, as well as liability for associated risk. It hints at some exceptions to this, but it does not mention the previous list of 25 potential engineering solutions. Nor does it align with the ITP being told that 14 engineering solutions were free of charge in the contract.
394. The Tree Principles Paper also requires Amey to undertake exploratory work to determine if any alternative solutions are possible, which contrasts with the evidence submitted by Amey which clearly stated they did not have a role in considering the ITP's advice.
395. This led to the Tree Compensation Event, which enabled the removal of ten-metre stretches of highway affected by controversial trees from the contract. This would be on a case-by-case basis, by agreement between the Council and Amey. It meant that Amey would not incur contract penalties for those stretches of highway and, if they were unable to find a solution to roads with controversial trees, it would not prevent completion of the Core Investment Period.
396. It took a long time to resolve these issues, with the Tree Principles Paper agreed in July 2016, eight months after the ITP was announced and six months after they began work. The Tree Compensation Event was finalised in December 2016.
397. Instead, when the ITP recommended solutions to retain about 75 trees, the Council simply withdrew permission to remove the trees (previously given when approving the Annual Tree Management Plan). The Council did not discuss their decisions with Amey or endorse the recommendations from the ITP. Instead, the Council left Amey to work around these trees. This avoided the potential for additional costs, transfer of liability or the need to remove sections of highway from the contract. It meant the Council could complete the Core Investment Programme more or less on time.
398. There were key differences, and some contradictions, between these different versions of the process for considering ITP advice, from the ITP, protesters, the Council's documents and what happened in practice. This led to significant confusion about how the ITP's advice was used, which had knock-on effects for how the ITP was received.

Did the Council listen to the HTAF and ITP?

399. The Highways Tree Advisory Forum had been criticised for not being genuinely consultative. Instead, it was used to justify the existing policy. The Council launched the Independent Tree Panel with the stated aim of listening more to external opinions about street trees. The chair was convinced that this was genuine at the outset.
400. However, highways officers felt detached from the Panel. Council officers told the Inquiry that the Independent Tree Panel was a communications-led initiative with insufficient buy-in from the highways team. The Inquiry has been told by Council officers that, both:
- Highways officers felt the Independent Tree Panel was suggesting activity that was not possible under the contract; and,
 - Communications officers felt that the highways team should give more serious weight to the ITP's recommendations, but instead were focused uncompromisingly on delivering the highways improvements in the contract.
401. This left Council officers feeling they could not follow the Panel's advice, but publicly it seemed that they ignored the advice and were not willing to listen to other opinions.
402. This was not helped by the way some highways officers corresponded with the public about the ITP surveys. The Inquiry has seen examples of highways officers misusing statistics to imply that a majority of Sheffield residents supported the tree works on a road, when actually the vast majority of residents had not responded to the survey at all. These residents were presented as supporting the tree replacements when their views cannot be known.
403. At a public hearing with the Inquiry, James Henderson, the Council's Director of Policy, Performance and Communications (who led on establishing the ITP), questioned whether the dispute could have progressed significantly differently if the Council had responded differently to the ITP's advice, saying that:

"With hindsight... I do believe that if we'd approached the ITP advice with perhaps a little bit more imagination and thought about how their recommendations might have been implemented then we might have been able to head off some of the protests that then followed..."

"Although there was a moment of opportunity to think a bit differently about the ITP recommendations, I'm under no illusions that the room for manoeuvre was fairly limited and that it would have been quite challenging to do that."

404. He explained the reasons this might have been challenging to do at that time. Elected members were clear that no additional money would be spent on the programme and that they would have needed to reach agreement with Amey on funding, responsibility for new solutions and the impact on programme milestones. However, he said:

"by that stage... I think it was entirely possible to see the likely shape of what lay ahead and to have considered what a different path might have looked like... and as such the ITP was, I believe, the last and best chance we had to avoid what came later."

405. Councillor Lewis Dagnall also felt that the Council should have considered the ITP's advice differently, and told a public hearing with the Inquiry that he felt decisions not to follow the ITP's recommendations coincided with a hardening of the Council's position on the dispute:

"That toughening of rhetoric was achieved with what was seen as a complete betrayal over the ITP... and this was the cause of some real issues for local councillors... who had been raising issues."

"The fact that the Council didn't implement what the ITP recommended, I think was a major turning point. I think if the Council had implemented what the ITP said then actually things would not have escalated further."

406. At another public hearing, Andy Buck also questioned whether a different approach to the ITP could have led to a different outcome. While he believed the Council did set out genuinely wanting to find a solution:

"Essentially we were treating the problem as one that could be resolved logically and objectively within the framework of the Streets Ahead contract. At the time that was probably not an unreasonable approach to be seeking to take. What became clear was that what was required was a political solution to this... and indeed the eventual outcome, as I understand it, I'd characterise as being a political solution. Now I don't think the ITP was equipped to bring about that sort of solution. It took at least one or two further substantive rounds of process to arrive at a settlement to the dispute."

The Inquiry's observations on the HTAF and ITP

407. One criticism of the HTAF, recognised inside and outside the Council, was that it was not seen as genuinely consultative. Instead, it was used to justify the existing policy. The Council launched the ITP with the stated aim of listening more to external opinions about street trees. However, flaws in the set-up of the ITP undermined this.
408. The ITP was provided with material that set out possible solutions and a position on the costs of those solutions. It made recommendations in good faith, based on that information, but the ITP was misinformed (the information about engineering solutions is covered in more detail in **Chapter 4.2**). Instead, the Council were taking decisions on the ITP's recommendations based on a different regime of possible solutions and expected costs that was not disclosed. This was misleading.
409. The Council were unwilling to consider compromise or deviation from the standards specified in the contract and they also did not want to accept increased liability. They had said publicly that they could not afford to incur additional costs.

410. Because the information provided to the ITP was inaccurate, it has been hard for anyone to fully understand the process for taking decisions on the ITP's advice. While Amey's presentation (in late 2016) to the ITP on engineering solutions partially explained the situation, the Council did not adequately clarify the basis on which decisions to reject the ITP's advice were being made. Because of this, many people were misled. The Inquiry observes that Andy Buck provided a good summary to its public hearings:

"To this day, I do not know whether we were properly informed by the Council about the availability of engineering solutions. At no point were we told that the use of any of the 14 solutions would depend upon their cost... If that's the case, that suggests that the ITP may have been misled, and if indeed that was the case, personally I think that's pretty serious.

"I entered this process completely in good faith and I had no reason to think anything to the contrary when I embarked upon the process. I certainly believed that all 14 said solutions were readily available and that Amey would be required to make use of them if by doing so trees could be retained".

411. Some who were senior officers at the time now acknowledge that setting up the ITP, but not then following their recommendations, was not desirable. In a public hearing with the Inquiry, John Mothersole, the former Chief Executive of the Council, said that *"That's regrettable because it created that confusion, and there's nothing worse in these situation than, I will say unwittingly, raising people's expectations and then not meeting them"*.
412. Throughout the operation of the Highways Tree Advisory Forum and the Independent Tree Panel, people engaged with the Council in good faith, giving up their time and genuinely seeking a discussion about the dispute. The Council concluded quickly that the HTAF was not working and tried a more technical and ostensibly influential approach through the ITP. However, public consultation generally only works when the parameters are clear, the public feel that they have been listened to and, when their views are not taken, clear and credible reasons are given. Against all of these criteria, the Council fell short and this contributed to a growing lack of trust and the escalation of the protests. These issues are explored in more detail in **Chapter 4.2**.

Chapter 3.5: Rustlings Road

413. The events on Rustlings Road in the autumn of 2016 happened while the Independent Tree Panel was still working. They marked a step change in the dispute and are therefore described in detail here.
414. Rustlings Road is a road south-west of Sheffield city centre. It joins Ecclesall Road, one of the busiest roads in the city, and runs for just over half a mile to join Oakbrook Road. Houses run along one side of Rustlings Road, but the other side follows the edge of Endcliffe Park. Its location between parks, residential areas and the city centre makes Rustlings Road a popular thoroughfare.
415. An avenue of lime trees runs the full length of Rustlings Road. According to Council documents, at the beginning of the Streets Ahead programme there were 30 trees in this avenue. Early in the programme, eleven of the trees were identified for removal and replacement because they were damaging the pavements and, in the case of two trees, diseased. The Council also planned to replace some trees previously removed before Streets Ahead began.

Planning works on Rustlings Road

416. Residents were first notified of the intention to remove and replace trees on Rustlings Road on 1 December 2014. Each resident of the Fulwood Zone, which includes Rustlings Road, was sent a leaflet with details of works in the area, with further details the following week.
417. These leaflets invited residents to one of four roadshows about the plans for the Fulwood zone, including Rustlings Road. These took place on:
- 15 December – 2-4pm, Hallamshire Golf Club, Redmires Road
 - 15 December – 5-7pm, The Florentine, Tapton Park Road
 - 16 December – 2-4pm, St Thomas Church Hall, Crookes
 - 16 December – 5-7pm, Broomhill Methodist Church
418. An internal Council briefing note records that *“Ward Councillors Dunn, Sangar and Alston all attended one of the roadshows”* and that *“No residents asked any questions about the tree removal on Rustlings Road or any roads in the zone”* at this stage. The same briefing note records that residents of Rustlings Road were notified directly of planned works during the week commencing 27 April 2015. In the same week, notices were *“pinned on the affected trees... to inform residents that the trees were to be removed and the reasons for the removal”*.
419. The Council’s records suggest that residents first contacted them with questions specifically about Rustlings Road on 15 May 2015, raising concerns about the planned replacement of trees. Some of these residents formed the Save Our Rustlings Trees (SORT) campaign group. They very quickly became organised and launched a petition online to *“Save the 12 Trees on Rustlings Road Sheffield”*.

420. Later in May, walks were arranged along Rustlings Road to discuss the planned tree works. An internal Council document suggests that tensions about tree works on Rustlings Road were quickly rising. It states:

"A tree walk was arranged and took place on the 27th May to discuss why the trees were being removed and replaced. Many of those who attended the tree walk were not residents of Rustlings Road and they had also invited the media.

"Tree experts from both Amey and SCC attended the tree walk to try and answer some of the questions attendees had. This wasn't possible as the attendees were not prepared to listen and at each moment questioned both Amey and SCC's expertise...

"This tree walk lasted for an hour and we had not managed to review any of the trees and explain why they needed to be removed and replaced.

"Another tree walk was arranged for just the residents of Rustlings Road, at their request. This took place on 28th May 2015. This second tree walk was again taken over by the campaigners and the residents did not get to have their say."

421. The document does not include evidence that the protesters were not residents of Rustlings Road, though this claim was repeated by the Council in the following weeks.
422. In contrast, the campaigners' commentary on these street walks is that Amey and the Council were able to make their case. They say that at the 27 May walk, the Amey representative *"stated that the works were necessary to meet contractual agreements; that it was not up to him to change specifications in order to be more sympathetic to trees, and that his job – Amey's job – is to reinstate the kerb line"*. They felt the event was a *"notification meeting"*, implying that the Council had intended only to inform people of what they planned to do, not to seek to understand people's concerns.
423. The original start date for tree works on Rustlings Road was 8 June 2015. This was postponed because of the campaign activity around Rustlings Road. Instead, on 8 June, Councillor Terry Fox met campaigners to discuss their concerns.
424. Campaigners report that Councillor Fox suggested that they should propose alternative solutions for the trees on Rustlings Road. They objected to this, arguing that the Council had a significant highways maintenance contract and a highways team trained to do this, so they should have been able to consider options that take into account the concerns raised.
425. On 22 June 2015, SORT protesters presented their petition to the Council with over 10,000 signatures and sent a handout to all councillors on 26 June, before the debate on 1 July. During this full Council debate, a two-month moratorium was proposed on the removal of trees on Rustlings Road, though Councillor Fox rejected this in his motion at the end of the debate. This debate led to the Council setting up the Highway Trees Advisory Forum.
426. On 3 July 2015, the Head of Highways, Steve Robinson, drafted a paper with proposed options for Rustlings Road. This presented two options: the first was to fell the trees the following week. Though the idea of a 2-month moratorium had been rejected, this option would have meant felling the trees before the first meeting of the new Highway Trees Advisory Forum had allowed further discussion with residents and interested groups. The paper suggested that by felling immediately *"we would be addressing the concerns of those residents who actually live on the road"*. No evidence was cited to support the view that residents wanted felling, or for the implication that campaigners did not live on the road, or that the 10,000 signatories of the petition did not include residents. It did though acknowledge the risk that *"we may be seen to act too quickly and underline the campaigners' accusation of us not listening"*. The second option was to *"pause tree removal – say until planting season after November"*, allowing *"at least one Highway Tree Forum meeting to allay further some concerns"*. The trees were not removed in July 2015.

427. Instead, the Council returned to plans for tree works on Rustlings Road in August 2015. At this point, the Highways team first sought advice from the Council's legal team on whether they could avoid giving notice of the works to residents, but then immediately tow their cars away if residents would not move them as soon as work started.

428. The legal advice from the Council's in-house lawyers was that:

"...the legal position is that whilst we can lawfully carry out these works and remove any offending vehicles this is subject to giving appropriate notice.

"What could be considered 'appropriate notice' in these circumstances will be a matter of judgment, however personally I do not believe that what is being proposed could in any way be considered reasonable. One important factor to consider here is that we would be using the ordinary Amey order and therefore one might say that there is a reasonable expectation that we would follow our normal practices for giving notice unless exceptional circumstances existed (I consider exceptional circumstances to be, for example, a need to carry out works urgently due to the danger of a tree falling. I don't believe that to be the case here).

"Obviously the Council needs to be mindful of what action it takes and how it could be seen from a PR perspective. In my view not giving reasonable notice would be far more detrimental to the Council than anything that might result from notifying these residents in advance that the trees are to come down. Given the PR issues Councillor Fox ought to be consulted on this and then Comms. briefed once a decision has been made."

429. They opted to commence tree works in September 2015. An email from a highways officer explains to colleagues that *"the general consensus is to erect prior warning signs about the tow away restrictions on 3rd September. These restrictions would be in place from 14th to 30th September"*.

430. In a Council document from 7 August 2015, the plan is still under discussion, but suggestions are made that:

- They apply new notices to the trees that flag that they will be removed, but give no date for removal;
- They do not include a date for the tree removal in any information to the media;
- *"Advance notice will be restricted to Senior officers and the Cabinet lead, Terry Fox";*
- They *"aim to complete the majority of felling in a single day with a road closure, minimal notice to be provided for the date of removal"*.

431. Comments in the document disagree with some of these suggestions, but they continue to feature in future versions of the plan.

432. In the meantime, the Save Our Rustlings Trees campaign (now renamed Save our Roadside Trees to reflect a broader interest in street trees across Sheffield) was very active and sent a large volume of requests to the Council for information. From 16 September 2015, campaigners began a protest camp in Endcliffe Park next to Rustlings Road, so they could be prepared to oppose any attempt to fell the trees. The second date set for tree removals passed in September.

433. The survey of residents on Rustlings Road, to identify whether the road should be referred to the Independent Tree Panel, showed that 63% responded to the survey and, of those, 91% disagreed with the proposals. This contradicted the claims made previously by Council officers about residents' views of the tree replacements. These results meant that the plans for Rustlings Road were referred to the ITP. This led to a gap while the ITP considered.

434. The Council began to revisit plans for removing the trees on 23 June 2016, drafting a planning document that set out details for an operation in the week of 11 July. This was the third time period that had been allocated to remove these trees.

435. However, at this point, they did not yet have recommendations from the ITP. The ITP conducted their fieldwork on Rustlings Road on 1 July 2016. The document planned in advance of receiving the ITP's advice, working on the assumption that the ITP would agree with their proposals. It said in its key messages section that *"We have listened to the views of all residents and taken advice from the ITP, we have also considered the safety aspects and need to replace 8 out of 30 trees on RR"*. The document does not contain a scenario where the ITP recommend retaining some or all of the trees.

436. Other elements of this plan show a hardening of the Council's view. The planning focused heavily on the communication and media handling, as well as on how the operation would be perceived. For example, they proposed felling from 11 July, not for arboricultural or highway engineering reasons, but because:

"More than 25,000 students are already starting to leave the city for the summer break and the last of the students will have left the city by Friday 1st July. Those students could be encouraged by University staff that are active campaigners to get involved in protests. These students will not be back until September.

"Sheffield primary and secondary schools break up for the summer break on Friday 15th July. The summer break lasts till Monday 5th September and this would mean that there will be a lot of children and parents around in the summer holidays. We want to avoid emotive pictures of children protecting the trees.

"This would mean that there is a two week gap between the students leaving the city and a vast majority of parents and children being on summer break. This two week window would be the optimal time when the city is at its quietest."

437. The plan gave other reasons for felling the trees quickly, based on communications or political will, rather than arboricultural advice, saying that: *"Removing the trees will remove a 'symbol' of the tree campaign... The approach of removing the trees earlier rather than later has been requested by the Cabinet Member"*. The responsible cabinet member was Councillor Bryan Lodge by this point.

438. In this iteration of the plan, providing no notice for the tree removals had become the preferred approach. As with the previous plan, they proposed keeping knowledge *"on a strictly 'need to know' basis to try and limit the risk of leaks"* and not communicating to the media or residents about the date in advance. They also added new elements to the plan which carried through to the operation in November 2016, such as removing the trees *"in the very early hours of the morning"*; and that *"The advice received from the Independent Tree Panel and the Council's final decision will be uploaded to the website immediately before or subject to the approval of the Tree Working Group as work is taking place on Rustlings Road"*.

439. On 15 July 2016, SORT campaigners provided extensive documents to the Council about alternative solutions for the trees on Rustlings Road. This was passed on to the ITP to consider when formulating its advice. They gave details of a range of solutions, including materials, options for kerbs and distances for ramping the footway. This presentation highlighted confusion about which trees were to be retained and which were to be felled.

440. On 22 July 2016, the Independent Tree Panel sent their recommendations to the Council, agreeing to removal of two of the eight trees and noting that one's health should be monitored. They suggested that four of the trees could be retained using only those solutions from the Council's list of 25 engineering solutions that were described as incurring no additional cost. For the final tree, they suggested some additional highways analysis, but that it could probably be retained using a mix of free solutions and one that may incur a cost. They acknowledged that, because of the additional cost, the Council might choose not to retain it.

441. The next evidence seen by the Inquiry is from October 2016, showing that the Council planned to remove trees during autumn 2016. This was the fourth iteration of planning. In emails from 20-30 October 2016, Council officers discussed a new plan for Rustlings Road. It is clear that knowledge of this operation was restricted, as suggested in previous plans. An officer in the legal team emailed on 24 October:

"I had a meeting earlier with [Highways officers] regarding the street trees. ...they are highly sensitive about this issue as they have found there to be leaks within the Council. They are therefore cutting as many people out of the loop as possible."

442. In an email of 20 October, an officer within the central communications team expressed their concern at being left out of further planning directly to the Chief Executive:

"My understanding is that it has been confirmed to [a communications officer] that [Highways] plan to proceed with Rustlings felling without sharing the date or plan of action with communications or Cllr Lodge. We need to be clear that this cannot be dealt with effectively on our out of hours service without appropriate prep..."

"Single biggest reputational issue we've faced as an authority this year. Single biggest event relating to this issue."

"If the decision has been made to proceed on this basis, then we will of course work to the best of our ability under the circumstances we find ourselves. But my professional view is that this is crackers."

443. At this point in time, though the legal and communications team were aware of key elements of the plan (and had advised on previous iterations of the plan), they did not know the date set for the operation. This was confirmed on or before 31 October, as emails released by police officers show that they were arranging staffing for the operation from this time. On 11 November 2016, a version of police Operation Testate stated that there was a plan for **"the proposed felling of approximately 8 trees on Rustlings Road"** and that **"The exact date for this work to proceed is Thursday 17th November 2016"**. Key elements of the plan had been developed throughout the first three iterations and the Council had now set this date with South Yorkshire Police.

444. In a spreadsheet summarising all ITP advice and Council decisions, seen by the Inquiry, the date of the **"final decision"** by the Council on Rustlings Road was listed as 16 November 2016. It seems unlikely that they mobilised an operation of this size by early the next morning. They had also agreed the date of 17 November 2016 with the police earlier that month, including **"approximate"** numbers of trees to fell, and had conversations with other teams across the Council, in the three weeks prior to this. On 15 November, a Council officer emailed the police, saying **"We will send you the finalised operational plan shortly"**, suggesting that the plan was fully in place on that day. However, the decision noted on 16 November may have been final confirmation of the number of trees to fell, or a final go/no-go decision on the operation.

Events on 17 November 2016

445. At around 04:30, the Independent Tree Panel's advice about the trees on Rustlings Road was published on the Council website, along with the Council's decision to reject this advice and proceed with replacing the trees.

446. Around the same time, staff from Streets Ahead and the police were assembling in a supermarket car park on Ecclesall Road for a final briefing about the operations. A few minutes later, they travelled to Rustlings Road closing both ends of the road and establishing safety zones around the trees.

447. Council documents record that at around 05:00, arborists began work, climbing trees to remove branches and fell the trees. At the same time, police began knocking on people's doors, asking people to move their cars. Where cars were not moved, the Council's contractor began towing them away. Steve Robinson, the Head of Highways, said in a report of the day (written for the Leader of the Council after the fact) that *"numbers of doors knocked or cars moved were not kept but we believe the number of doors knocked and cars towed were less than 10"*.

448. An account from a protester living on Rustlings Road, given in the film Tree-sistance (2022), described that:

"The next thing was this hammering on the front door. No polite knock this was somebody hammering on my door. So I got myself downstairs and there were two, they seemed enormous, two policemen. And one of them said 'we know how you feel, but we need you to move your car."

449. With another protester also saying that:

"And then I came in the front room and looked out the window to see who on earth it was... I could see two police officers and I was fighting off the thought that something awful had happened to my children or my grandchildren. And then I went back down the hall to open the door and I was asked at that point by the police officer... they said they had to ask me to move my car."

450. Residents began to come out of their houses to see the works taking place. Soon after, two women and one man stepped into the safety zone to try to prevent the felling of one tree. They were then arrested.

451. One of the women described (also in the film Tree-sistance) that:

"I could see what was happening and then I remember saying, to myself really, that I cannot stand here feebly watching this tree just cut down. And I stepped over the little barrier they'd put round the tree, as some kind of protest."

452. More protesters arrived while the Streets Ahead team continued to fell the trees. An email from 07:32, between Council officers, gave the update that:

"Trees 1, 2, 3, 5, 6 and 8 are now all down

"Trees 4 is in effect a telegraph pole and will be completely down within the hour

"Tree 7 has protestors obstructing works..."

453. By this time, knowledge of the operation on Rustlings Road had started to spread. Council communications officers told the Inquiry that they began to field press enquiries as they travelled to work.

454. Felling of the fourth tree was completed but, due to the protesters' presence, the seventh tree was not removed. Streets Ahead staff cleaned up the road after the felling of seven trees and left.
455. While the operation had ended, the response to it escalated throughout the day. At 10:35, the Council Chief Executive, John Mothersole, received an email from Lord Scriven, a Liberal Democrat councillor and former Council Leader, asking questions about development of the operational plan, the decision-making process, sign-off of the plans, and consideration of the advice from the ITP.
456. A stream of complaints came in from residents via email. This example was typical:

"I would just like to register my absolute disgust and shock at the events on Rustling Road this morning. Democracy pushed aside for dawn raids. Corporate interests put before any sort of environmental or social planning. This council is no longer fit to lead the city that I am proud to be from. I hope you are proud of yourselves."

457. Complaints frequently criticised the timing of the work (calling it a "dawn raid") and suggested that it was a misuse of the Council's power and resources. By 16:30, the operation had also attracted public criticism from Nick Clegg MP, who was quoted as saying, "I do not know what planet these people [the Council] are on".
458. At 17:29, John Mothersole, the Council Chief Executive, emailed James Henderson, the Director of Policy, Performance and Communications, saying:

"Thanks to you and your team for fielding queries etc today arising from the Rustling [sic] Road work. I've been keeping an eye on things and whilst there have been issues it seems to have proceeded reasonably."

459. John Mothersole had originally been scheduled to take annual leave on this day but had chosen to work as events unfolded. A later email reply from James Henderson noted that many of the senior officers responsible for highways had been on leave on the day of the operation:

"Effectively there was nobody with any line management influence over the Streets Ahead team at work yesterday. As it was, we managed, but things could quite easily have gone further awry operationally without anybody around to take strategic decisions about how best to handle."

460. On 17 November 2016, the Council published a statement including a quote from Councillor Bryan Lodge:

"For more than a year we have worked tirelessly with Amey and the local community to find the right solution for Rustlings Road. We have written to every home, brought in a new survey process for the entire city and set up an Independent Tree Panel..."

"We have made a final decision to increase the number of trees on Rustlings Road by almost 30%. We need to replace eight out of the 30 existing trees, but we will plant 17, which means the road is gaining an extra nine trees. We understand that this will be a difficult day for the tree campaigners, but this work is absolutely essential to ensure that Sheffield has healthy street trees for future generations."

"We carried out the work very early in the morning on the advice of the police to make sure it could be done safely. This isn't usually needed but in this case it was considered the best option for the safety of the public, protesters and the workers."

"I understand there are strong emotions about this but have to stand by the decision to do this vital maintenance work. We've got 36,000 street trees in Sheffield and this programme means that in years to come we'll have even more."

Aftermath and apology

461. On 18 November 2016, some officers thought the operation had gone well, despite the complaints and media coverage attracted by it. The Streets Ahead team in the Council sent an email to their liaison in South Yorkshire Police saying:

"...just a note to thank you and all your team for the work yesterday. Everyone here and at Amey on the operation's side realises that we could not have done the job without the support of your team."

"Much appreciated... Highways Maintenance Division."

462. Amey had sent a similar message to the police the previous day. Councillor Lodge gave a series of press interviews on 18 November, responding to the criticism of the Council's approach.
463. A large volume of complaints continued to come in on 18 November, and on subsequent days, as well as Freedom of Information requests related to the planning and implementation of the Rustlings Road works. Most expressed dismay and criticised the Council. Others were more hostile in tone, such as this complaint sent in via the Amey website on 18 November:

"I would like you to supply me with the names and addresses of your employees that are cutting down healthy trees in the city of Sheffield, please."

464. Amey and the Council also flagged an aggressive social media post:

*"@Sheffcouncil @Ameyplc
As revenge for the trees on Rustlings Road your property will be damaged"*

465. On 20 November, Councillor Lodge asked John Mothersole, Simon Green (the Executive Director responsible for Streets Ahead) and Steve Robinson (the Head of Highways) to come to a Labour Group meeting with him, to discuss the operation on Rustlings Road. This meeting took place on 21 November with Simon Green and Steve Robinson attending.

466. Later, on 21 November, Council Leader, Julie Dore, sent a list of questions to John Mothersole about the operation. She received a reply from Steve Robinson the next day, giving his account of how the operation was implemented on 17 November.
467. By 24 November, the Council had decided to issue an apology. Initially, the Leader's policy advisor Chris Caulton sent a draft apology to the Chief Executive for his views. John Mothersole asked James Henderson to redraft it, saying that *"It needs rewording... It reads like we are apologising for everything which is not the case"*. They also considered posting an internal apology to all Council staff.
468. The apology from Councillor Bryan Lodge was published on 25 November. The full text read:

"We would like to offer an apology to the people of Sheffield who were affected by the way in which we took the trees down on Thursday of last week, and particularly those living on Rustlings Road, who will also receive an apology in the post. We are sorry for the disruption and distress caused by the work starting at 5am and the decision not to publish the Tree Panel report in advance.

"There were reasons relating to public safety why the decision was taken to fell the trees at 5am and not to publish the report earlier, but we have heard the message loud and clear that this was not the acceptable course of action. We have reflected on this and will not do work in the same way. To be specific, we commit to publishing the Independent Tree Panel reports in a timely manner, with full and transparent information about how we have come to decisions. We can also give assurances that no work will begin before 7am.

"As we continue to carry out work as part of the largest investment there has ever been in the city's street trees, and to protect the city's 36,000 street trees for generations to come, it is important that we take necessary measures to ensure that we protect the safety of our workforce, and the public. But we know we got it wrong last week with the way the work was started. We have listened and are sorry for the mistakes that we made."

469. This apology focused on the timing of the operation and the publication of the advice. It is notable that it does not touch on removing the trees, despite the ITP advice that they could be retained.
470. On 29 November, the Council's communications team provided a summary to John Mothersole of how the apology had been covered in the media:

"Media coverage has continued to focus on the method of the operation rather than the trees themselves. It does appear to be galvanising more supporters for STAG.

"It has also moved into the apology that was issued on Friday, with coverage including the Yorkshire Post, BBC, ITV, Radio Sheffield and Star. The apology has been counteracted with the argument that the ITP recommendation has been ignored.

"This week the story has progressed to the differences of opinion within the Labour Party after members wrote to Julie to express concerns. Julie and Bryan were on Radio Sheffield with Toby Foster this morning. This went well; they focused on the priority of public safety and the wider city programme, although Julie did stress that we were acting on specific Police advice which I felt was stronger language than SYP were happy with us using last week.

"Over 300 people attended a rally in Endcliffe Park on Saturday. This resulted in lots of visual, emotive coverage online and was largely aimed at the call for Bryan to resign.

"The Star has focused on new members joining STAG. They now have 3501 members, and there are 13 individual groups under their banner in the city."

471. The Council were also heavily criticised at the next full Council meeting on 7 December. This criticism was led by opposition councillors, as well as campaigners, with a motion put forward by Councillor Alison Teal to pause operations by Amey. Two further motions were proposed by Liberal Democrat councillors. One proposed that the Council:

"...believes the actions of the Council were wholly disproportionate and unfitting in a modern, open liberal democracy..."

"believes that the actions and attitude of the Administration over tree felling has led to a feeling of mistrust for this city's elected representatives and a lack of faith in process for many Sheffield people across the city."

472. The other Liberal Democrat motion went further, asking that the Council:

"(f) apologises for the alarm and distress to local residents on Rustlings Road for the action of the Council and its partners on Thursday 17 November 2016, and believes these actions did not have the support of the Members of the Council; and

(g) therefore resolves that this Council has no confidence in the leadership of the current Administration."

473. While none of these opposition motions were carried, this demonstrates the strength of feeling in the Council chamber over the dispute at this time.

474. Councillor Lewis Dagnall, from the wider Labour Group of backbench councillors at the time, also acknowledged that this was an area where criticism could reasonably be levelled at the Council. In a public hearing with the Inquiry he explained that, *"that was one of the first shockwaves that definitely went wider than those concerned about trees... it looked like the Council was trying to hide what it was doing"*.

475. The Council continued to reiterate elements of their apology. For example, on 6 December, Julie Dore and Bryan Lodge said in an email to a resident:

"As you are aware we have publicly apologised for the way in which we carried out tree replacement works on 17th November. We are sorry for the distress and disruption caused and understand that disturbing residents at such an early hour was the wrong thing to do and an unacceptable course of action."

476. The Council were clear they were not apologising for all aspects of the operation. A letter from a senior Amey member of staff complained about not being told in advance, but Steve Robinson's reply, on 20 December, was less apologetic about the operation:

"I acknowledge your concerns relating to the confidential nature of the operation but on this occasion, it was absolutely paramount that the details of the operation were restricted to a limited number of individuals at the Council and within the Amey LG leadership team. The Council has been the victim of a number of leaks to the press from its own organisation and from within Amey LG relating to tree works which, in light of the contentious nature of this particular road, had to be mitigated in order for the operation to be a success. ...

"Whilst the operation was successful I acknowledge the media storm which ensued immediately after, which was expected and subsequently responded to by the Leader of the Council and Cllr Bryan Lodge. You will be aware of the most recent press release from the Council's politicians apologising for the timing of the operation and although this was a purely political statement it will mean that all future tree works will need to be published in advance with the heightened risk of protestor disruption and abuse of Council and Amey staff."

477. The hearing for the three people arrested on 17 November was scheduled for 26 January 2017, but called off on the day. The prosecutor announced that there was *“insufficient evidence to bring the case before court”*. Charges were dropped against all three people (see **Chapter 4.3**).

Which legal powers were used in the Rustlings Road operation?

478. Police emails show discussion of the logistical details of the plan from 31 October. The Council claim that the police advised them to begin work early, but the Inquiry has not seen evidence to corroborate this. The police agreed details from the operational plan with the Council, but the Council controlled and distributed the operational plans for the day. The police’s main role was to provide authority and support for car removal.
479. The Council’s legal team had advised that they could not remove vehicles from the road without first issuing a Penalty Charge Notice. An email from a Council legal officer after the events said that:

“The client department did not want to issue parking tickets for fear that it would inflame an already volatile situation. This was their position since 2015 when we first started discussing it and never changed. This immediately shut down the Council’s ability to tow any vehicles and we were therefore reliant on the police...”

“It is clear to all that the Council had no power to tow vehicles that day. All Council officers were aware of that fact...”

“My view is that SCC did not tow any cars on Rustlings Road; the police did.”

480. The police version is different. They say that the Council arranged and paid for the towing but they required police powers to remove cars on the day, without issuing a prior penalty charge notice. This was confirmed in police emails:

"The vehicle lifts are again being coordinated by SCC who have accepted any damage caused or complaints made will be the responsibility of SCC.

"The legal authority to do this will come from Regulations 3 and 4 of the Removal and Disposal of Vehicles Regulations 1986, this is the legislation which permits the SCC parking enforcement officers to remove a vehicle BUT ONLY AFTER THEY HAVE ISSUED A PCN. [Their caps]

"In order to manage this part of the legislation we will support the council as below... thereby negating the issue of the PCN."

481. The emails then quote two sections of the Removal and Disposal of Vehicles Regulations 1986 entitled *"Power of constable to require removal of vehicles from roads or other land"* and *"Power of constable to remove vehicles"*. On the day of the operation, the police knocked on the doors of residents, asking them to remove their vehicles.
482. Some confusion was added to this issue when the Police and Crime Commissioner for South Yorkshire told a panel of councillors in April 2017 that *"The Police did not remove any vehicles from Rustlings Road on the 17 November and police powers were not utilised to remove any vehicle"*, and that *"South Yorkshire Police were not involved in the removal of cars"*.
483. The Inquiry believes that the Council had arranged for the towing of cars, and a contractor removed the vehicles. They did so relying on police powers, in agreement with the police.
484. The police have been criticised for their involvement. A report from the Advisory Panel on Policing Protests in South Yorkshire said that the police *"made a poor judgment call on that occasion in warning residents; that should have been a job for SCC/Amey"*. Even if the police had not knocked on doors, the vehicles were removed using police powers, so this could not have happened without police in the process on the day.

Inquiry observations on the operation on Rustlings Road

485. The replacement of trees on Rustlings Road became a major flashpoint in the dispute. Amey and the Council saw work on Rustlings Road as essential to the progress of the implementation of the contract. There was strong local opposition to the replacement programme and wider support from STAG.
486. The Council did delay the replacement programme for a year after it was first planned. This enabled recommendations to be made by the Independent Tree Panel. These arrived more slowly than the Council had hoped and they then rejected the Panel's recommendations for reasons that were not clearly explained to the public. They obscured this decision by publishing it at a time which gave the public no opportunity to respond.
487. In public hearings with the Inquiry, Andy Buck (the chair of the Independent Tree Panel), James Henderson (the Council's Director of Policy, Performance and Communication) and Lewis Dagnall (a Labour councillor at the time) said that they felt that, if a compromise solution based on the ITP's advice had been offered, the dispute may not have escalated in the way it did.
488. Delays in the replacement programme meant that the protesters had time to organise. This included setting up camp in the park adjacent to Rustlings Road so that they could respond quickly to try to prevent any Amey arborists from removing trees.

489. The Council argued that the secrecy surrounding the operation was justified by a concern for the safety of Council and Amey staff. They had a legitimate duty of care for their staff but, in 2016, there had been few instances of aggression towards their staff. If prioritising staff safety, the Council could have used the ITP's advice to find a more widely accepted solution, but instead chose to press ahead with a plan they knew would be controversial. Their aim was both staff safety and ensuring the trees were felled as originally planned. The Council's knowledge that it was a controversial proposal, anticipation of protests and concern that plans would leak were powerful factors leading the Council to plan in secrecy.
490. Senior Council staff told the Inquiry that Rustlings Road was treated as *"an operational matter"*, the details of which could be agreed with the police and Amey at working level. The Inquiry has been told that Councillor Bryan Lodge and Simon Green were aware of what was planned, though not told the date of the operation until the day before. Simon Green provided officer-level sign-off, though the Chief Executive, John Mothersole, was aware of the operation, too. In a public hearing with the Inquiry, Councillor Lodge said that he *"wasn't involved in the operational planning"*, but that *"Yes, I would say that [I was involved] in the overall acceptance of the need to deliver the works on Rustlings Road"*. In another public hearing, John Mothersole told the Inquiry that, *"I'm satisfied that Councillor Lodge was adequately aware of the plan to proceed on Rustlings Road."*
491. While this gave sign-off for elements of the plan from cabinet, the Inquiry was told that the Council Leader, Julie Dore, was not informed. Council staff knew that the operation would not follow usual procedures and could be controversial, so members could legitimately have expected the officers who planned the operation to have done better, both in developing the plan and providing them with information.
492. That said, the Council did not fully anticipate the storm that would hit them. They should have. They were aware of the level of local concern about the Rustlings Road trees and the growing sophistication of STAG's media handling. They should have anticipated that starting an operation at 5am, which involved the police waking residents to ask them to move their cars, would cause a furore. It does not require the benefit of hindsight to know that releasing the Independent Tree Panel's report 30 minutes before the operation started was guaranteed to increase anger.
493. In respect of Amey's views, in a submission to the Inquiry they also said that the early start and secrecy surrounding the operation were driven by concerns over staff and public safety, leading them to take what they described as a *"conflict avoidance"* approach. After the operation, as complaints and media coverage increased in volume, Amey staff described briefing their senior executives about the operation, as they had not known about it until this point.
494. The Council published an apology eight days later after pressure from multiple angles. There were mixed messages about whether the apology extended to the decision to remove the Rustlings Road trees or just the tactics used on the day.

495. The events on Rustlings Road intensified the dispute. The Council acknowledged this, as seen in the coverage of the apology summarised by the Council communications team, who said that, *"It does appear to be galvanising more supporters for STAG..."*. This is corroborated by testimony sent to the inquiry by a number of protesters, who described being affected by events on Rustlings Road. For example, testimony from one protester said that, *"we joined a joyful protest but the misery of the tree felling outside Endcliffe Park had a significant negative impact on our children's mental health (2 children) about all their efforts on environmental campaigning not making a difference. It also negatively impacted our mental health too"*. Many of these people described joining the campaign as a result. According to protester accounts, in the two months after Rustlings Road, new tree groups were formed in, or existing groups were expanded to cover, eight new areas of the city. Many campaigners characterised the operation as an abuse of power by the Council.

496. In his public hearing with the Inquiry, John Mothersole said that:

"Rustlings Road 2016 was a pivot point. It caused a sense of shock and it certainly drew attention to the issue and led to people who were not closely involved in it and probably not directly affected by the programme to be drawn in and to form views. And I think many of those views held... were not so much about 'why were you replacing the trees', it was a David and Goliath point".

497. The overall effect of the Rustlings Road operation was to increase the scale of the opposition, to harden the protesters' resolve, to damage the credibility of the Independent Tree Panel, to damage the reputation of the Council and the city and to bring Sheffield's street trees dispute further to the attention of the national media. In all of these respects, the operation was counterproductive.

Chapter 3.6: April 2017-March 2018 The final year

498. The end of 2016 saw the Council and Amey conclude the Tree Compensation Event and the refinancing which the Council had sought. It also marked the start of the final year of the Core Investment Period. Amey told the Inquiry that all of the CIP milestones, apart from street lighting, were signed off in December 2017. Street lighting followed in April 2018.
499. This chapter first traces the main events and decisions up to the pause in the original tree replacement programme on 26 March 2018. It then assesses in more detail the Council's decision-making and opportunities missed.

The dispute escalates

500. In February 2017, Councillor Alison Teal and six others were arrested under the Trade Union and Labour Relations Act legislation, though charges were later dropped by the Crown Prosecution Service (the role of the police is covered in **Chapter 4.3**).
501. Opposition councillors and members of the public criticised the Council in full Council meetings and outside the Town Hall. On 25 February 2017, at a rally called Stop the Spin, protesters focused on what they saw as Council misinformation. This was followed on 3 March 2017 by further questions on the cost of the tree replacement programme in the Council meeting on the 2018/19 budget.
502. Three street tree petitions were presented to the monthly full Council meeting on 7 April 2017. The debate around one petition became heated before all opposition councillors staged a walk-out. In a witness statement prepared for later court proceedings, Councillor Alison Teal described it:

"Addressing further public concerns, I also explained why I believed the Cabinet Member had misled the public, citing his previous admission over the use of flexi-pave. I was confident the Cabinet member, Councillor Bryan Lodge had made claims in the past which are minuted..."

"The Labour Group Whip protested at this criticism of the leadership and the Lord Mayor asked me to withdraw it. I was prepared to withdraw the suggestion it had been deliberate, but I could not in all conscience retract my genuine belief that Councillor Lodge had misled the public previously."

"The Lord Mayor then ordered me to leave the Council chamber. At this point, it caused some uproar with every other opposition Councillor walking out too."

"In the commotion... the Monitoring Officer and Head of Legal and Governance, advised that the Lord Mayor did not have that power and it had to be put to a vote. The Council was reconvened and the Labour group insisted on a vote before voting en bloc and then the Opposition all walked out again."

503. The official minutes also record these events, noting that:

"At this point in the proceedings, Councillor Alison Teal returned to the meeting and the Lord Mayor (Councillor Denise Fox) requested that she reconsider whether she would withdraw her earlier statement."

"In accordance with Council Procedure Rule 19, the Lord Mayor (Councillor Denise Fox) put to the vote that Councillor Teal be excluded for the remainder of the meeting."

"On being put to the vote, the motion to exclude Councillor Teal for the remainder of the meeting was carried."

504. Following these events, the Council's Monitoring Officer and Director of Legal and Governance, Gillian Duckworth, launched disciplinary proceedings against Councillor Teal. A meeting to discuss the events of 7 April was held on 8 April 2017, between Gillian Duckworth, Councillor Teal, Green Party whip Councillor Douglas Johnson and a Standards Panel member. This was followed by an email on 13 April from Gillian Duckworth to Councillor Teal, telling her that her *"behaviour in the council meeting on 7 April 2017 was not to the standard expected of an elected councillor"*.
505. In June 2017, the Independent Tree Panel delivered its final report, marking the end of formal independent advice on tree replacement.

The effect of the Council's injunctions

506. The non-violent direct action by protesters, residents in their own local areas and the so-called flying squad continued to increase. This led to more occasions in April and May 2017 when protesters prevented tree work. Some protesters watched the Olive Grove Road depot where the Streets Ahead teams were based, so that they could notify others where vehicles were heading in the morning. Others followed arborists from the depot, so they could stand underneath trees to prevent work starting.
507. Council officers and Councillor Bryan Lodge met representatives of STAG on 12 April 2017. Although the Crown Prosecution Service had decided not to pursue charges under the Trade Union and Labour Relations Act, the Council wanted to tell the STAG leadership that they considered non-violent direct action to be illegal. The Council wrote to STAG on 23 May 2017, explaining their legal arguments.
508. Separately, the protesters were incensed at an advert from Amey seeking Security Industry Authority licenced professionals to gather evidence at tree replacement sites which referred to damage caused by tree protesters. They were successful in having the advert removed.
509. Standing underneath trees as Streets Ahead operatives set up for works had become a successful tactic. The Council and Amey developed a plan for a short-term operation to significantly increase the number of crews to attend more sites than protesters could easily cover. They also began preparing to bring a civil injunction against the protesters. That aimed to stop activity that specifically prevented tree replacement. The injunction is covered in more detail in **Chapter 4.1**.



510. Paul Billington, the Director of Place, provided a witness statement for the injunction proceedings including statistics showing how effective the protesters' tactics had become by June 2017:

"So that the court is aware of the extent of the Direct Action, however, it is necessary to set out some statistics. Between 23-29 June 2017, 142 tree-fells were attempted, 118 of which were abandoned due to the Direct Action. Between 1-29 June 2017, 472 tree-fells were attempted, 329 of which were abandoned due to the Direct Action. This is broadly consistent with the picture over a prolonged period although it has got significantly worse over recent months.

"Furthermore, of the 143 tree-fells successfully achieved between 1-29 June 2017, over 100 were felled in a single week when a significant number of Tree Surgeons were deliberately deployed in various parts of the city in an attempt to outmanoeuvre those carrying out the Direct Action."

511. On 3 July 2017, Gillian Duckworth, in her role as the Council's Monitoring Officer, formally launched Council Standards Proceedings against Councillor Teal, also relating to her participation in non-violent direct action. There were also further rallies, with a protest outside the Town Hall on 5 July 2017. There was a street party around the Chelsea Road elm tree on 16 July. Then, to coincide with the first injunction hearing on 17 July, protesters organised Demonstration Monday, with a range of activities around the city to show support for the protesters appearing in the legal proceedings.

Protester response to the injunction

512. The July meeting of the full Council took place nine days after pre-action letters were sent to protesters on 5 July 2017. Street tree-related petitions were presented, one with 1,600 signatures. Public questions were asked about the Streets Ahead programme and the legal action, with one questioner recorded in the meeting minutes saying that:

"the final destination on the Council's current track with respect to the tree campaigners could lead to actions for contempt of court. ...this, in turn, could lead to people losing homes, businesses and personal belongings. It could also result in the bankrupting of pensioners and families with young children. He asked if the Council was willing, individually and collectively, to sanction such actions on its own residents."

513. In response to this, Councillor Bryan Lodge said that the Council was offering people the chance to sign an undertaking. He said that if they did, no further action would be taken. If people chose to contest the injunction in court or breach an undertaking or injunction, that was a decision for them.
514. A mix of public questions, petitions and/or opposition motions was brought to every monthly full Council meeting until the final pause in March 2018. Alongside this, STAG members were fundraising to support legal costs. An update on their website from 23 July shows they had raised an estimated £21,000. Their target was for around double this amount. They continued to hold protests, with a vigil held on Abbeydale Park Rise on 6 August, turning on lights that were usually displayed at Christmas. This event featured on ITV news.
515. The public disagreement with Michael Gove played out over the late summer and autumn of 2017, bringing the dispute attention in the national media. This included a visit to Sheffield in September.
516. On 15 August 2017, the Council was granted injunction orders against three people, including Green Councillor Alison Teal and Persons Unknown. They were to come into effect at midnight on 22 August, pending any appeal, and run until 25 July 2018. STAG members were interviewed outside court. They were undeterred, saying they were *"very saddened by what the judges had to say"*, but that *"every single body of experts outside of this city is telling this Council they have this wrong"*, so they would *"keep fighting"*. Some people intended to obey the injunction. The chair of STAG said: *"It's far from over. We will pursue methods inside the law"*.

517. The injunction came into force on 22 August. The next day, protesters responded with new tactics not prohibited by the injunction and successfully disrupted street tree works. Accounts from protesters in the book *Persons Unknown: The Battle for Sheffield's Street Trees* (by C. Payne, S. Crump, J. Stribley, 2022) describe that:

"for us the question was now, How do we stop them felling trees when they can take us to court if we enter the 'safety zone around a tree?'. If we couldn't stop fellings 'on site' then what about stopping the crews getting to the trees? We needed to stop them leaving the depot!

"... 'slow-walking' was a form of direct action that wouldn't result in arrest for obstruction, so we began planning a slow-walking 'crocodile' of people that would just happen to want to walk the pavement outside the main exits of the depot..."

518. Protesters prevented the Amey work crews leaving the depot for the whole day. In a public hearing with the Inquiry, Paul Brooke described that, *"that was a lot of fun, stopping them cutting a tree down on the first day of the injunction by not breaking the injunction"*. STAG members felt that, while this tactic had been successful, they should not repeat it, but it shows that protesters were not deterred by the injunction. They continued to think of other disruptive tactics.

Arts activities not impacted by the injunction

519. From 28 August, free art workshops were held around the city. These sessions were intended to provide *"an opportunity to do something positive to celebrate the remaining trees... creating a unique body of work that will stand as a testament against the Council's short-sighted folly"*. They were open to everyone, regardless of skill, and proved a positive way to engage new people in the campaign.

520. Ann Anderson explained this initiative to a public hearing with the Inquiry:

"It also became very important, I think, to the whole campaign. It was twofold. The arts gave us another dimension to the campaign, but also there were things within that work that would attract good publicity and good media."

521. These events were held throughout September and October 2017. Some were on the most controversial streets in the dispute including Vernon Road, Rivelin Valley Road, Abbeydale Park Rise, Kenwood Road and Meersbrook Park Road. Other sessions took place in different parts of the city, such as Hollythorpe Road in Norton Lees and Springhill Road in Crookes.
522. The Sheffield Tree Arts (STARTS) workshops continued on Sheffield streets until the end of October. Then on 11 November 2017 campaigners launched a painting competition called the WW1 Paint Off: Draw the Living Memorial, centred around the WW1 memorial trees. This drew national media coverage with the One Show on BBC One covering this competition on 13 November.

Pressure on protesters

523. The Council also looked to the leadership of STAG to prevent breaking of the injunction. On 26 September 2017, Paul Billington, Director of Place, emailed the chairs of STAG on behalf of the Council, copied to the Council's legal team, saying:

"As you will know, STAG supporters...were defying the Court Order yesterday by trespassing on Dunkeld Road.

"As joint chairs, can you clarify your position in writing to the council please on this unlawful behaviour by 5pm today.

"Anything less than unequivocal condemnation of this unlawful trespassing (by 5pm today) will be regarded as support for such activities by you in your position as chairs."

524. The chairs of STAG responded, setting out their roles within the *"informal group of local tree action groups who have agreed to collaborate for mutual support"* saying that, while STAG would share his communication *"Individuals are free to protest about the street tree fellings in whatever way they choose"*. They concluded:

"We find your message today quite shocking in proposing that saying nothing could be seen as encouraging lawbreaking and demanding that we publicly express opinions that we do not hold. The Soviet Union might have countenanced such oppressive interpretation of the law but we are confident that no British court would do so.

"We trust we will hear nothing more from you about this matter, but if you do choose to pursue it we will make sure that your intimidatory actions receive the fullest publicity."

525. In response, Paul Billington said *"STAG is very clear and extremely vocal on many issues – but not when it comes to your supporters knowingly and repeatedly breaking the law. Your position is clear and has been noted"*.
526. At her public hearing with the Inquiry, former STAG co-chair, Rebecca Hammond, referred to this exchange as *"rather threatening"* and *"typical of the increasingly hard and intimidatory tone that was being adopted by certain Council officers in dealing with us"*.
527. These interactions are a marked change in tone from the interactions between the same set of people in the months prior.

Protesters try new tactics

528. The terms of the injunction specified that protesters could not stand inside a safety zone on the highway. On Kenwood Road on 28-29 September 2017, some protesters prevented felling by standing on land owned by a hotel that was underneath the tree. Alison Teal explained in a public hearing with the Inquiry that *"I was on some cobblestones outside of the Kenwood Hotel and I understood that I was on their property, not on the highway"*.
529. Protesters would later use this tactic frequently, seeking permissions from homeowners on residential roads to stand beneath the canopy of trees where they went over their property. For example, one protester sent testimony to the Inquiry that *"A large lovely healthy tree outside a lady's house in Dobcroft Road was listed to be felled. The lady loved the tree and wanted to keep it and gave everyone permission to stand in her garden to protect it"*.
530. The next day on Kenwood Road, protesters employed a different tactic, testing the wording of the injunction and exploring uncertainties in its implementation. The injunction prohibited protesters from standing within a completed safety zone. Councillor Teal recounted in a public hearing with the Inquiry how she challenged this, to remain within the safety zone preventing work on the tree:

"It was a massive barrier that they created, but they'd used a private wall, and so all the time that I was in that barrier I just kept checking that they hadn't put barriers in front of the wall, because if they had then I would have been breaching the injunction. But I knew that as long as those barriers weren't there I was safe."

531. In public hearings with the Inquiry, a number of protesters described their efforts to find and test areas not covered by the injunction. Chris Rust said:

"What was fantastic was the inventiveness of such a large community of committed people... putting their heads together, studying the legal situation and studying the technical practical situation, and coming up with ways that they could still protect the trees."

532. On Kenwood Road, another protester, Calvin Payne, tried a third approach. He decided to deliberately breach the injunction. Other protesters had done this a few days before, but Calvin Payne was named in the injunction and known to Streets Ahead staff. He was recorded inside the safety zone preventing tree works.



533. On 16 October, as protesters were waiting for Amey operatives to arrive, one protester climbed the tree. Such protesters became known as squirrels – someone who deliberately breached the injunction by entering the safety zone, but who, by climbing the tree, made it more difficult for people to identify them, for Streets Ahead staff to engage with them, or for police to apprehend them. The tree climber is quoted in the book *Persons Unknown* saying that:

"I'll be here for as long as I need to be, and I think SCC will get the message very soon. This is my first time as a tree protester and a very small effort by myself might have quite a large impact on something. I'm not scared of being arrested, and anyway they've got to catch me first!"

534. On 17 October 2017, the co-chairs of STAG wrote to Rt Hon Sajid Javid MP, the Secretary of State for Communities and Local Government, asking ***"that an area Tree Preservation Order (TPO) be granted urgently to protect the Highway Trees in Sheffield that are under immediate threat of removal as part of the 'Sheffield Streets Ahead' highway maintenance programme"***. Though they did not receive a full response until 8 January 2018 and Sajid Javid declined to grant the requested TPO, he also said that ***"I condemn any unnecessary loss of valuable trees. It is deeply disappointing to hear about the continued actions of the council"***.
535. With the dispute showing no sign of abating, and new tactics continuing to emerge, Amey, under pressure from the Council to be more proactive in securing their work areas, decided in November 2017 to introduce stewards to guard the safety zones to enforce the terms of the injunction.

The Council put pressure on Amey

536. Throughout 2017, the Council increased pressure on Amey to keep the tree replacement programme on track and sought to include them in the injunction process. In April 2017 the Council discussed this internally, an email from Paul Billington saying:

"Behind the scenes, we've agreed that if they sit it out, we'll have to do the injunctions ourselves (including gathering the evidence) and the [sic] hit Amey hard for costs and potential contract breaches."

537. In October 2017, the Council again sought to put pressure on Amey. An email from Steve Robinson, the Head of Highways, to Amey said:

"I have considered what the consequences are of leaving damaging trees behind going into next year and attached is a list of possible PR's [performance requirements] that might come into play from 1 January. It's a mixed bag of 11 PR's and a closer inspection of the PR's may find more. Leaving trees behind that are identified and agreed for felling is very undesirable for all of us."

538. Amey told the Inquiry that *"SCC were threatening to impose Performance Adjustments against us, if we did not continue with tree removal"*. This prompted Amey to work out how much the deductions could potentially amount to using the performance requirements potentially in scope at that time. That calculation:

"considered an associated risk rating and using broad assumptions on the number of trees it was estimated that that possible deductions could be around £3.043 million annually, with a likelihood to increase further if the CIP works were further delayed. This number didn't factor in the risk of "lock up" under the SPV's finance documents and other material risks to the project which would have been live had deductions at this level been levied."

539. Senior Amey staff were copied into emails between Council officers, expressing sentiments such as *"just wish Amey corporate could [sic] wake up"*, *"Totally agree - no signs of it yet?"* during October 2017.

540. Later that month, following internal meetings between officers, Director of Place, Paul Billington, emailed Amey saying that the Council felt that *"we have played every possible card (and more!) to tackle the current protestor problem in order to support you in your delivery of the programme"*. The same email went on to say:

"We really can do no more – and we believe we're leading and funding on issues and problems that under the contract are primarily yours e.g. further court action; pressing SY Police for assistance; initiating overt surveillance etc."

"Whilst we will continue to pursue evidence against trespassers for the period up to October 27, from October 30, the council has to switch to a support role and thereby require Amey to fully take the lead on pursuing and delivering solutions to the protestor problem and of course deal with all the related logistical and cost consequences of protestor action. This includes legal, operational and PR"

"This simply underlines and reconfirms the existing contractual position and our respective roles – but it also potentially opens up new options given the flexibilities open to Amey that aren't available to the council."

541. While the email also offers support and a constructive and close working relationship, it finishes by saying:

"Finally, given our respective contractual responsibilities (especially as set out in Clause 19) I need to ask that you consider a 50% contribution to our latest legal costs please (i.e. relating to court action on October 27). Can you confirm your agreement to this by no later than October 26 please."

542. Amey told the Inquiry that the Strategic Board (a joint Council, Amey and SPV board to take decisions and oversee the project) held on 31 October 2017 focused on a wider discussion on trees. They told the Inquiry that:

"At this meeting SCC vented their frustration with wider Amey approach to date in particular regarding legal support for the Authority Injunction action and fundamental operational options including the lack of use of security staff and surveillance to identify masked protestors."

543. On 6 November, the Council emailed Amey to reconfirm their respective roles and responsibilities. For the Council, this meant they would retain all decisions on which trees were to be felled with a continued embargo on the Vernon oak, Chelsea Road elm and all war memorial trees and lead on communications and legal action. They made clear to Amey that *"the problem of dealing with operational issues relating to protestors on site (including masks) will be 100% for Amey"*.

544. On the same day, Paul Billington, responding to a daily progress update on behalf of the Council, told Amey by email *"You are losing the battle and we believe that Amey has options to sort this... To be blunt - the council is very frustrated at the current policy of 'turn up and pack up'"*.

545. The response to the daily summary from Amey on 1 December was more conciliatory, with Paul Billington saying: *"Better week this week guys – many thanks to Darren and his team"*. He went on to ask:

"Can you confirm advice and legal position on 'lift and shift' of those inside the barriers. Given the note below about refusing to move etc – can't see how you're gonna get the numbers up significantly unless you shift people from the zone."

546. The overall impact of this pressure was to communicate to Amey that the Council was determined to complete the tree replacement programme and no flexibility was on offer. Amey responded by introducing passive stewarding, evidence gathering, higher fencing and supporting the injunction both financially and through their actions on the streets. They also wrote to the police applying pressure as set out in **Chapter 4.3**.



Events during January 2018

547. The protests continued during November and December 2017 and people continued to find new ways to prevent tree works without breaching the injunction. One such tactic was geckoing, used on Thornsett Road on 5 December 2017. Safety zones needed to comprise of continuous barriers, even where structures like walls bounded the safety zone area. Protesters found a way to disrupt this. Paul Brooke explained this in a public hearing with the Inquiry:

"The basic principle being that I'm not going to stop the Council from setting up a safety zone, but if I'm there first and I'm standing on public property on the pavement and I'm leaning against the railings of a park, I'm quite happy that they put the safety zone in front of me."

548. The protester would then still be under the canopy of the tree, preventing work. They could also achieve this by squeezing into gaps between barriers and walls or hedges, after the barriers were put up. A protester described their experience of doing this, in testimony sent to the Inquiry:

"I placed myself behind a barrier, outside the cordoned off area, alongside a wall. I was intimidated and eventually roughly pushed and manhandled..."

549. Encouraged by the Council in December 2017, Amey authorised stewards to use reasonable force to remove protesters from safety zones from 16 January 2018. Amey took legal advice and obtained their CEO's agreement prior to starting this action. They also included it in their December 2017 letter to the police, as set out in **Chapter 4.3**. They told the Inquiry that:

"The costs associated with steward deployment, increased arboricultural and support staff, were considerable and continued to be borne by Amey. SCC remained supportive of this revised approach to deliver the Tree Replacement Programme."

550. In a public hearing with the Inquiry, Amey's Managing Director for Transport Infrastructure Peter Anderson was asked what Amey senior executives and its board thought about new measures such as the use of injunctions, stewarding, security personnel and reasonable force. In response he said that:

"We were contractually obliged to deliver the project. And we couldn't just stop delivering the trees programme because protesters were making life difficult. I'm sure if Sheffield City Council had told us we could stop then we would have.

"But at the time we were put under significant pressure to continue with the programme of work because we had contractual obligations to deliver improved quality of the street scenes..."

"My understanding is that to decide to use reasonable force was very much a last resort decision following a number of escalatory measures and pressure from the client to continue with the work. A very difficult decision for Amey and one that it took very carefully and very deliberately, took internal and external legal advice, it consulted with South Yorkshire Police at the time, it consulted heavily with the client, Sheffield City Council, the SPV were also engaged in those discussions. But escalations coupled with the need to continue to progress the works meant that unfortunately we had to escalate to hiring security and, as you say, resort to reasonable force to preserve the programme and continue the progress."

551. The decision to commence the use of reasonable force did little to deter many protesters and deliberate breaching of the injunction continued. Another new tactic was bunnying. This meant protesters entering the safety zone, often by hopping over the fence, but with their identity obscured using masks and scarves.
552. Interactions between security guards and protesters became very heated, especially between stewards and those being removed from the safety zone. The protest on 22 January 2018, on Meersbrook Park Road, became particularly intense after protesters pushed down the barriers and entered the safety zone to come to the aid of one protester being removed. Paul Brooke had committal proceedings (later dismissed) brought against him for this event.
553. In testimony written for the Inquiry, one protester explained their decision to knowingly breach the injunction in this way:

"As the situation escalated and the injunction was applied , I felt I was left with no other alternative but to become a masked 'bunny' given my strength of feeling..."

"My decision to break the injunction was born out of fear and anxiety for the potential loss of our street trees not only in Meersbrook, but in other parts of the city... The compulsion to do what I could to stop or delay the felling of a tree was the stronger emotion which overcame the feelings of fear of potential legal action or committal to prison."

554. The Inquiry understands that, on 25 January 2018, Labour backbench councillors approached the Leader of the Council, Julie Dore, concerned about the lack of resolution to the tree dispute and the heightening risk of serious injury or death at a protest.
555. Nine days after stewards began forcibly removing protesters from safety zones, as they had on Meersbrook Park Road, Amey paused the tree replacement programme from 26 January 2018. Originally scheduled for a week, this lasted until 26 February.

556. Throughout the dispute, protesters had pressed for a full, unredacted version of the Amey contract to be released. This came to the fore again during a particularly fractious meeting of the full Council on 7 February 2018. Twelve members of the public raised questions about the dispute. Following the meeting, Councillor Alison Teal let a group of protesters through from the public gallery into the Council Chamber where they staged a sit-in lasting five hours. While they occupied the Council Chamber, protesters sat in the seats usually reserved for senior councillors, unfurling a large banner that read *"Show us the contract please"*. This attracted significant local and national media attention.

Council decision-making in February 2018

557. The pause in the tree replacement programme created an opportunity for the Council and Amey to take stock and decide how to proceed. By signing-off the footway and carriageway elements of the Core Investment Period milestones in December 2017, the Council had accepted that the highways had been brought up to an acceptable standard. However, trees that had been due to be replaced remained on roads.

558. Paul Billington, Director of Place, wrote an email attaching a paper to Councillor Bryan Lodge on Saturday 10 February 2018, summarising the Council's options. This was sent ahead of a meeting planned for the following week. The covering email is entitled *"Please print and then delete"* and refers to hard copies of the attached advice having been given to the Chief Executive, John Mothersole, and Amey Account Director, Darren Butt.

559. The paper looks to find a way to deal with the trees outstanding from the Core Investment Period – around 250 trees, most of which fell into the category of damaging – and *"several thousand more"* projected to need replacement during the rest of the contract. The paper focuses on options available to the Council to complete the programme as intended.

560. Noteworthy points include:

- The paper says STAG was *"adopting increasingly extreme tactics on site and turning their guns on demolishing the PFI contract"*.
- It raises and analyses the potential to use ring barking (the practice of killing healthy trees through completely removing bark around the circumference of the trunk). It explains that *"The tree is killed and dies over a number of months. It would move all trees into the 'dying' category and mean that STAG could no longer claim they were defending 'healthy' trees. It would be unprecedented for a council to adopt this approach across a large number of street trees and would probably result in howls of protest from lay people, the media and an escalation in protests. It would therefore best be done with an element of surprise over a short period of time"*.
- It refers to trees which could be retained using short-term engineering solutions *"at Amey's cost"*, indicating that the Council knew concessions from Amey were available.
- It recommends relying initially on law enforcement and, if that fails, to moving to phasing tree replacement over a longer or different time period; or, if that is rejected by STAG, regrouping to consider the relative merits of ring barking and/or reprogramming/pause.
- It does not recommend negotiation with the protesters.

561. John Mothersole ruled out ring barking and the Council implemented the rest of the plan set out in the paper. The Inquiry's views on this approach are covered in **Chapter 4.6**.

562. During the February 2018 pause, the Council also used evidence collected by Amey, to continue to bring committal proceedings against protesters.

The tree replacement programme recommences, as does intense opposition

563. From 26 February 2018, Amey worked with the Council and the police to ensure an increased police presence to enable the tree replacement programme to continue. The role of the police is covered in **Chapter 4.3**. In evidence to the Inquiry, Amey stated that:

"The latest change in behaviour of the tree protesters necessitated a joint agency approach, which was rolled out from 26 February 2018. This included a command structure that could be adequately resourced by SYP on site and within the control room, with stewards engaged by Amey in the removal of protesters from the safety zones."

564. On the first day of this new approach, work was prevented on Thornsett Road by protesters using a range of the tactics described so far, including bunnies, geckos and a squirrel. An account from a protester in the book *Persons Unknown* described that:

"A masked stranger behind the wall offered to hold on to me to make it harder for the police to drag me off the Heras barrier. Usually one doesn't accept offers of this sort from masked strangers. But this being Sheffield, I knew this guy was a bunny – one of the heroes of the campaign. I hugged that bunny, and he hugged me. And though the security pulled and pulled - four of them - they eventually gave up. The action continued."

565. And another said that:

"After several hours perched up the tree in freezing temperatures the 'squirrel' wanted to come down. It was towards the end of the day's work. Attempts were made to agree with the police that he would not be arrested if he came down. It didn't appear that anything had been agreed, as when he reached the ground he was pursued by several police officers through gardens and over fences."

566. Streets Ahead crews, private security and police returned on 27 February and were met by many of the same protesters. Similarly intense protests took place in other parts of the city. On Abbeydale Park Rise, on 5 and 6 March, stewards grappled with multiple people inside the safety zone, resulting in a female protester needing to be checked over in hospital and the police conducting follow-up visits with some protesters. One protester provided testimony to the Inquiry about a similar experience on Rivelin Valley Road:

"Security guards 'went in' to move peaceful protestors from under a tree and it became very loud. A female friend sustained a kick to the head and another two were of my friends were being dragged across the floor. As a reaction I tried to move towards them in a gap between a wall and the heras fencing. I had no idea what I would accomplish because they were some distance away and the fencing was tight up against the wall."

567. With police on-site, as well as in an off-site control room observing proceedings, larger numbers of police were required. On 6 March, former Liberal Democrat Leader of Sheffield Council, Lord Scriven, wrote a public letter to South Yorkshire Police questioning the level of resources required to sustain this approach. Louise Haigh MP, Shadow Policing Minister, also called for a pause, consultation and mediation. She described the approach on both flashpoint roads such as Meersbrook Park Road as *"untenable"* and *"unsustainable"* and expressed her discomfort with the *"impossible position"* the police were in.

568. Despite the injunction, legal proceedings to enforce the injunction, an increased police presence and security guards removing protesters from safety zones, protesters were not deterred. The protesters suggested that the Council and Amey's approach was making the protesters more determined and the situation worse. As Rebecca Hammond told a public hearing with the Inquiry, *"people basically got more inventive and determined in how they were going to protect the trees"*. Many protesters also sent testimony to the Inquiry expressing this sentiment. For example, one said that:

"During the period following this more and more people became so disillusioned with the dismissive attitude of the Council and the lack of transparency and logic surrounding their decision-making that they started turning out on the streets to oppose fellings that were unnecessary. I was one of those people and spent much time over the next few months standing on streets and watching what can only be described as battles between Amey staff, security contractors, Police and protesters."

569. Another said:

"Along with my Partner, we had to decide as a matter of principle, whether we were going to allow ourselves to be repeatedly lied to and bullied into submission."

570. And another told the Inquiry that:

"Because of the injustice I saw I became a tree supporter."

571. The Council released the redacted contract on 9 March 2018, following a ruling by the Information Commissioner requiring them to do so within 35 days. Protesters seized on wording in the contract which they said showed that the Council had a target number of trees to replace. They felt vindicated. One protester observed in testimony to the Inquiry that *"the Street trees are only removed as a last resort line [was] thrown into sharp relief the moment the contractual obligation to fell 17,500 highway trees in Sheffield was disclosed"*. This is covered in **Chapter 4.6**.
572. This received extensive media coverage, including on BBC Look North and the MailOnline on 12 March. It was reported again on BBC Radio 4's Today programme and on Jeremy Vine's BBC Radio 2 programme, which broadcast a short debate between Paul Brooke, then Co-Chair of STAG, and Councillor Bryan Lodge. The release of the contract also led to the Forestry Commission beginning their investigation into possible illegal felling (**see Chapter 4.1**).
573. The Council continued to deny that the 17,500 reference constituted a target. Gillian Duckworth also told the Inquiry that releasing a redacted version of the contract was under consideration prior to the ICO intervention.

574. On 15 March 2018, James Henderson, Director of Policy, Performance and Communications, sent written advice to Chief Executive, John Mothersole, on handling the reputational impact of the dispute. It is the first evidence seen by the Inquiry of the Council recognising the need for mediation. This paper explains the current challenges in the tree replacement programme:

"Protests do not seem to have diminished, and at this time they are seemingly effective. This is both at ground level, where Amey's current rate of replacement is limited to around two to three trees per week (and therefore at current rate we can expect to spend a further two and half years on site to replace the remaining 250 or so trees identified within the CIP) and in terms of media campaigning, where coverage in the last week has both intensified and become more negative towards the Council, partners and SY Police..."

"...Put simply, there is no good picture of older residents being arrested. There is no good way to photograph a tree lying in the street..."

"It seems increasingly clear this week that we are not believed and cannot expect to be believed by elements of the media. While quickly retracted, Toby Foster told Cllr Bryan Lodge to his face in the course of a very tough, thirty minute interview this week that he was not telling the truth."

575. The advice notes the legal and contractual obligations. It reiterates the Council's belief that they had support in communities for the programme. But it adds: *"We need to be clear too that the trees issue also 'bleeds' into almost every other activity that the Council undertakes"*.
576. The paper then lays out options: continue, accelerate, pause, mediation, stop and change approach. It recommends mediation as the lead option, concluding that mediation *"gives us the best chance of doing something to ameliorate the reputational impact"*.

Events preceding the final pause

577. Streets Ahead teams returned to Meersbrook Park Road on 26 March 2018. A large number of protesters gathered outside the barriers, and bunnies entered the safety zone, repeatedly climbing over the barrier and being physically removed by security guards. The Inquiry was given accounts of how tensions boiled over and protesters pushed the fences over, with many then entering the safety zone at the same time.
578. Amey's evidence to the Inquiry also describes this as a key moment in the dispute:

"A significant turning point in events... was the level of increased protester physical presence and interaction on a particular planned road. On 26 March 2018, Meersbrook Park Road tree replacement works were due to be undertaken. Amey tree teams and stewards established the work sites with a considerable presence of SYP on site, a number of protesters were removed from the safety zone, following which the protest escalated significantly, increasing the risk to staff, partners, protesters and wider public at which point the tree teams withdrew from site."

579. It is clear from protester evidence that tensions were running extremely high. It felt like the dispute had reached a critical point. In the book *Persons Unknown*, some protesters described how they felt that, after the day's events, things were going to escalate further. One is quoted as saying:

"We had special devices that had been created for defence. All ready in people's gardens. We had the lock-on tubes..."

580. And another that:

"If felt to me that if they came back the next morning, then anything could have happened. There could have been hundreds of people, there could have been a huge number of arrests. Someone decided to pull the plug.

"I mean anything could have happened that day. That was my feeling on the previous day. The stakes had been raised beyond anything that had gone before."

581. Some protesters described how distressing and disorienting it had become to see events like this take place. One said, in testimony sent to the Inquiry, *"it felt like there were two cities, the 'normal' one, and the one in which events like these were taking place"*. Other protesters gave testimony to the Inquiry about the toll the dispute was taking by this point:

"At the time felling stopped, I think we were all at breaking point... The toll of patrolling streets and standing in the cold for hours on end on look out, as well as all the organisation, dealing with press... and the constant hostility from the Council had taken their physical and mental toll – and on our families."

582. At this point, Amey decided that they could not continue. Darren Butt, Amey's Account Director, called a pause. Amey assessed that they could do no further work, due to the options open to protesters which were not addressed by the injunction (such as standing on private property) and the ineffectiveness of the injunction and committal proceedings in deterring protesters. The police had told Amey and the Council that they could not continue to commit the same level of resources to policing the protests. Amey were also concerned about their staff's safety. The Council accepted Amey's decision.

583. Information provided to the Inquiry by Amey details the number of days of operations during this period, between pauses and work cancelled due to protests. They recommenced tree replacement works on 16 January after a pause over Christmas, then paused works on 26 January after nine days of operations. As detailed above, this pause lasted until the new approach on 26 February, but work resumed only intermittently due to protests. Amey say there was a maximum of 15 days of operations before the pause on 26 March 2018.

584. **Chapter 5.1** describes why this pause became permanent and led to a different approach. It marked the end of the most intense and confrontational month of the protests, when the risks of serious injury were growing and few trees were being replaced.

Part 4:

2012-18 Some major themes

- Chapter 4.1: Legal issues
- Chapter 4.2: The Five Year Tree Management Strategy
- Chapter 4.3: The role of the police
- Chapter 4.4: Contributions from experts
- Chapter 4.5: Media, communications and information handling
- Chapter 4.6: Inquiry observations on 2012-18

Part 4: 2012-18 Some major themes

585. The chapters in Part 4 each consider an aspect of the dispute in detail:
- 4.1 The part played by the law, including in the courts
 - 4.2 The Five Year Tree Management Strategy and its use
 - 4.3 The role of South Yorkshire Police
 - 4.4 Interventions from outside experts
 - 4.5 Communications throughout the dispute, both in the media and directly with the public, including information management
 - 4.6 Concluding observations on the main 2012-18 phase of the dispute.

Chapter 4.1: Legal issues

586. There were two substantive assessments of the legality of the Council's approach to tree replacement. First, in 2016 a protester asked the courts for a judicial review of the decision to replace street trees. Second, the protesters encouraged the Forestry Commission to assess whether planning laws had been broken, which they did in 2019 after publication of the contract had made clear the intention to replace 17,500 street trees.
587. The dispute was also brought to court in 2017 and 2018, when the Council sought injunctions and then committal of protesters to prevent them from stopping the replacement of trees.

The judicial review

588. On 3 February 2016, a full Council meeting discussed a petition opposing the removal of trees in Nether Edge. The next day, David Dillner, then chairman of the Sheffield Tree Action Groups, applied for a judicial review.
589. Documentation for the judicial review records that the claimant sought to challenge what he said was *"the decision of the Sheffield City Council refusing to cease to fell trees in connection with the Streets Ahead Project taken at a full Council meeting"*. David Dillner was named on the application, though the case was the work of a larger group of protesters, who later brought in professional legal advice. Some of the advice was pro bono, but the remaining legal fees and costs were raised through crowdfunding.
590. On 5 February, a judge granted a temporary injunction on the felling of trees, except those posing a threat to public safety, until the judicial review could be heard. This overlapped with a pause in the tree replacement programme while the Independent Tree Panel inspected streets and formulated their advice.
591. The hearing for the judicial review was on 22 and 23 March 2016, with Mr Justice Gilbart presiding in the High Court. He lifted the temporary injunction at the end of the hearing, though the Council said they would not restart the tree replacement programme until the full judgement was given.
592. David Dillner's barrister argued that the Council had breached their *"duty to consult residents before felling took place"*, and that they had not used the appropriate planning processes covering environmental and conservation issues.

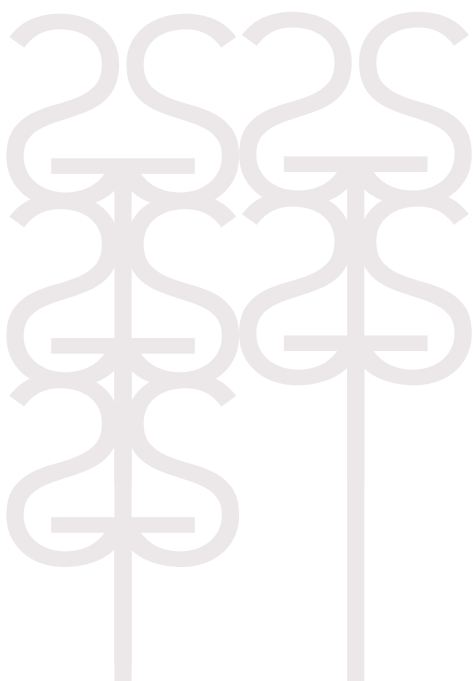
593. The judgement is clear that the judiciary's role is not to take the place of elected officials making policy decisions, or to replace advice from expert arborists, but to test the cases made by David Dillner and the Council within the law. Mr Justice Gilbert stressed the Council's legal duties under the Highways Act to maintain the highway from fence to fence, so including street trees, and that David Dillner's team had failed to take this into account. He concluded that the Council's decision to continue felling after the petition was not unlawful and that the Council did not have the duty to consult claimed by David Dillner.
594. The Inquiry sought legal advice on this subject from Weightmans, the law firm supporting the Inquiry. They highlighted that the protesters' case was rejected by Justice Gilbert on all grounds. The judgement finds that the case as brought was, in Mr Justice Gilbert's words, misconceived. The use of the term misconceived is very strong and clear judicial language. It meant that the case had no prospect of success.
595. The judgement emboldened many in the Council, who interpreted it as approval to proceed with the full Streets Ahead programme, exactly as planned. From this point onwards, the Council's public statements on the dispute regularly referred to their lawful programme. Simon Green, the Executive Director in the Council who was responsible for Streets Ahead, was quoted as saying *"We'll continue to do our best with what we believe to be a lawful tree replacement programme"*.
596. In a public hearing with the Inquiry, former Councillor Lewis Dagnall said that, for the Labour Group of councillors, the result of the judicial review was seen as *"a watershed... the language in that judgement was quite stark"*, but that:

"...it reasserted our role, our responsibility, to decide upon policy. Mindful of the public, but we were also entitled to make decisions that might be disagreed with by a minority of the public."

597. However, a decision being lawful does not mean it is the only or necessarily the desirable course of action. John Mothersole, the Council's Chief Executive Officer, told another public hearing with the Inquiry that:

"The Council sought to proceed as a highway authority, to replace the trees, and as you know the judicial review which was taken out against us was very clear about the Council's position. Now the fact that you've got the right to do something doesn't always mean it's right to do it."

598. The outcome of the judicial review did not deter the protesters. They continued to oppose the tree replacement programme but changed their tactics.



Legality of felling

599. The felling of trees in England is regulated by the Forestry Act 1967 and enforced by the Forestry Commission. The Act states that all felling needs a license but with exceptions including felling which is performed under a duty imposed by another Act. The Council saw the tree replacement programme as a response to their Highway Act 1980 duties to maintain the public highway and Equality Act 2010 duties to allow access.
600. Protesters contacted the Forestry Commission in November 2016 and January 2017 but they declined to investigate. In March 2018, more of the Streets Ahead contract was made public, revealing the service standard to *"replace Highway Trees in accordance with the Annual Tree Management Programme at a rate of not less than 200 per year so that 17,500 Highway Trees are replaced by the end of the Term..."*. As the service standard set out a minimum replacement rate, this meant that the removal of trees could be due to a contractual obligation rather than a statutory duty raising the question of whether a felling license was required.
601. In April 2018, the Forestry Commission opened an investigation into alleged illegal felling and asked that all non-dangerous felling should cease until they reported. Such felling had already been paused from 26 March 2018.
602. The Forestry Commission analysis of the trees felled as part of the replacement programme showed there was a valid exception to the need for a felling license in 614 out of 691 cases in the sample that they used. The data was inconclusive for the rest. When extrapolated to the 5,474 trees removed, this was interpreted as meaning 4,872 were likely to be exempt but results for the remaining 602 trees felled were inconclusive results. These may have required a felling licence. On balance, the Forestry Commission could not say that the Council had exceeded their legal duties and was unable to establish that an offence had occurred. They therefore did not issue a restock notice or refer the issue to Defra for a criminal investigation.
603. The Forestry Commission noted a number of lessons for the Council. These included improving record-keeping as the Council could not supply data for all trees in the sample. They also pointed to an over-reliance on the legal department through whom all correspondence was directed which they felt *"prevented constructive engagement with their street management team"*.
604. They also flagged lessons directly related to the management of the street tree stock, including the need to consult prior to felling or replacement and the need to consider maintenance or engineering solutions in order to retain larger trees which give greater benefits. They were concerned by the lack of provision for engineering solutions and what they saw as the limited replanting options being used in the replacement programme.

The Council seek an injunction

605. The Council disagreed with the police decision to cease arrests under Trade Union and Labour Relations Act (TULRA) legislation (see **Chapter 4.3**) and wrote them a strongly worded letter in March 2017. It said that the Council felt *“very let down by the force”* and that it was, *“a dereliction of the police’s obligations to fail to support the council in its delivery of its public law duties by failing to make arrests when the criminal law is breached”*. The letter requests a meeting, concluding that:

“Our view is that, in light of the police’s failure to deliver its obligations, we are now being forced to consider making injunction applications to the High Court. That is not the route we would prefer to take. We would rather the police supported Amey to undertake the lawful street tree work it has been contracted by us to do.”

606. Council legal advice dated 27 February 2017 explored using the Highways Act or the Road Traffic Regulation Act to reduce access to streets during works. It then considered efforts to enforce this legislation through orders and fines in magistrates’ courts. This advice continued *“if neither of the above lead to a successful outcome then further consideration ought to be given to the possibility of taking injunctive action against campaigners”*.
607. This advice did not explore the option of negotiation with protesters. Council staff told the Inquiry that seeking an injunction was the next logical step, though the Inquiry has not seen evidence of substantive discussion about whether this strategy was likely to be an effective deterrent.
608. A month later, with other legal options discounted, the Council decided to seek an injunction. On 7 March 2017, the Council’s legal team consulted David Forsdick QC, a barrister who specialised in this area. On 28 March he advised that:

“On the material I have there would be a very strong case for an injunction against named individuals restraining them from interfering with or entering any safety zone established by the council for the purposes of tree felling (wherever in the council’s area those Safety Zones are established). Careful drafting will be required, but I can think of no basis upon which a Court would decline to grant an injunction (if the facts are broadly as I understand them to be). It would also be possible to obtain an injunction against persons unknown although this would be more difficult”.

609. The Council asked Amey to seek injunctions jointly with them, but Amey were reluctant. Amey told the Inquiry that they did not believe they were the right party to bring the proceedings, whereas the Council felt that Amey should join the proceedings. Paul Billington noted in an email that *“Amey appear to be confident that they can hit the milestones and de minimis thresholds whilst leaving the controversial trees in situ”*. However, the Council were not convinced and continued to apply pressure to Amey to join them. Amey ultimately declined to be part of the legal proceedings.
610. The Council worked closely with barristers between March and late June 2017 to prepare a case and identify who to injunct. The Council had asked Amey for a list of people who regularly took direct action to prevent their work. Amey included Green Party Councillor Alison Teal on this list, though the final decision was the Council’s. The list, including Councillor Teal, was discussed by the Council’s legal team and the Director of Legal and Governance, Gillian Duckworth, who then discussed it with the Chief Executive, John Mothersole. Council officers told the Inquiry that it was an officer-level decision to include Councillor Teal.

611. On 8 June 2017, Gillian Duckworth (in her role as the Council's Monitoring Officer) also opened proceedings against Councillor Teal, citing a potential breach of the code of conduct for elected members. Monitoring Officer is a statutory role in all councils, with defined responsibilities including ensuring that the Council acts within the law, *"the operation of the council's constitution"*, and responsibility *"for matters relating to the conduct of councillors and officers"*. The Local Government Ombudsman describe the role of Monitoring Officer as to *"ensure that the authority, its officers and its members maintain the highest standards of conduct and make decisions lawfully and fairly"*, so they also have an important role to play in providing checks and balances on the way the authority acts. These particular proceedings also related to Councillor Teal protesting against the street tree replacement programme, and whether this met the standards expected of a councillor.
612. Council officers also advised that the final decision to seek an injunction had to be taken by Gillian Duckworth. On 26 June 2017, the Council's legal team submitted formal advice to her and she recorded a decision, agreeing with the legal team's advice to facilitate peaceful protest, but to seek an injunction to prevent direct action.
613. On 27 June 2017, the Council sent pre-action letters to 16 protesters, informing them that the Council was seeking an injunction against them. It is standard practice to send such letters when opening such legal proceedings. The protesters argued that the content of the letter was aggressive.
614. The letter states the Council's intention to seek legal costs and damages, saying that:
- "The Direct Action is causing severe disruption to the tree felling programme and to the consequent highway maintenance work. If, and to the extent, the Council is liable for any consequent financial losses by reason of Direct Action by you, it will seek to recover such losses from you as part of this claim. The sums could be significant."*
615. The letter offered the protestors the option to sign an undertaking to cease activities that prevented work, in return for the Council not seeking an injunction against them. If people signed the undertaking, the Council could not reclaim their legal costs from them. They did seek to reclaim these costs if protesters chose to challenge the injunction in court. Protestors who chose to sign the undertaking told the Inquiry that the potential costs and damages were an important factor in their decisions.
616. Attached to the letter was a detailed summary of the case the Council intended to present against the protesters in court, advising them to seek legal advice. The Council asked for a response from the named protesters in 14 calendar days and declined a request for an extension submitted by the solicitor of one protester.

617. Ultimately the Council sought an injunction against three protesters – Calvin Payne, David Dillner and Councillor Teal – at a hearing on 26 to 28 July 2017. In the judgement given on 15 August 2017, they were granted an injunction, which said that the protesters:

“must not:

- (1) Enter any safety zone erected around any tree within the area shown edged red on the plan which will be attached to the order (the area of Sheffield City);*
- (2) Seek to prevent the erection of any safety zone;*
- (3) Remain in any safety zone after it is erected;*
- (4) Knowingly leave any vehicle in any safety zone or intentionally place a vehicle in a position so as to prevent the erection of a safety zone; or*
- (5) Encourage, aid, counsel, direct or facilitate anybody else to do any of the matters in paragraphs 1 – 4 above including by posting social media messages.” ...*

“There will in addition be an order in the same terms against persons unknown being persons intending to enter or remain in safety zones erected on public highways in the city of Sheffield.”

618. The inclusion of Persons Unknown meant that the terms of the injunction would apply to anyone who sought to enter or prevent the erection of a safety zone. Safety zones could not be erected on private land unless the landowner agreed, providing an opportunity for protesters to use private land under trees to prevent felling.
619. If an injunction is breached, the party taking out the injunction can ask the court to find those who have breached the injunction to be in contempt of court with an associated penalty. This is termed seeking committal because penalties, determined by the judge, can include an immediate or suspended prison sentence of up to two years or a fine.
620. While Amey had not formally joined the proceedings, they did agree to a request to contribute towards the Council’s legal costs. Amey also funded evidence gatherers – additional site staff who took photo and video evidence of people taking direct action. The Council used this evidence in court.
621. The injunctions came into force on 22 August 2017 but did not deter protesters from taking direct action, which resumed immediately. Protesters varied their tactics. On the first day, they stopped all work for a day by blocking the contractors’ exit from the Amey depot. This was not prohibited by the injunction. Their tactics progressed to test areas of the wording in the injunction and then, from September 2017, a few began breaching its terms.

622. This left the Council to decide whether to seek committal of the protesters breaching the injunction or to consider other options. The only option considered in the evidence seen by the Inquiry was seeking committal. It was seen as the next logical step. An email on 28 September 2017 from Paul Billington, Director of Place, said: *“Given we’ve spent £150,000 to get this far, we don’t really have a choice but to go for contempt”*. In a press statement on the same day, Councillor Bryan Lodge similarly said that:

“Those taking direct action have had every opportunity to comply with the court rulings and furthermore, the council has repeatedly reiterated its support of peaceful protest which can be done outside of the safety barriers.

“The council has no choice but to continue collecting evidence to support its legal case to ensure those who are purposely preventing the completion of highway improvement works across the city are dealt with under the terms of the injunction.”

623. Before the Council made an application to the High Court for committal, they sent cease and desist letters to people against whom they had evidence of injunction breaches. These letters threatened committal proceedings if they did not desist. In an email of 28 September 2017, the Council’s legal team said that the rationale for these letters was partly to avoid legal proceedings, *“For some it might work at much less effort and cost than proceedings”*, but also *“It enables us to say both to the court & the world at large in the media that we have given them every warning and every last chance – they can’t say they didn’t understand what they were doing – it may actually help with heavier penalties”*.

624. When the Council then chose to bring committal proceedings, the legal team said they would *“make sure that we take slam dunks only with minimum risk”* in the first set of proceedings. The Council chose to pursue committal against eight protestors who breached the injunction, over three separate committal hearings. All three hearings were presided over by Mr Justice Males, who had also granted the injunction.

625. The first was against two protesters named in the injunction – Councillor Teal and Calvin Payne – and a third person, under the Persons Unknown element of the injunction, for alleged injunction breaches on 25, 28 and 29 September 2017. Committal applications were made to the High Court on 6 and 12 October 2017, with a hearing on 27 October 2017. The claim against the third protester was dropped, and the claim against Councillor Teal was dismissed by the court as she was found not to have breached the injunction. It was found that Councillor Teal was not inside a safety zone when it was completed, she was only in the area before the safety zone was fully erected. Calvin Payne was found to have breached the injunction and to have encouraged others to do so. He was given a custodial sentence of three months, suspended for one year, and ordered to pay £16,000 in legal costs.

626. The second was against a single protestor, Alastair Wright, under the Persons Unknown element of the injunction, for a breach on 12 December 2017. An application was made for committal on 26 January 2018, with a hearing on 12 February 2018. This claim was upheld, with Alastair Wright given a custodial sentence of two months, suspended for one year, and ordered to pay £11,000 in legal costs.

627. The third application for committal was against four people – Dr Simon Crump, Fran Young, Paul Brooke and Benoit Compin. Dr Simon Crump and Paul Brooke had previously signed an undertaking, so the application was for committal for breaching that undertaking. The application was made against Fran Young and Benoit Compin under the Persons Unknown element of the injunction. Decisions to apply for committal of these people are in Council records from 15 February 2018 onwards, though the application was not made to the High Court until 6 March 2018. The hearing took place on 5 to 7 June 2018. Three were upheld, with Dr Simon Crump and Benoit Compin being given two-month custodial sentences, suspended for one year. They, and Fran Young, were each required to pay legal costs of between £6,000 and £12,500. The claim against Paul Brooke was adjourned to 21 June, when it was dismissed.

628. The third committal application was three weeks before the Council announced a pause in the replacement programme, which preceded de-escalation of the dispute and mediation. The hearings took place after the pause had been called.

629. As the third committal hearing began on 5 June 2018, the presiding judge, Mr Justice Males, noted that he had heard of a moratorium on the tree replacement programme and asked the Council's barrister:

"This is a serious application. The council is seeking to commit Sheffield citizens to prison for contempt..."

"Is this application brought with the instruction of the Leader of the Council? It seems to me to be an odd thing if I'm being asked to send people to prison unless you can give me a clear yes to that question."

630. An officer from the Council's legal team had to make a phone call to Julie Dore to confirm her approval, so that their barrister Yasser Vanderman could tell the judge that the Council Leader had given her support for continuing the legal action.

631. Amey supported the committal hearings by providing evidence. Their staff would take photo and video evidence on site. The evidence was assessed by their legal advisers, who decided whether to share it with the Council, who in turn decided whether to use it in court. Amey also provided witness statements and attended court.

632. On 29 June 2018, the Council applied to extend the injunctions already granted for three years. They included some amendments to the actions prohibited by the injunction, for example to prevent geckoing, where protesters stood between the safety zone and a wall or fence marking the edge of the highway. It also restricted protester actions to stop *"the efficient movement of vehicles involved in tree felling activities"*.

633. There was a short hearing on 2 July 2018, where it was agreed the injunction against Persons Unknown could be extended. This was followed by a hearing on 11 and 12 July 2018, about an extension of the injunction for nine named people. Four of them negotiated with the Council and made a formal agreement on the day of the hearing. This is similar to signing an undertaking, in that they agreed to conditions which restricted their actions for a further 18 months, including a negotiated version of the amendments proposed by the Council. The judge upheld the Council's application and extended the injunction for the same 18-month period with the same amended terms, against the other five people, lasting until 25 January 2020.

634. The extension of the injunction happened during the pause in the replacement programme while the Council and STAG representatives discussed the possibility of negotiations to resolve the dispute. As with the third committal hearing, the Council chose to continue with their legal proceedings while this happened. Council officers told the Inquiry that they were concerned that, if negotiations failed, they would again need to rely on the injunction. If they had let it lapse, they feared it would be harder to obtain a new injunction.

635. The Council wrote to those who had signed an undertaking, formally releasing them from it in August 2018.

636. Information published by the Council in a Freedom of Information request shows total legal costs to the Council of over £400,000 for the injunctions and follow-up. Protestors were ordered to pay £60,000 of this.

Key legal decisions

637. In an email on 26 May 2017, a solicitor from the Council's legal team explained that a decision to seek an injunction was for the Council's Director of Legal and Governance, Gillian Duckworth, to take. On 25 June, the legal team submitted formal advice to Gillian Duckworth, recommending pursuing an injunction. She recorded an official decision to proceed. This advice stated that *"the Council's view [is that] the seeking of injunctions is a last resort"*, but no other options were discussed in any detail in this advice.
638. When asked, in a public hearing with the Inquiry, the Chief Executive Officer, John Mothersole, described it as a logical option to pursue:

"The Council as a highways authority and as a client was faced with the choice of 'do we just give up, or do we seek to take out an injunction to better secure the safety zones?'. Injunctions... are not unusual beasts for councils. They're not confetti, they're never taken out lightly, but it is a step that is available in the toolkit... so it seemed a logical and hopefully effective way of allowing protests to continue, but safe work to be carried out, for the public and for the operatives..."

"...we were aiming to proceed and what was worrying us most as we proceeded was primarily safety, because tree surgery is dangerous. There are dangerous machines and there are big lumps of wood falling down from up on high. So the tools that we started to deploy incrementally were fundamentally about, they were not to stop protest at all, but they were fundamentally to secure a safe working zone"

"The Council didn't seek to use legal means to end the dispute. We sought to use legal means to deliver the programme."

639. The Inquiry has seen very little evidence that the Council considered other courses of action or the likelihood of its approach succeeding.

Including Councillor Alison Teal in the injunction

640. The Council's usual practice was that officers, not elected members, should decide who to seek to injunct. Green Party Councillor Alison Teal was included in the list of known protesters against whom they had evidence. The Council decided to proceed against her.
641. The Council then brought committal proceedings against Councillor Teal and the Council's Monitoring Officer opened standards proceedings against her, alleging breaches of the Code of Conduct for Elected Members. This was controversial. In public hearings held by the Inquiry, more than one person raised concerns about how these decisions appeared to the public. For example, Green Party councillor Douglas Johnson said that:

"We had the actual, kind of frightening situation, where the Council was actually applying to court for an order to imprison one of its own democratically elected councillors from an opposition party. That's not what you expect to see in a western democracy... it really does look like an utter abuse of power."

642. Similar concerns were raised by former councillor Lewis Dagnall. In another public hearing with the Inquiry, he explained that the wider Labour group of councillors was unaware of the decision to seek an injunction against Councillor Teal until it was made public:

"I think we would have been quite concerned about that had we known... I think because an important aspect to this entire business is trust and again it looked like a bad move, it looked like a bad play, foul play, to do that."

643. This is how it appeared to Alison Teal herself. She told a public hearing with the Inquiry that:

"I can't be sure, there were a lot of very active people. I was just one of them, so it's a bit random the selection that they made, of the actual people they named in the injunctions, but I feel that I was there for political reasons."

644. In the Council's defence, in a public hearing with the Inquiry, the former Chief Executive, John Mothersole, explained their decision:

"I'd be naïve not to say that it was obvious that a councillor being named in an injunction was going to attract a lot of attention, but that would have been an entirely wrong reason [not to proceed]. Councillors first and foremost are citizens of this city, just like me. The law applies equitably across the piece. We sought to put out of our mind the fact that one person was named as a councillor because I actually think to have borne that in mind and for that to affect our actions would have been the most wrong thing to do."

645. He also explained why it was a decision for officers, not elected members:

"I want to be clear that the decision to take legal action against anybody is always a decision of the paid executive of an authority, because... no matter how honourable the politicians are they should never get involved in who gets injunctioned or taken to court."

646. He explained that officers did notify the Leader, Julie Dore, but that they did not ask for a decision, describing it as *"an information, not confirmation discussion."*

647. Like many other protesters, Councillor Teal was not deterred by the injunction. She was never found to have breached it, but she explained to the Inquiry that, while always intending to comply, she also continued to disrupt the tree replacement programme. She told a public hearing with the Inquiry:

"Of course, I intended to comply with the terms of the injunction, because the consequences were terrible. And so what we did seek to do, and did succeed in doing, was finding ways to still be effective regardless of the injunction."

648. The Council had seen seeking the injunction as a logical next step to allow their programme to continue. They felt it was morally right to include one of their own councillors in the injunction, and then that it was right to bring committal proceedings.

Amey's position on injunctions

649. The Council repeatedly asked Amey to take part in the injunction proceedings. The Council's view was that, while the contract said Amey would bear the costs of delays caused by protests, this might be challenged by Amey. There was a risk the Council itself could incur costs from delays. Seeking the injunction jointly with Amey would clear up any potential challenge about who incurred costs caused by protest (the Council or Amey) and, therefore, whether the Council could claim damages in the proceedings.
650. Amey argued that the Council, as the highways authority, should apply for the injunctions. Amey staff told the Inquiry that they felt an injunction was not appropriate and they could find other ways to deliver the project milestones. In a submission to the Inquiry, Amey explained that they *"did not join SCC in this action, preferring instead to find alternative practical remedies to both avoid legal actions and heightened protester activity"*.
651. Emails between senior highways and legal officers considered different ways to apply pressure to Amey. For example, emails suggested deliberately taking a strict, punitive approach to financial deductions elsewhere in the contract.
652. Despite this pressure from the Council, Amey did not join them in seeking the injunction. Instead, they helped by providing evidence and Amey made a significant contribution towards the Council's legal costs.

Disagreement with the police

653. Discussion between the Council's legal team and their barristers also sheds light on their relationship with the police as they prepared for injunction proceedings. The internal advice to the Director of Legal and Governance, Gillian Duckworth, on 26 June 2017, explained that:

"The South Yorkshire Police Force (SYP) has indicated that they will not proactively arrest to support the undertaking of the works to trees. They have stated that Amey and/or the Council should seek civil injunctions to facilitate the works first. It is accepted that this is ultimately a matter for the judgement for SYP but it is clear that the Council cannot straightforwardly rely on the police to support necessary works. This is one contributing factor to the Council's view that the seeking of injunctions is a last resort for it."

654. The Council were forthright in expressing this view to South Yorkshire Police, including via a letter in which they said that:

"Our view is that, in light of the police's failure to deliver its obligations, we are now being forced to consider making injunction applications to the High Court."

655. South Yorkshire Police had initially made arrests under the Trade Union and Labour Relations Act, but had stopped doing so in February 2017. This is covered in further detail in **Chapter 4.3**.

656. The police clearly felt that the Council were trying to apply pressure to them, to influence them to resume arrests of protesters. At his public hearing with the Inquiry, Police and Crime Commissioner Dr Alan Billings told the Inquiry that on 2 March 2017 he received a copy of a response from the police's Head of Legal Services to a legal advice note of Counsel for the Council dated 24 February 2017. The note sought to encourage SYP to use section 303 of the Highways Act 1980 to deal with tree protesters. The police felt that this was *"a concerning development in SCC's approach to the Trees Issue"*. Dr Billings explained that, in response, the police said:

"...the perception that is given is that the Council are now trying to influence the Police into applying the criminal law in cases where it has been made clear to them that it would be most unsuitable both from an investigative and prosecutorial perspective to seek to criminalise this behaviour. Importantly, the CPS have also made it abundantly clear that notwithstanding evidential concerns about some of the cases they have reviewed, there would be no public interest in pursuing the criminalisation of these passive protestors, for what are summary only offences."

657. Despite this complaint, the dispute over the actions the police would take continued after the injunction proceedings, with the Council trying to convince the police to take stronger action. In October 2017, the Council sought legal advice on how to deal with masked protesters entering the safety zone (disguise prevented the Council pursuing committal) and how to convince the police to support them in this. On 9 October 2017, their barristers recommended action was *"urging the police to arrest Unknown Protestors and, if that fails, sending a pre-action protocol letter to the police threatening a judicial review of their decision not to arrest"*.

658. Senior Council officers decided that threatening a judicial review of the police was not wise. But it does illustrate how long the Council sought to put pressure on the police.

659. In December 2017, Amey also applied pressure to the police through a letter from their legal advisers, covered in **Chapter 4.3**.

660. The police ceasing to arrest protesters under Trade Union and Labour Relations Act legislation does appear to have been one of the catalysts for the Council seeking a civil injunction to deter protesters.

The Council's approach to legal actions against protesters

661. Protesters have told the Inquiry that some of the steps taken by the Council when seeking the injunction were unnecessarily aggressive. They cite, as an example, that the Council stated in their pre-action letters their intention to seek both costs and damages, saying that these costs could be significant. Protesters claim (and the Inquiry has seen evidence that) the Council's legal advice was that the costs of delays caused by protests would be borne by Amey and so Amey, not the Council, were facing costs. The Inquiry consulted its legal advisers, Weightmans whose view was that it was not certain that all the costs of delays would have been borne by Amey, given the complexity of the contract and developing situation.
662. It is clear from the evidence to the Inquiry that the letters did cause anxiety. Recipients were only given 14 days to respond to the pre-action letter, with requests for an extension declined. A group of five protesters who signed the undertaking submitted testimony to the Inquiry that the common effects of this letter included *"Acute anxiety and distress at being accused of unlawful conduct and threatened with claims for significant damages and costs which we could not afford"*, and *"Fear of negative impact on personal and professional reputations due to the accusation of "unlawful conduct" and threat of Injunction Proceedings"*.
663. The Council sending pre-action letters and recommending recipients seek legal advice, undoubtedly felt harsh to the protesters, but this is standard legal practice in pressing claims against unrepresented opponents, who need to be informed of their right to legal advice.
664. The wider point is that the Council consistently chose to use legal options without thorough consideration of alternatives and did not consider whether this legal action was a reasonable use of their authority. For example, when choosing to seek an injunction, the Council's considerations covered the likelihood of success in court, but did not consider the broader, relative likelihood of whether different options, legal and non-legal, would resolve the dispute. The Council's legal team considered what legal options were available but did not adequately consider whether these options would have the desired outcome.
665. When the injunction came into force, the Council could quickly see that it was not working, as there were still protesters inside safety zones. The Council then decided to apply for committal of protesters. The Council portrayed this as having (as the Director of Place described it) *"no choice"*, but they had options to negotiate or use their leverage with Amey differently, which they decided against.
666. In sending their cease and desist letters on 28 September 2017, the Council continued to use their legal tactics with the greatest weight they could. The advice from their legal team mentions making sure the protesters understood their intent, but also that sending the letters *"may actually help with heavier penalties"*.
667. Some testimony to the Inquiry – for example, the opinions expressed on the decision to seek an injunction against an elected councillor – argue that the Council did not always use its power in reasonable, proportionate ways.
668. The choice to continue with legal options, when others were available, was highlighted when Mr Justice Males sought confirmation that the political leadership of the Council wished to continue with the third set of committal proceedings despite their publicly stated intention to find another solution to the dispute.

669. Council officers were clear that, formally, the decision to pursue legal proceedings was for them to take, but this indicates that Mr Justice Males wanted to be sure there was political agreement to the Council's actions. Before the first set of committal proceedings, the Council's legal team said in an email to highways officers, *"we need to make sure that there is proper Executive Management Team [comprising officers not councillors] sign off to going back to court"*, but a senior highways official confirmed that both the Chief Executive of the Council and Councillor Bryan Lodge had agreed to the approach. However, this was not the case for every decision to pursue legal proceedings.

670. Councillor Lodge explained his role in legal decisions to a public hearing with the Inquiry:

"Options were put out there... there were different views and opinions put forward. Ultimately, the decision to pursue legal remedies is not taken by me... as a councillor. It's taken by the professional advice... weighing up the merits of the case and whether it's likely to proceed. All interest parties were all involved... yes we were made aware of the decisions... but the decision is that of the Director of Legal Services."

671. Similarly, Councillor Lewis Dagnall, told a public hearing with the Inquiry that:

"I think another person I feel has got questions to answer about their role is the legal team and [a legal officer]... I started getting emails from [them] when I became cabinet member, which I felt were sort of telling me what to do... so I asked for a briefing with [the legal officer] ... [they] might explain [themselves] as not having intended to do this, but I got the sense as the cabinet member that [they were] telling me to back off and that the legal stuff was not to be touched by me."

672. In the specific example of the third set of committal proceedings, the legal team telephoned Councillor Julie Dore to gain her approval. However, Councillor Dore is understood to have been surprised when asked for approval during the proceedings.

Inquiry observations on the legal aspects of the dispute

673. The Council had no choice but to defend the judicial review proceedings. The judge found in favour of the Council in the judicial review, ruling that the decision to continue with the programme was not unlawful, pointing to the legal duties placed on them as a highways authority. In subsequent hearings, the judicial review ruling was not challenged. But to find an approach is not unlawful does not mean that it is the only way or necessarily the best way to proceed.
674. Those pursuing legal solutions within the Council may have felt that legal remedy through injunctions was a last resort. This is not the Inquiry's view. Rather, it observes that the Council did not adequately consider alternatives involving negotiation with the protesters. John Mothersole described this as *"the choice of do we just give up, or do we seek to take out an injunction to better secure the safety zones?"*. Some in the Council saw a simple, binary decision between an injunction and abandoning a flagship programme. The Council made these choices because it wanted to see through the Streets Ahead programme as initially designed or as close to it as possible.
675. It was correct that it would be harder to seek a new injunction than to preserve an existing one. The process would have to start again. Council officers explained that they might still need to rely on the injunction if negotiations with protesters failed. However, the Inquiry observes there was a large body of evidence showing that the injunction was ineffective. Yet officers chose to continue with it, in legal proceedings to pursue committal (in May and June 2018), and to extend the injunction, when it could have jeopardised their emerging plans for negotiation.
676. The normal practice in the Council was for decisions to take legal action to rest with officers. In the highly political environment created by the street trees dispute, there were decisions where elected members might reasonably have expected to be consulted.
677. The Council's legal team said they only wanted to pursue *"slam dunks"* in the first committal proceedings, but they brought proceedings against Councillor Teal that were dismissed, as she did not breach the injunction.
678. As the dispute progressed, the volume of expensive legal activity increased, as did the level of protests on the streets. This demonstrates that the Council's strategy was not effective in deterring protestors or resolving opposition to Streets Ahead. As one member of the Council legal team told the Inquiry, the Council's legal success was an example of how it could win battles but lose a war. As well as failing to resolve the dispute, relying on legal solutions caused the Council wider reputational damage, as well as costing a significant amount of money that could have been used to fund compromise solutions for street trees.

Chapter 4.2: The Five Year Tree Management Strategy

679. The Inquiry has received a significant volume of evidence from protesters raising questions about Five Year Tree Management Strategy documents, in particular whether use of the Council's version of this document issued in early 2016 misled the judge in subsequent court proceedings. The following pages describe the issue in detail.

Producing the strategy

680. The Streets Ahead contract required Amey to:

"prepare and, following the first Contract Year, update the Five Year Tree Management Strategy, in accordance with Annexure 3 to this Service Standard 6, and submit the same to the Authority by 1 December in each Contract Year pursuant to the Review Procedure."

681. Amey created a first version in November 2012, then created four revised versions from February to July 2013 as they iterated the document. The first annual submission of the document was then made in November 2013, with this version given revision number 5.

682. The cover page explains that *"Amey shall use the Tree Management Strategy to effectively undertake its responsibilities under the Contract and deliver the Tree Management Service on the Project Network"*. The document is where Amey record their approach to tree management. The November 2013 version explains:

- a) That their strategic goals for highway trees include maximising canopy cover and promoting a sustainable, resilient tree stock, that maintains Sheffield's tree heritage and maximises the benefits from it, through increasing biodiversity and improving the *"public relationship with highway trees"*;
- b) Their initial view of the data on the age and genus profile of the tree stock, finding that *"the required replant rate to maintain the current tree numbers will be 200-400 trees per annum"*;
- c) They will do an initial survey of all trees in the first 12 months to assess risk and condition, then re-survey 20% of the tree stock per year for the next four years, to add additional data on tree value and special attributes;
- d) They will then conduct *"walk and build surveys"* to plan highways and tree works. They will make decisions as part of these, that inform which trees are included in the tree replacement programme, based on the following factors:
 - i. Tree health/condition
 - ii. Species suitability
 - iii. Highway obstruction
 - iv. Damage to surrounding surfaces
 - v. Third-party damage
 - vi. Life expectancy
 - vii. Future management options
 - viii. Landscape impact
 - ix. Engineering solutions
 - x. Heritage and habitat value;
- e) They will conduct a range of arboricultural maintenance works on highways trees, including crown reduction, thinning and lifting, epicormic removal and pruning. They will fell trees to prevent *"disease and other pathogens"*, but that otherwise felling will be *"a last resort where there are no other management options available to ensure safety or prevent damage to surrounding structures"*;

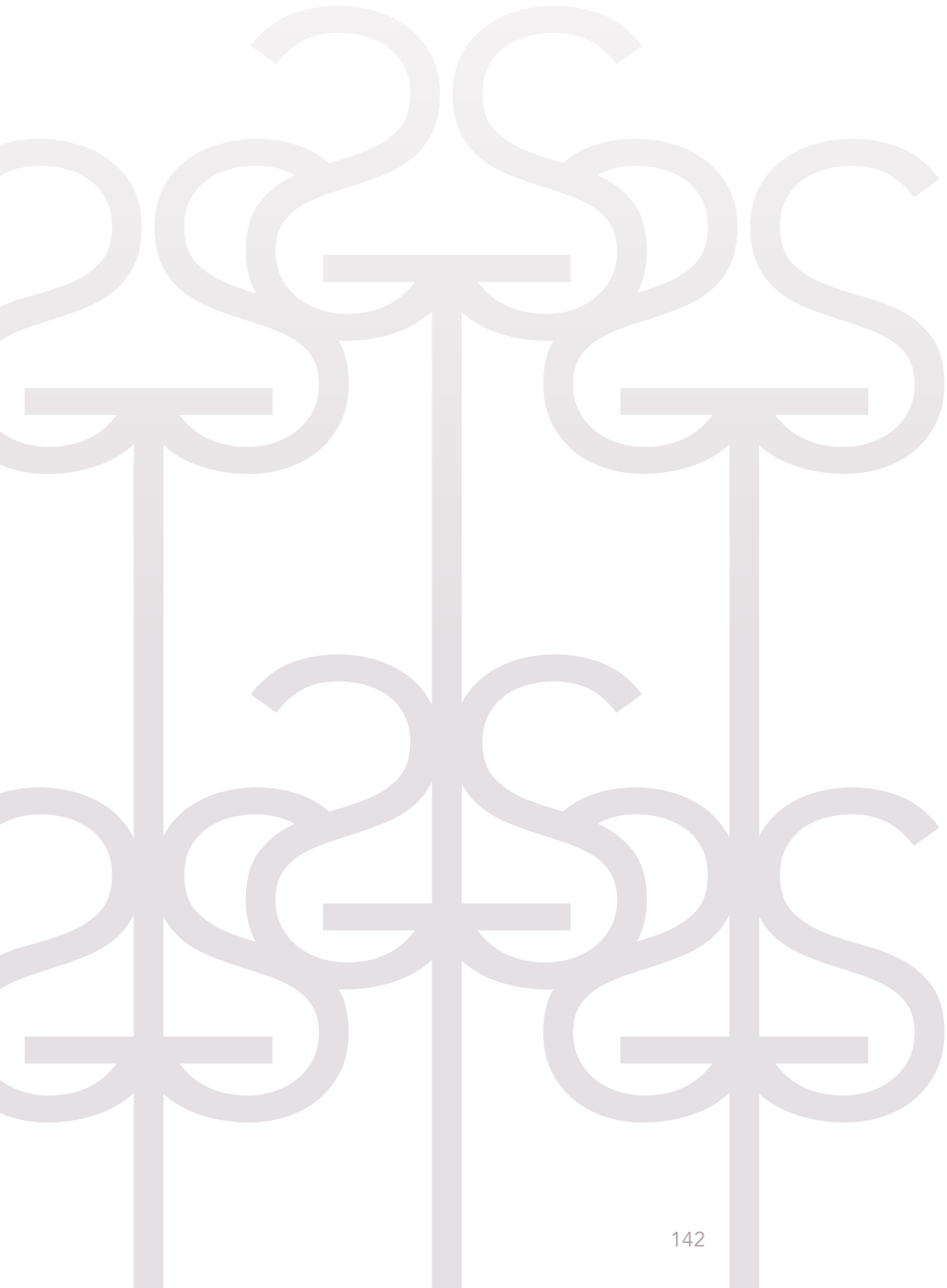
- f) Brief detail on how the strategy related to other policies, including that it incorporates the council's Tree Replacement Policy. They will replace trees on a one-for-one basis, usually within 12 months during the planting season, from a pre-approved species list, with some flexibility on location to *"minimise conflict with surrounding structures"*;
 - g) They will protect trees and their root systems from damage, by vandalism or from highways and utilities works around them, through regular inspection and seeking compensation where damage occurs;
 - h) They will work with councillors, Community Assemblies and community groups to notify residents of upcoming tree works and consult where *"tree removals may have a significant impact on the immediate landscape"*, as well as educating local communities on the *"benefits of urban highway trees"*.
99. Amey produced two subsequent versions of this strategy in November 2014 and November 2015 (revision numbers 6 and 7). As these were operational documents, they were not put into the public domain.

Public information on engineering solutions

683. By autumn 2015, the Council could see pressure building around the tree dispute, including a request for a strategy for street trees. The Save Our Roadside Trees group made this request, and it was also raised during the Highways Trees Advisory Forum meetings in 2015 and at subsequent full Council meetings. Campaigners had gathered a 6,500-signature petition about street trees in Nether Edge which was to be debated at the full Council meeting on 3 February 2016. To support their position in this debate and more widely, the Council created their own version of a Five Year Tree Management Strategy and published it on 2 February 2016 (dated January 2016). We refer to this as the Council's January 2016 version.
684. The newly published Council January 2016 version was mentioned in the debate about the Nether Edge petition, with Councillor Fox saying that *"Amey had a five year tree strategy within the contract. Information which had been part of a confidential document had now been released as public information"*. Later in the debate, he again referred to the strategy, saying that *"Page 12 of the Streets Ahead Five Year Tree Management Strategy stated that other engineering solutions were outside of the scope of the Streets Ahead contract"*. This quote is only found in the Council January 2016 version of the strategy.
685. This reference by Councillor Fox, and the naming of the document published in January 2016, implied that it was part of the series of documents produced annually by Amey. The Council had used Amey's document as the basis for the January 2016 version. However, there were significant differences between it and the previous versions produced by Amey. The Council did not satisfactorily explain the contractual requirement for Amey to produce this strategy, nor did they explain the differences between the Council's January 2016 version and the Amey strategies. Notably, the Council's January 2016 version was given revision number 7, the same as the Amey version in November 2015.

686. Importantly, the Council also added significant new information in the January 2016 version, not found in the Amey versions. This included information on environmental stewardship, as well as:

- ***“The 6 Ds”*** – In the November 2015 version, there was a reference to the Council’s policy that a tree should be replaced if it is “Dead, Dangerous, Dying, Diseased, Damaging or Discriminatory”. In the January 2016 version, more information is added explaining the decision process around this. This builds on the Council’s presentation to the Highway Trees Advisory Forum in July 2015, which also explained the 6 Ds to a public audience.
- ***“Engineering Solutions”*** – The January 2016 version added a new section, which listed engineering solutions that it said would be considered as alternatives to felling street trees. This section was significant to the dispute, so it is explored in more detail below.



687. The section entitled Engineering Solutions in the Council's January 2016 version of the strategy says that:

"As part of our commitment to only removing a street tree as a last resort, whenever a tree is found to be either damaging or discriminatory, we consider a list of engineering solutions to establish whether any of these can be employed to retain the tree in situ.

"Approval to implement any of these options must be sought from the Council.

"These solutions may include:

"Engineering Solutions

- 1. Installation of thinner profile kerbs*
- 2. Excavation of footways for physical root examination prior to an ultimate decision being made on removal*
- 3. Ramping / Re-profiling of footway levels over roots (within acceptable deviation levels).*
- 4. Flexible paving/ surfacing solution*
- 5. Removal of displaced kerbs leaving a gap in the channel*
- 6. Filling in of pavement cracks*

"Alternative solutions

- 7. Root pruning*
- 8. Root Shaving*
- 9. Root Barriers and Root guidance panels*
- 10. Excavation beneath the roots damaging the footway*
- 11. Tree Growth Retardant*
- 12. Creation of larger tree pits around existing trees*
- 13. Heavy tree crown reduction / pollarding to stunt tree growth.*
- 14. Retain dead, dying, dangerous and diseased highway trees for their habitat value*

"Other solutions

- 15. Line markings on the carriageway to delineate where it is not safe to drive or park*
- 16. Building out kerb line into carriageway*
- 17. Footpath Deviation around the tree*
- 18. Installation of a Geo-grid under the footway to reduce reflective cracking*
- 19. Reconstruction of the path using loose fill material rather than a sealed surface*
- 20. Reduce the road width and widen the footways as well as converting them to grass verges*
- 21. Close a road to traffic*
- 22. Change to contract specification to leave the footways as they are without carrying out any repairs and removing trip hazards*
- 23. Abandonment of the existing footway in favour of construction of a new footway elsewhere*
- 24. Permanent closure of footways to pedestrians. Dig up and replace as grass verges.*
- 25. Seeking the views of residents about removal where that is considered by the Council to be the only option and getting the residents to sign a legal agreement regarding accepting liabilities."*

688. The Amey versions of the strategy do not contain this section, neither do they include the list of engineering solutions or the commitment to consider them on each occasion they identify a damaging or discriminatory tree.
689. The earliest version of this list that the Inquiry has seen is in a document titled Streets Ahead Engineering Options, created by a Council communications official on 15 July 2015. This was drafted as part of the preparation for the Highways Trees Advisory Forum (HTAF) which met for the first time later that month.
690. While this list is often referred to as Engineering Solutions or Engineering Options, the first subtitle is also Engineering Solutions, covering options 1-6. Options 7-14 are labelled Alternative Solutions and are arboricultural options, rather than engineering. The remaining options, under Other Solutions, contain some with engineering elements (e.g. option 18) but others relate to highways planning and use. The mix of options in this list is better described as alternatives to felling or alternative solutions.
691. A Council highways officer told the Inquiry that this list was based on suggestions from the public of the options the Council should consider instead of felling. The officer asserted that senior managers in the highways team took these suggestions, turning them into a list of alternative solutions that the Council could then show as being considered.
692. The HTAF had their first meeting on 23 July 2015 (see **Chapter 3.4**). It was not until the second meeting on 2 September 2015 that there was substantive discussion of engineering solutions. At the meeting, the Council's Head of Highways, Steve Robinson, gave a presentation titled Engineering Solutions. This is the first evidence of the list of alternative solutions to tree replacement being talked about publicly. It gave the same list of options as the document created by a communications official beforehand. The Five Year Tree Management Strategy produced in January 2016 uses the same options, with minor differences in subtitles and order.
693. The Council led on preparation of their new version of the Five Year Tree Management Strategy in January 2016, then consulted Amey about the content. On 22 January 2016, a commercial officer in the Council sent Amey a version of the document for comment, saying:
- "Please find attached the original Street Tree Management Plan submitted to the Authority by Amey and the Authority's revised version which we have nearly finalised. The original plan was amended to ensure that all information relating to how street trees in Sheffield are managed is in the public domain to try and mitigate the risk of a flurry of questions from Sheffield residents and tree campaigners when the document is published."*
694. In their response, Amey expressed reservations about it being released as their document when the Council had amended it. They asked that six of the options be removed from the list, as they were either not suitable or not allowable in the contract, or more broadly in the UK highways sector. The document was rebranded as Streets Ahead, rather than an Amey produced document, but the options from the list were not removed.

Use of the Council's version of the strategy

695. On 4 November 2015, the Council announced the Independent Tree Panel (ITP) (see **Chapter 3.4**). The Panel used the list of engineering solutions. They referenced the Council's January 2016 version of the Five Year Tree Management Strategy in standard text in each advice letter to the Council:

"We have referred to the engineering solutions, as presented to the Highway Tree Advisory Forum on 2 September [2015] which are referred to in section 3.2 of the Streets Ahead Five Year Management Strategy 2012 – 2017 dated January 2016."

696. On 4 February 2016, campaigners launched a judicial review of the Council's decision to continue removing trees. When this judicial review was heard in court, on 22-23 March 2016, the Council's January 2016 version of the Five Year Tree Management Strategy (the only published version at this time) was included in the protesters' evidence.
697. While the Council did not bring the document as evidence themselves, they did refer to it when responding to campaigners' arguments. In the second witness statement of David Caulfield, Director of Place at the time, paragraph 31 includes reference to *"a Five Year Highway Tree Management Strategy which is produced by Amey"*. Later, in paragraph 53, the statement again refers to the Streets Ahead Highway Tree Strategy. In the statement, David Caulfield does not explain these different titles or explain the relationship or differences between the strategy documents produced by Amey and the Streets Ahead version produced by the Council in January 2016.
698. It is clear from the judgement that Mr Justice Gilbart understood the Council's January 2016 version put to him in the campaigners' evidence to be an accurate representation of Council policy. He goes on to quote extensively from it, including the sections on "The 6 Ds" and engineering solutions.
699. Amey were concerned about the ways the list of engineering solutions was being used, particularly by the ITP. They gave the Inquiry a paper that was presented to the ITP in the fourth quarter of 2016. This paper included the same list of alternative solutions included in the Five Year Tree Management Strategy, explaining which of them could and would be considered as part of the programme. It gave more detail than in the comments given before publication, though the paper was consistent with those previous comments. This paper again explains that the list of 25 alternative solutions was not an accurate representation of their contract.
700. Amey made it clear there were some options that could not or would not ever be used (options 11, 13, 14, 15, 19, 22) and that a further option (2) was not a solution but an investigation to consider other solutions. The paper also explained that some of the listed solutions would potentially breach safety regulations. Option 11, tree growth retardant, was *"not currently used in the UK highway tree management sector"* as it is potentially hazardous in a way that would breach EU safety directives. For option 15, alternative line markings on the highway, the paper says that *"National Legislation (TSRGD) prevents the Council from using non-standard markings to delineate where it would not be safe to drive on the road"*.
701. All of the engineering solutions (1-6), as well as options 7 and 8, were described by Amey as being only short-term solutions. The commentary on many of the subsequent options in the list gave situations where each solution was not appropriate. In many cases, these situations were so common and/or comprehensive that it seems unlikely they would be used often, if at all (9, 10, 16, 17, 18, 20, 21, 23, 24, 25).
702. Amey's commentary primarily focuses on the limitations of each option and situations where they could not be used. There were very few options that Amey say they used regularly (only 6 and 12).

703. This paper given to the ITP is inconsistent with the Council's previous, public position on alternative solutions. It shows that not all of the solutions were considered and that some would never be used. This paper was given to the ITP after they had given advice on key roads, including Rustlings Road. They had made a significant number of recommendations based on the incorrect position they had understood from the Council's January 2016 version of the Five Year Tree Management Strategy.
704. Combined with the comments from Amey before publication (in January 2016), the Inquiry considers that at least some Council officers were aware that the list of engineering solutions in the January 2016 version of the document was inaccurate.
705. In November 2016, Amey produced a further version in their series of Five Year Tree Management Strategies. As noted above, this was given revision number 8 and did not reference the January 2016 version. Amey continued their series of documents separately to the Council's version.
706. In January and February 2017, protesters submitted various Freedom of Information (FOI) requests to the Council, asking them to release versions 1 to 6 of the strategy (the Amey versions). On 16 February, the Council responded to one of these FOI requests with a formal refusal to disclose information notice, with reasons given under the FOI Act 2000. The Council stated that the information in the strategy was commercially sensitive, so they had ***"decided to refuse to provide the individual versions of the SCC 5 Year Tree Strategy"***.
707. One campaigner asked to appeal the decision. The Council did an internal review between February and June 2017, ultimately deciding to maintain their original position. The campaigner then referred the case to the Information Commissioner for an independent review on 23 June 2017.
708. In June 2017, the street trees dispute resulted in further court proceedings, as the Council formally began seeking an injunction against protesters. This case was heard in court from 26 to 28 July 2017. As in the previous proceedings, the Council did not include the strategy document in their evidence submission to the court, though they did refer to the judgement given by Mr Justice Gilbert from the judicial review, which included discussion of the strategy and the list of engineering solutions it contained.
709. The witness statement prepared for Paul Billington, Director of Place, set out the basis of the Council's case in these proceedings. In this statement, he does not refer to the strategy document, though he references engineering solutions:

"For the avoidance of doubt, the vast majority of street trees in Sheffield are being retained (30,000 out of 36,000). This has been achieved by engineering solutions such as minor ramping, excavating around roots and minor changes to kerb lines. These have been used extensively across the highway network at the direction of the Council in accordance with the terms of the PFI. In some further cases it may, in theory, be possible for the Council to pursue bespoke engineering solutions to retain other trees. The Council has, however, rejected these other methods as being not possible, not practicable and/or too expensive."

710. This is not in itself contradictory with the advice given by Amey. However, based on the evidence provided to him, the judge (this time Mr Justice Males) again understood the Council's January 2016 version of the strategy to be an accurate representation of the Council's policy and also quoted from it extensively in his judgement. In particular, in paragraph 29 of his judgement, Mr Justice Males replicated the list of the first 14 engineering solutions from the strategy document, then concluded that:

"Where a tree can be saved using one or other of these solutions, either the tree will not be identified for removal in the first place or, if it is, the council is in a position (and according to Mr Billington's evidence has been willing) to accept a recommendation by the ITP that the tree should not be felled and to insist that the solution in question should be adopted."

Information Commissioner's view

711. While these court proceedings were under way, the Information Commissioner's Office undertook their review of the decision not to release versions 1-6 of the strategy. During this process, on 13 October 2017, the Council emailed the campaigner who had asked for the review, to change their reason for not releasing the strategy documents. They said that *"the handling of your request was incorrect"*, explaining that *"the exemptions were applied erroneously (i.e. they based their application on the hypothetical position that we held the relevant information)"*, when in fact, *"it has become clear that Sheffield City Council does not hold a copy of the earlier tree surveys (Versions 1 to 6)"*. This was now the official reason that the Council declined to release the documents as requested.
712. Amey made a further version in their series of Five Year Tree Management Strategies (revision number 9) in November 2017.
713. On 4 December 2017, the Information Commissioner's Office published a decision notice, finding that *"The Commissioner considers that the Council was correct to confirm that it does not hold the requested information under section 1(1)(a) FOIA"*. This did not stop campaigners submitting further FOI requests related to the strategy. Later in December 2017, they asked the Council questions about their document retention policies related to the strategies.
714. Later, the Council did locate versions 1-6 of the strategy and released them to the public. On 16 July 2018, the Council wrote to the protester who requested the internal and Information Commissioner reviews, notifying them that the previous versions had now been published online.
715. Publishing Amey's versions 1-6 of the strategies led the protesters to identify the differences in content between the various versions of the document. In response to an FOI request about this in 2018, the Council said that the January 2016 version:

"...was prepared by Sheffield City Council. In order to aid public understanding of the documents submitted under the Streets Ahead contract, a simpler, more accessible version of the 2016 Five Year Tree Management Strategy document was produced and published on the Council's website."

716. If the Council's January 2016 version was amended to make it easier for laypeople to understand, that may explain some of the additional content. However, it does not provide a satisfactory explanation for all of the differences between versions. It does not explain why the document numbering is inconsistent, nor does it account for the addition of a list of engineering solutions that the Council knew were not part of the Streets Ahead contract. It also does not say, anywhere in the document, that it is a simplified version.

A change in the public position?

717. The Council continued to say publicly that they considered all the listed engineering options for each damaging or discriminatory tree into 2018. After mediated talks had taken place between the Council and protesters, the Council drafted a position statement in December 2018, which they discussed with the STAG steering group. In this, they said that:

"The Council released a public version of the '5 Year Tree Management Strategy' in 2016 to reflect growing interest in the work. STAG SG maintain that this document did not reflect the process in use by the Council at that time when making decisions about whether or not to fell and replant a tree. Specifically, STAG SG maintain that not all of the engineering solutions described in that document were actually available to be used.

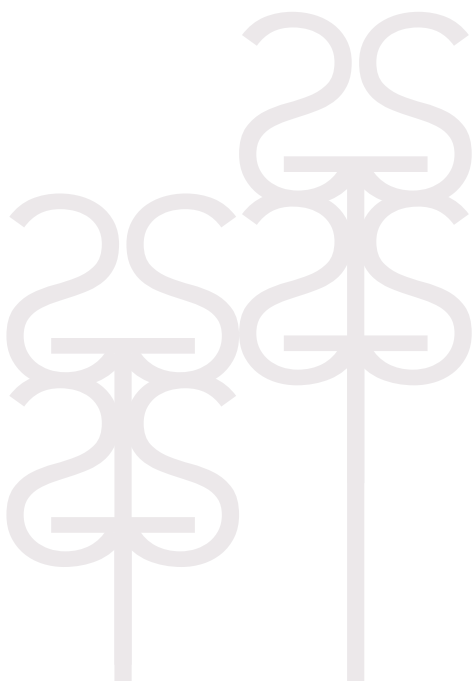
"The Council does not agree with STAG SG's assessment of the '5 Year Tree Management Strategy'. The Council's position is that all engineering solutions are considered but in practice, only some of the solutions have actually been used to date. This is because an assessment is made in each individual case of whether a solution is practicable, desirable and economic."

718. However, in 2019, this position changed. As discussions to end the dispute continued, STAG, Amey and Council officials conducted joint tree inspections. Following these inspections, they collectively agreed a paper called Review of Tree Investigations – Lessons Learned & Actions, published online on 30 August 2019. This document sets out that:

"The Engineering Solutions that were published by the Council were discussed. It was confirmed that these are not specified in the contract (and some would not be allowed or considered) and that these were suggestions that came from public consultations and are not part of the Streets Ahead programme..."

"...It was noted that the published Engineering Solutions state that leaving a gap in the kerb is considered. This solution was one proposed by the public as mentioned in 2.3 and is not included in the Streets Ahead contract specification or performance requirements."

719. This is a similar position to that articulated by Amey, to the ITP, in late 2016. This is further evidence that there was a consistent, known position internally within the Council and Amey from before the publication of the January 2016 version of the strategy, that the list of engineering solutions was not an accurate representation of policy. This is inconsistent with the position published and spoken about publicly by the Council repeatedly from 2016 until this Lessons Learned publication in 2019.



720. The Local Government Ombudsman included analysis of this issue in their report published in September 2020, responding to a complaint brought by a resident of Rustlings Road who they refer to as "Mr G". Based on their assessment, they found that:

"The Council chose to make public a version of the five year tree strategy that did not follow earlier versions of that policy and did not reflect its policy in practice. We note the published document referred to assessments following the 'six D's' criteria, even though this never formed part of the strategy previously and was not part of its contract with Amey. However, we consider that reasonable, accepting the 'six D's' formulation is a useful way of summarising the grounds for which any highway authority may wish to remove a tree. Use of this terminology did not fundamentally undermine this document.

"But what we find unacceptable was the Council's decision to describe its strategy as requiring Amey to follow the 14 engineering and other solutions listed in the document if a tree was found 'damaging' or 'discriminatory'. These were never part of its contract or those other versions of the tree strategy the contractor had worked to. The Council's December 2019 review acknowledges its contractor would never use some of the 'solutions' referred to. But the Council did not explain this in either its public communications or in its correspondence with Mr G...

"The published version of the strategy also formed the basis of the instructions given to the ITP. The Council therefore embarked on a process of consultation and independent review that referred to a strategy containing elements that it had never followed and never intended to.

"We see a recurring pattern therefore of the Council failing to be open and transparent in decisions taken under its Streets Ahead policy... [Including] producing a policy document for public consumption that did not reflect its actual working practices or contract.

"Transparency goes to the heart of trust in decision making. It is at the heart of good administration. We consider one of the root causes of the significant loss of trust the Council suffered in carrying out its Streets Ahead policy, felt by Mr G and many others, lies in its lack of transparency, openness and on occasion, honesty."

721. These documents, in particular the Council's January 2016 version, have caused a significant amount of confusion, due to their inconsistencies, inaccurate content and the lack of transparency surrounding them.
722. The effect of creating and publishing the January 2016 version of this document, giving this inaccurate impression of policy, was that three groups or institutions were misled: the public, the Independent Tree Panel and the courts.

Misleading the public

723. The impression given to the public, by the January 2016 version of the strategy and the Council's presentation of it, was that the document was part of the series of documents produced by Amey, and that the list of engineering solutions was in regular use by Streets Ahead engineers.
724. The Council could see that this was the impression they had created and did not correct this. The comments provided by Amey in January 2016 before publication and the paper Amey provided to the ITP later that year, both demonstrate that the Council had known that the section on engineering solutions was not an accurate representation of the Streets Ahead programme.
725. Amey also knew that the understanding given to the public was inaccurate. While they sought to rectify this in private with the Council and the ITP, they also did not correct this inaccuracy in public until 2019.

726. The Inquiry has heard some complaints and queries about the process of responding to FOI requests and releasing the Amey versions 1-6 of the strategy. At the time the Council were receiving these requests, and while their decision was reviewed, they were receiving a very high volume of FOI requests and were struggling to keep up. As observed elsewhere by the Inquiry, the Council's information management systems are not always at a high enough standard. They were reviewed by Bevan Brittan LLP in 2022 (See **Chapter 4.5**).
727. Over two years after publishing their January 2016 version, following the publication of the Amey versions 1-6, the Council described the January 2016 version of the strategy as a "*simplified version*" for public consumption. As this was also not an accurate explanation of the document, it did not satisfy campaigners or resolve the confusion caused.

Misleading the Independent Tree Panel

728. The Independent Tree Panel and their use of the Five Year Tree Management Strategy is covered in more detail in **Chapter 4.2**.
729. The ITP made it clear that they understood the January 2016 version of the strategy to be an accurate account of Council policy, specifically referencing their advice to the published list of engineering solutions. They assumed that, if they recommended the first 14 of these solutions, the Council and Amey would actively consider implementing them. This set a flawed basis for the Panel from the outset, setting the ITP up with expectations they could not then meet and making it very difficult for the Council to follow their recommendations.
730. If the January 2016 version of the strategy was indeed "*simplified*", then the Council could have at least taken steps to correct this understanding for the ITP. This did not happen. Amey did, in contrast, make efforts to correct the ITP's knowledge of the available options.
731. This may be because different officers in the Council were responsible for producing the January 2016 strategy and establishing the ITP. We know that the setting up of the ITP was predominantly led by the Council's communications team, though the highways team were involved.
732. None the less, the publication of the January 2016 version of the strategy caused the ITP to be misled, wasting their time and adding to the erosion of public trust.

Misleading the court

733. The possibility of misleading the court is a serious matter and so the Inquiry asked its legal advisors, Weightmans, for advice.
734. The January 2016 version of the strategy was directly referenced in two sets of High Court proceedings, including discussion of the list of engineering solutions in both judgements. In both the judicial review proceedings (heard 22 to 23 March 2016) and the injunction proceedings (heard 26 to 28 July 2017), the presiding judge understood the January 2016 version of the Five Year Tree Management Strategy to be an accurate account of the Council's policy. It was not.
735. A court can be misled in two key ways:
- a) Actively creating false evidence in the form of fake documents or being untruthful in witness evidence;
 - b) Passively allowing the court to rely on something that is known to be false and not correcting the record.
736. The series of events set out above does not support the former. The document was produced before the debate on street trees in Nether Edge in February 2016, before judicial review proceedings were filed. For the latter, the Inquiry does not have evidence the court was knowingly misled. However, the events described above show that the court was misled on both occasions.

737. While the Council did not bring the strategy to the court as evidence themselves, they did not correct the record where it was given a false impression. In the judicial review proceedings, they did not clearly explain the nature of the document or the relationship between different versions. In the injunction hearings, they brought evidence relating to engineering solutions and relied on the judgement from the judicial review, without correcting the view taken on the Strategy in the judicial review.
738. This also happened despite the Council as an organisation knowing that the position represented in the strategy was misleading. It is an important legal principle that the corporate knowledge of an organisation extends to the total knowledge held by each individual employee. If an employee knows something, then their employer does, too. When multiple employees each know part of the position, the employer is deemed to have their collective knowledge and to understand the whole position. The Council (as an entity, represented in both cases) knew that the strategy was misleading.
739. The legal advice given to the Inquiry is, however, that even if the court had known that elements of the strategy were false, it would not have led to a different outcome in either set of court proceedings. While the document was referred to in each case, each judgement was reached comprehensively, based on aspects of the law that are not touched on by the strategy.
740. The judicial review brought by David Dillner, and other campaigners, was a defeat on all fronts. Mr Justice Gilbert found that the decision challenged was not a suitable basis for judicial review, saying that “...*the attempt to use the resolution of 3rd February 2015 as the vehicle for advancing these various grounds is misconceived*”. He also found that the conditions necessary for a consultation to be required had not been met and, importantly, that when advancing the grounds for their challenge, the campaigners had not considered the underlying powers and duties of a highways authority under the Highways Act 1980. This meant that the grounds for their challenge were also, in his view “*misconceived*”. The content of the strategy did not have any bearing on these points.
741. Despite all that appears in the judgement given by Mr Justice Males in the injunction proceedings, the case was ultimately decided as a matter of trespass within the safety zone, following the erection of barriers. Debate around freedom to protest was the only way this could have been challenged. The Strategy had no bearing on either of these points. It is irrelevant to the tort of trespass and did not feature in the judge’s determination of whether the Council was justified in restricting the protestors from protesting inside a safety zone. The Strategy was only background information in this case.
742. While it did not affect the outcome in either case, it is still a serious matter that the court was misled.
743. In private meetings, the Inquiry has heard concerns from campaigners that this amounted to perjury, or that the Council’s professional advisors were dishonest or reckless in what they put before the court.
744. Perjury is committed by an individual who knowingly presents false evidence. Witnesses are only required to give the evidence that they believe to be true. While the Council as an organisation collectively knew it to be false, the Inquiry has seen no evidence that suggests that any of the individuals giving witness statements in either case believed the Strategy to be false.
745. Likewise, we have not seen evidence of recklessness in the case preparation, or evidence that an individual lawyer knew the Strategy was false. At the time of the judicial review, the Strategy was understandably recognised as a new and current policy document. At the time of the injunction, it was still the only published version (although internally it had been superseded by a subsequent Amej version). We have seen no evidence to indicate that individuals involved were aware of the errors brought into the case by this document and allowed them to pass.
746. The fact that this cannot be attributed to an individual should not take away from the gravity of the court being misled by a document produced by the Council.

Inquiry observations on the Five Year Tree Management Strategy controversy

747. The anomalous January 2016 version of the Five Year Tree Management Strategy was one of the issues most commonly raised with the Inquiry, eliciting some of the strongest feelings.
748. The development and publication of this version of the Strategy, by the Council, caused a significant amount of confusion. The Council's public statements about this document, and its content, compounded this confusion. Although they could see this was the case, the Council took no steps to correct the record for over three years.
749. The January 2016 Council version of the Strategy was misleading because:
- a) It was presented as part of the series of documents produced and updated by Amey, when this document was adapted from one version of an Amey document by Council officers, then cleared and published by Council officers, without accepting amendments requested by Amey;
 - b) The requirement for Amey to produce these strategies and the relationship between the Amey and Council versions were never adequately explained;
 - c) It added a section on engineering solutions that was not an accurate representation of Council policy or practice in the Streets Ahead programme.
750. It is clear from the volume of evidence submitted on this topic that the confusion created around this issue is still felt today, and that it is still negatively impacting on trust between the Council and some citizens of Sheffield.
751. The inaccuracies in this document, and the lack of transparency around it, caused the ITP to be misled. It also caused the courts to be misled on two occasions. The Council failed to correct inaccuracies in the evidence before the courts. While there is not sufficient evidence to show that perjury was committed, this is still a serious matter for the Council.
752. When investigating this issue, the LGO also found in the Council a ***"lack of transparency, openness and on occasion, honesty"***. The findings of the analysis conducted by the Inquiry align with this.
753. Better policymaking in the Council when developing the January 2016 version of the strategy, combined with more robust clearance processes from senior officers, could have averted this problem. Similarly, more transparency and a willingness to correct the misleading impression given could have resolved this issue sooner and restored some trust.
754. Neither of these things happened. On this occasion, the Council were neither transparent, nor honest. This is unacceptable for a public body and it had a significant detrimental impact on the dispute.

Chapter 4.3: The role of the police

POLICING DATA

The police told the Inquiry that they first attended a street tree protest on 8 June 2016. Up to 26 March 2018, they attended 40 street tree protests (noting that, given the breadth of incident class and recording, this number is in all probabilities lower than the true total of incidents relating to these events).

41 arrests were made on 21 occasions. The arrests were made under either the Trade Union and Labour Relations Act 1992, s303 Highways Act 1980, or S4/S5 Public Order Act, following allegations of assault and following allegations of damage of property as well as witness intimidation and racially aggravated public order. There were arrests for S39, S47 and S20 assaults (all different offences relating to assaults).

Of the 41 arrests made, the police provided outcome data on 23. This shows that on 11 occasions the complainant was from Servoca or Amey, on 11 from a protester and on 1 occasion from the police.

Of these, on more than half of occasions, no further action was taken. One prosecution resulted in a fine and 12-month conditional discharge. There was also one penalty notice for disorder, one caution and one requirement for restorative justice. There was one out-of-court disposal.

On several occasions, the matter was referred to the Crown Prosecution Service (CPS) and no further action was taken or action was discontinued by the CPS. On one occasion, a crime was filed followed by no further action.

Police approach to the dispute

755. Police and local councils routinely work together to discharge their responsibilities towards their communities. The Council and South Yorkshire Police communicated about the emerging street tree dispute and the police's Protest Liaison Team was in touch with Sheffield Tree Action Groups from 2015. In the early stages, this was routine liaison: a light-touch, reactive monitoring approach.
756. Police and Crime Commissioner Dr Alan Billings told a public hearing with the Inquiry that:

"Police in the UK have a legal duty not to prevent the exercise of rights under the European Convention of Human Rights (ECHR). Articles 10 and 11 give the right of freedom of expression and the right of assembly. Together these Articles protect UK citizens' right to protest and to express views publicly which are in opposition to policies pursued by the authorities. It is important to underline that nobody is challenging the right to exercise those rights in Sheffield, least of all SYP...."

"...Thus, the role of the police is to impartially keep the peace and uphold the law against the backdrop of balancing these human rights. It is often a difficult task which is dynamic in nature as live events unfold."

757. The police told the Inquiry that there were two police operational plans in use during their engagement in the tree protests: Operation Testate from October 2015 to February 2018 and Operation Quito from 23 February to 26 March 2018. Operational plans set the policies and guidelines for police activities around a particular matter, which may be ongoing and dynamic. They are regularly updated throughout the period to which they apply.

758. These operational plans centre around the core policing responsibilities to protect life and property, preserve order and prevent the commission of offences. Both plans focus on the rights of the protesters to protest peacefully and Amey's and the Council's right to carry out their work. They also acknowledge the general rights of the wider public and functioning of the city.
759. Operation Testate predicts a low likelihood of disorder, damage, injury or violence, a medium to high level of disruption for the protesters, Amey and council workers and a low to medium level of disruption for residents. The plan sets out the legislation which would underpin police intervention including up to arrest, but its emphasis is on monitoring and proportionality. The tree replacement programme was explained as a maintenance operation led by the Council and Amey around which there had already been planned and sustained protests. It was not a police operation.
760. In the versions of Operation Testate seen by the Inquiry, the introduction states that the Council's legal team told the police that the Council had attempted to work with the protesters and residents. But the trees due for replacement were in an unsafe condition so the work must go ahead. From the police perspective, the Council had confirmed that alternative options for managing the operation were not possible.
761. The Operation Testate documents explain the aim to develop a statement of intent for the operation with the Council, to define their responsibilities for public safety and security as well as media liaison, and the police's responsibility for crime and disorder. The Council was responsible for the safe working environment with Amey and the safe protesting area for the protesters, leaving the police to *"respond to any dynamic threat/risk which engage our core principles"*.
762. Operation Testate, and later Quito, state that the police would usually operate on a no-surprises basis and conduct prior negotiations with the protesters. However, they state that the Council asked them to maintain confidentiality of the plans, including the operation on Rustlings Road. The police note that this requirement, made by the Council to secure a safe working environment, contravenes the normal policing approach and could raise tensions between the police, Council, Amey and the protesters once the protesters became aware.
763. Operation Testate was in place during the operation on Rustlings Road (**Chapter 3.5**). From 2 November 2016, the Police and Crime Commissioner began to be contacted about the street trees dispute. Following Rustlings Road, he received a briefing from the police. This clarified inaccuracies in a Council media statement which said that the work had been done early in the morning on the advice of the police. Dr Billings told the media that decisions were taken by the Council and Amey. He later confirmed this to the Inquiry:
- "The decision to fell trees was taken by SCC. The police can offer advice, but decisions around timing and the closure of roads are likewise matters for the City Council. The only role of the police is to ensure that law and order is upheld and the public are protected, which is an operational decision for the Chief Constable. My role is to hold him to account for any decisions he takes..."*
- "In brief, at the time, my view was that SYP should not have been put in a position where they could be drawn into SCC's tree felling programme carried out by Amey and appear to be part of it. I did not want this to be the case again."*
764. From November 2016, the police made a number of arrests under Trade Union and Labour Relationships Act legislation. The first of these was on Marden Road on 2 November 2016 followed by arrests on Rustlings Road later that month. Six people were arrested, including then Councillor Alison Teal, under this legislation in February 2017. The use of this legislation for arrests ceased later that month.

765. In February 2017, charges against the two men first arrested were dropped with the CPS saying the case was *“not in the public interest”*. The Crown Prosecution Service followed this up with an announcement on 2 March 2017 that there was *“insufficient evidence for a realistic prospect of conviction”* so none of the six arrested in February 2017 would be prosecuted. The fourteen people arrested under the TULRA announced legal action against South Yorkshire Police to challenge the legality of the arrests.

766. In March 2017, in a media statement, Dr Billings said:

“I have discussed repeatedly with the Chief Constable and senior officers, the use of the trade union legislation.

“All now accept the Crown Prosecution Service’s decision not to prosecute. But more importantly, the police should not be put in a position where they risk eroding the community’s trust and confidence in them and where they are repeatedly having to commit resources that would be better spent fighting crime.

“This week I held a joint meeting with the police and the council and the council assured me that they are happy to continue to meet the protest leaders.”

767. Later, compensation was paid in relation to these Trade Union and Labour Relations Act legislation arrests. The Council disagreed with the police ceasing arrests under this legislation and sought to put pressure on the police, as covered in **Chapter 4.1**.

768. Dr Billings said at his public hearing with the Inquiry that, in March 2017, he went to meet the Leader of the Council, Julie Dore, cabinet members and Council Chief Executive, John Mothersole, as well as representatives from the police and his office:

“Because I feared: a) SCC and SYP had misunderstood what each was currently working on re: the protests and the law; and b) SYP were being drawn into what was essentially a political issue involving SCC and residents that should be resolved politically.”

769. The injunction granted to the Council in August 2017 was a civil injunction not subject to enforcement by the police.

770. Following less involvement, from autumn 2017, the police were more frequently called to attend protests – sometimes by protesters, sometimes by staff working for or subcontracted by Amey.

771. On 8 December 2017, legal firm CMS wrote to the police on behalf of Amey. The letter set out their arguments for a greater police presence and stronger action at protests and said that *“we consider that it would be unlawful for SYP to fail to take action”*.

772. The letter draws out the implications, in Amey’s and CMS’s view, of the injunction and how it interacts with criminal law and the worsening situation on the streets: *“The position now is that protestors are carrying out wilful breaches of the injunction on a daily basis, as they believe that their actions will not face any sanction from SYP”*. Specifically, they mention intimidation from masked protesters, moving, climbing over and lifting safety barriers and aggressive behaviour including charging the barriers. They list actions that they consider to be criminal offences and ask *“SYP to confirm that the action proposed above is agreed by SYP in both principle and in respect of the practical steps suggested for removal of a protestor”*.

773. Later, the letter expresses disappointment in the police response:

"Amey understands that SYP have been instructed by the South Yorkshire Police and Crime Commissioner not to arrest or prosecute anyone engaging in peaceful direct action until the Council had exhausted all of its civil remedies. In any case, and whether or not that is right, SYP has in practice taken no action in respect of unlawful action by protestors."

774. The letter concludes with a list of actions Amey and CMS wish the police to take and asks for confirmation that they will do so by 4pm on 13 December 2017 (three working days later).

775. At a public hearing with the Inquiry, the now Managing Director for Transport Infrastructure at Amey, Peter Anderson, was asked about this letter. He said that the letter aimed to understand the police view of Amey's actions and to make a plea to the police to support Amey and the Council to uphold the law and progress with the tree work. He said that the letter was written following pressure put on Amey by the Council. In response to a question about the assertion in the letter that Amey believed the police to be acting unlawfully, he said:

"...I don't think it would be a normal letter for Amey to write to any police force under any circumstances. I would say it's an unusual letter having read it, the tone of it is unusual for Amey but I think it was just a demonstration of the tremendous pressure that I think the Amey team felt that they were under at the time."

776. The police replied, explaining clearly that the police could not give Amey legal advice, that arrests are a matter for the police and charging for the CPS and that they will deal with disorder on a case-by-case basis. As with the letter from the Council to the police around the use of Trade Union and Labour Relations Act legislation, the police rebuffed the pressure Amey were seeking to put on them. As they summarised at the end of their response:

"It is disappointing that you allege that SYP are failing in its duty to protect and enforce the rule of law, that SYP are not adequately protecting AMEY leaving them to rely upon civil remedies. We find that position unhelpful and not in the spirit of partnership working, SYP have spent considerable time and resources concerning the policing operation for the tree protests. SYP will maintain its best endeavours to deal with the difficult issues that arise from the protests as we are sure your client [Amey] will also continue to review and evaluate their own actions, utilising every practical option available to them to prevent the protests from disrupting the tree-felling programme."

777. Tensions rose into early 2018. From 16 January 2018, Amey began to attend roads with Servoca Security Industry Authority registered security guards.

778. On 22 January 2018, police attended protests on Meersbrook Park Road. The Inquiry asked the police to provide information on the number and rank of police deployed on that day. The police replied that:

"The issues that occurred on 22/01 were spontaneous. As a result, staffing was provided to this incident from "available resources" at that time across the force. There was no formal nominal roll produced therefore this number cannot be provided with certainty from the research conducted. Recorded information indicates a number of officers formed a 'serial' to attend the incident, but, no formal record was made of who this consisted of given the nature of the incident occurring."

779. Several assaults were reported on this day. The police confirmed that:

"There were 9 offences reported. Arrests: 0 on the day however 1 made after further enquiries for both S20 and S47 assaults."

780. A pause to the tree replacement programme followed on 26 January 2018, during which the police began to prepare Operation Quito. The Inquiry has seen versions of Operation Quito. Comparisons make clear that it did mature in the usual way with changes based on operational need, but the substance of the plan was relatively stable.

781. The introductory pages to Operation Quito acknowledge that there had been inconsistencies in the police approach. It notes that, while there had been arrests, none had proceeded to conviction by the CPS – a fact picked up in the media. Following a summary of the current risk level the plan says:

“The current tree felling operation has attracted media interest, which has the potential to increase the involvement of activist groups from outside Sheffield. The local protestors and residents that are against the tree felling programme believe that their actions are legitimate. The introduction of a civil injunction by Sheffield City Council creating a ‘Tree Safety Zone’ has done little to dissuade protest activity. Amey have employed a security company to remove protesters from the ‘Tree Safety Zone’ if necessary by force derived from Section 303 Highways Act and Section 3 Criminal Law Act. This action has frustrated and angered protesters resulting in increased tensions.

“Following the incident of Meersbrook Park Road 22nd January 2018, it is clear that the protesters believe the actions of the security company are unlawful and the perceived actions of the Police not to interfere and prevent criminal assaults resulted in disorder.”

782. The risk section concludes by saying:

“Assessment based on the Disorder Model, considers the affected protesters and some communities’ during the tree felling operations. At times, this will fluctuate between a State of Tension and Disorder, as seen on the 22nd January 2018. The majority of the public do not support the STAG campaign and community tension is at expected levels of normality. The actions of a minority of people are increasing tensions during the operation.”

783. Operation Quito includes the details of the tactics approved and resourced by the Gold commander (the top of the operation’s hierarchy) based on the assessment of threat, harm and risk presented in the operational plan. These emphasise de-escalation, avoiding arrest and responding proportionately. It also sets out the methods of communication, use of police liaison officers, links to safeguarding teams and evidence gathering including use of an overt CCTV van to deliver a live record to the Silver command.

784. Operation Quito came into effect on 23 February 2018 and brought more police onto the streets.

785. From January 2018, Dr Billings began to receive more correspondence on the dispute, including from Councillor Joe Otten of the Police and Crime Panel. The dispute was discussed at the February 2018 meeting of that Panel. Dr Billings also met protester groups.

786. Assistant Chief Constable David Hartley's public statement on 23 February 2018 said that the police had previously (under Operation Testate) adopted a low-key presence with officers only responding where incidents required intervention, such as where disorder and violence had resulted in injury. However:

"[...] what we saw on Meersbrook Park Road, which led to the pause in work, was a definite change in behaviour and atmosphere – we saw disorder and violence, resulting in a number of injuries.

"Our main priority is to keep everyone involved safe; this includes protestors, SCC and Amey staff, residents, media at the sites and our own staff. Our primary role is to balance the rights of those who wish to exercise their lawful right to protest and Sheffield City Council's contractors, who need to carry out their lawful work.

"To achieve this we will now have further resources available and have the ability to move to a different policing style if needed. I absolutely work to the principles of 'no surprises' and maintain our approach of meeting all parties involved to explain our role and thresholds for action.

"My hope is we return to the peaceful balance seen before Meersbrook Park Road, however, if disorder or criminality is encountered, it will be dealt with promptly and proportionately."

787. On 7 March 2018, the police removed a protester from under a cherry picker. They wore so-called NATO helmets (changing from their standard uniform) for their own protection as the vehicle had to be winched off the ground using hydraulic equipment – the protester was offered a hard hat but declined. This led to questions about the proportionality of the police presence. Liberal Democrat peer Lord Scriven wrote to the Chief Constable querying the force's neutrality after a large police presence on Abbeydale Park Rise. He asked *"if the removal of one tree on Monday required the attendance of 33 officers and 20 security staff"*. South Yorkshire Police said its approach was *"fair and even-handed"*.

788. Through the few weeks of Operation Quito, the police, the Council, Amey and Servoca usually worked collectively in a command room to monitor the protests and decide when it was safe to allow Amey operatives and others out on the streets.

789. Extensive press coverage and political commentary of the policing of the protests continued through March 2018. At the beginning of March 2018, having become increasingly concerned about the police resource being drawn into the street tree protests, Dr Billings asked the Advisory Panel on Policing Protests to:

"...observe and assess South Yorkshire Police's (SYP) approach to the policing of the ongoing protests in relation to the Sheffield City Council / Amey 'Streets Ahead' programme. Specifically:

"1. To provide independent support and challenge to SYP in its handling of the protests.

"2. To make an assessment as to whether SYP's approach to policing the protests is fair and proportionate in relation to balancing the policy of Sheffield City Council (delivered through its contractor 'Amey') with the right to peaceful protest and the rights of residents to go about their day-to-day business.

"3. To report to the PCC about SYP's policing of the ongoing protests and in particular: a) whether the policing is fair and proportionate; and b) whether SYP is effectively engaging with all parties to explain their actions, including with the wider community."

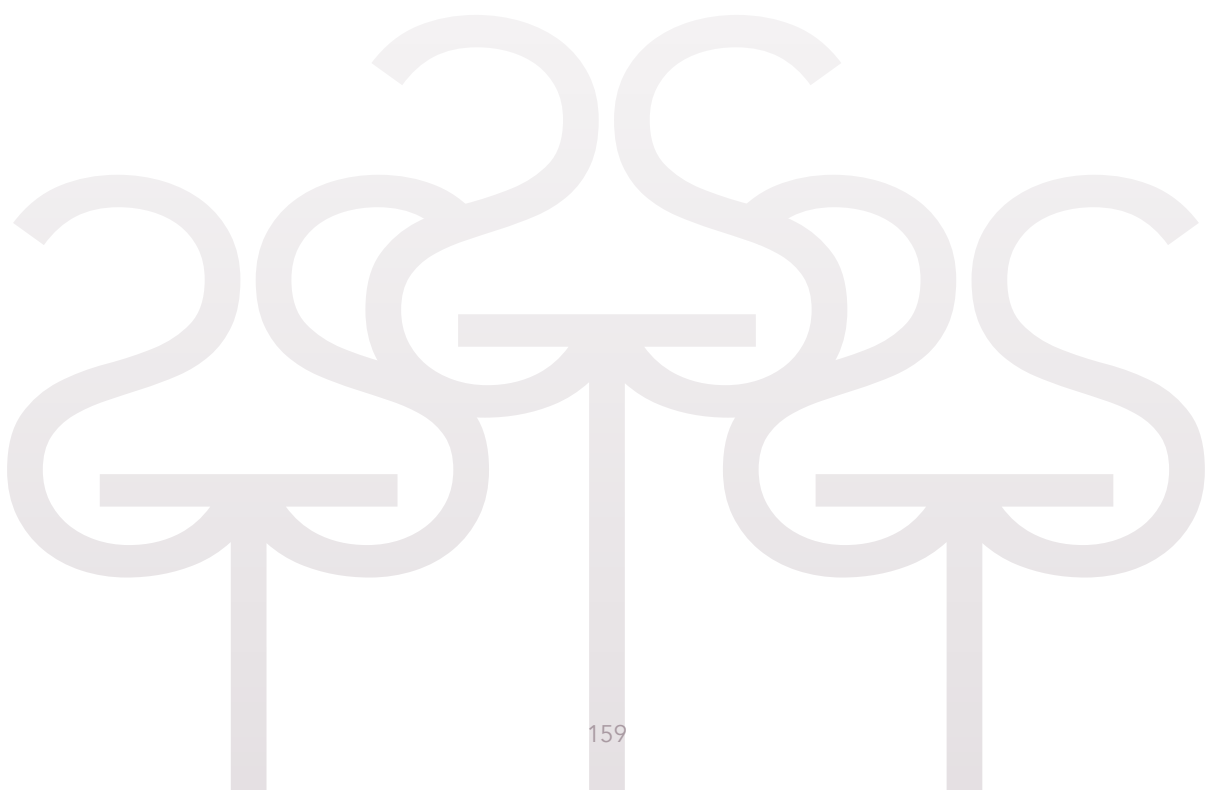
790. Commenting on the establishment of the Advisory Panel on Policing protests' work on the police role in the trees dispute, the chair, Andrew Lockley, said at his public hearing with the Inquiry:

"The police were particularly concerned that they were being seen by the public as siding with one side and not the other...they were seen as siding with Amey and the Council, so much as the Council were visible at all at that point..."

"It was coming to dominate life in police headquarters and PCC's headquarters".

791. The evidence-gathering for the advisory panel's report included attending a meeting with the Council, Amey and Servoca. At that meeting, the police argued that the situation had escalated too far, the Council should do more to de-escalate the situation and reduce the reliance on police time and resources. The police had concerns over the costs of policing protests and had come under fire in the media. They wanted to scale back their involvement. The Council disagreed and refused to sign a joint statement of intent (also referred to as a memorandum of understanding) with the police.
792. The pause in the tree replacement programme announced on the 26 March 2018 marked the end of the police attendance at protests or tree replacement sites.
793. The Advisory Panel's report published on 12 June 2018 generated ten recommendations, of which nine have been accepted by South Yorkshire Police. (The recommendation not accepted was to the Office of the Police and Crime Commissioner as it regards the Panel's view that *"the activity of police in support of a private contractor on public land needs review, and we recommend that the PCC invites the Home Office to undertake such a review"*.) These recommendations mostly covered operational, policy and communications matters for the police to address.
794. In a public hearing with the Inquiry, Dr Billings said:

"I formed and maintained the view throughout the trees issue that this was a political issue that needed a political resolution. The police should not have been involved but had been brought into the issue by a need to keep the peace and enforce the law when public protests began."

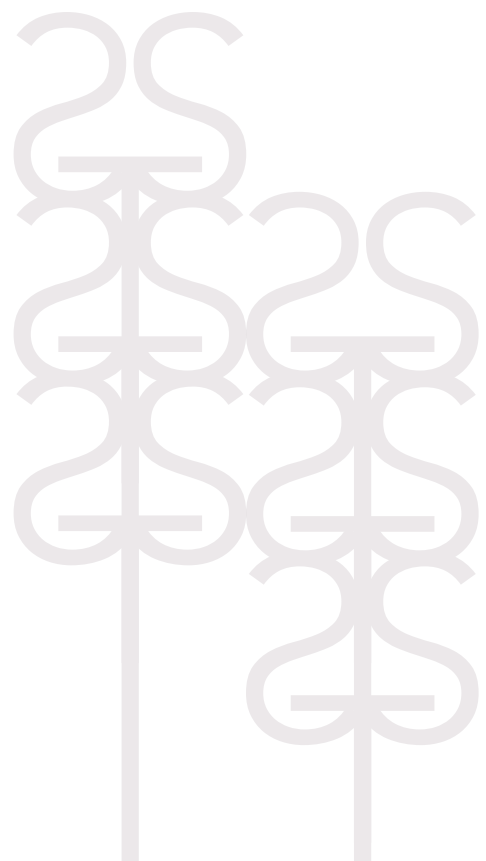


Choices made in policing the dispute

795. Much of the police presence and reasoning has already been examined by previous reports, including the Advisory Panel on Policing Protests report on policing Sheffield's tree protests. However, there are issues which continue to hamper the reconciliation process.

Heavy-handed-policing?

796. In the early days of the protests, all sides have spoken of a level of respect and good humour. But during the latter half of 2017 and into 2018, there was a rising animosity between protesters and Council in correspondence, meetings and legal proceedings, and between protesters, Amey and its security contractor on the streets. On public land, the circumstances in which protests can be limited or banned are constrained. Throughout the street trees dispute, protesters were allowed to gather and protest without restrictions being applied by the police. Other restrictions were pursued by the Council through injunctions.
797. The police were primarily concerned with enabling the protesters to exercise their right to protest and the contractors their right to go about their work on the highway, and to address any breaches of the peace which occurred. This is clear from their operational plans. The police were not there to mediate interactions between people, even if they felt confrontational, unnecessary or rude to those involved. However, many protesters had little if any experience of public order policing.
798. The data on the 41 arrests made shows very few were followed up through the courts.
799. Some protesters claimed that the police presence at the Rustlings Road operation was higher than the police and the Police and Crime Commissioner have stated. They also claimed that a police dog van was present and see this as evidence of a heavy-handed approach. At his public hearing with the Inquiry, Dr Billings said that this was not the case.



800. The Inquiry was given an undated, blurry photograph, taken during daylight hours, of police vehicles parked at the Oakbrook Road end of Rustlings Road. This photograph appears to show a public order van and another vehicle which does not appear to match those used by the police to transport police dogs; nor does it have the distinctive POLICE DOGS lettering on the rear side windows. This photograph does not corroborate the claim of higher numbers of police than stated or the presence of a dog van. The Inquiry has received no evidence of police dogs having been present on Rustlings Road during the operation.
801. In emails detailing the officers involved in the Rustlings Road operation (released publicly by the police), the plans are consistently for under 25 officers and do not mention dog handlers. On balance, the Inquiry considers that there is not evidence to support the dog van claim made by protesters.

Use of stewarding and reasonable force

802. Many protesters complained about use of excessive force. From 16 January 2018, Amey hired private security firm Servoca to remove protesters from inside the safety zones marked out by Heras fencing. The use of reasonable force is allowed by law. The decision to remove protesters from within the barriers was made in consultation with the Council, and the police were aware. This decision meant that protesters, including older people and those with health issues, were being carried out of fenced-off areas. These people were unlikely to have experienced this handling previously. Some of them chose to strenuously resist, heightening the chances of injury or complications.
803. There were reports that, on 22 January 2018, a security guard's wrist had been broken. That has been contested by protesters. The Inquiry has received the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations report associated with this injury, confirming that it did occur.
804. Protesters complained that security workers initially hid their ID. Amey told the Inquiry that, in the interests of staff safety, they had advised them not to display their ID prominently. As soon as they realised that this is counter to Security Industry Authority requirements, they issued instructions for ID to be worn visibly. The Inquiry considers this to have been a genuine mistake.



Ways of working with the Council and Amey

805. The police tried to persuade the Council to sign a statement of intent explaining the roles of each party in managing the protests. The Council did not sign it, but the police aligned their work with it and used it in operational plans to try to ensure all stakeholders were playing their part.
806. An agreed statement of intent may have helped to ensure that agreed actions happened, aided a proactive approach and provided a record of the agreed responsibilities. In correspondence with the Inquiry, Andrew Lockley commented that:

"I understood that SYP felt it had been drawn into the dispute beyond what should have been necessary because SCC did not fulfil its responsibilities, for example for the overall safety of the operation. This had the consequence that too many decisions were being referred to SYP Command. The MoU was intended to avoid this."

807. It is clear that the relationship between the Council and the police was, at times, fraught. The police released the following Council email after Rustlings Road:

"SYP remain upset that our corporate comms have somewhat thrown them under the bus – they would like us to be clear this is a council/Amey operation supported and advised by SYP to ensure this can be delivered safely."

808. There were also conflicting public statements – for example, on the question of who had authorised car-towing on Rustlings Road. That is covered in **Chapter 3.5**.
809. Operation Quito saw the Council, Amey and Servoca working together in a command room to monitor the protests. This is not an unusual procedure, but the protesters saw it as suspicious and it added to their mistrust.
810. Some protesters have told the Inquiry about a meeting with the police at which they were shown a video of what they considered to be **"edited highlights"** of an escalating pattern of public disorder. They were also shown an infographic which explained the difference between supporters, protesters, activists and extremists. The protesters felt they were being told they had been reclassified from protesters to activists and were being seen less as citizens and more as potential criminals. They were not reclassified as such in the police operational plans. These perceptions exemplify the tensions between the parties at the time.

Trade Union and Labour Relations legislation

811. The use of Trade Union and Labour Relations is covered earlier in this chapter. Separate legislation would underpin any action for containment, breach of peace, dispersal or other approaches the police might use to address public order issues. Operation Testate states that **"mixed directions have been given in respect of police powers available, appropriate advice from SYP Legal has now clarified appropriate legislation to deal with these situations"**.
812. Protesters questioned why, on 2 November 2016, members of Amey staff had copies of the legislation which was then used to arrest them. In FOI material later released by the police, emails from the police to Amey confirm that there was a legislation handout that could be used as a reference tool by Amey employees. That same email states that:

"There is also no issue should the need arise to show this to any protesters as a warning before alerting the police."

813. The use of this legislation ceased in February 2017 and the CPS announced that further prosecutions were not in the public interest. No protesters arrested under TULRA were prosecuted.

814. The legality of these arrests was considered by an investigation by the Independent Office for Police Conduct and the police confirmed to the Inquiry that:

"...compensation was paid to those arrested for protesting at an early stage of the claims for a variety of reasons principally concerning the lawfulness to arrest the individuals in the first place."

815. When asked about the use of this legislation at a public hearing with the Inquiry, Dr Billings said:

"In terms of what we knew, it is difficult to disaggregate what we were told at the time and what we now know. I recollect we were told at the time it was a lawful tactical option available to the police and had been advised on by SYP's Legal Services Department."

"The current Chief Constable, Lauren Poultney, has confirmed that the use of this legislation was, and is still, a legitimate tactical option available to the police in protest situations, and forms part of national guidance to the Police Service."

"I also know that neither the CPS, nor Mr Justice Males in SCC's later application for a High Court injunction, questioned the lawfulness of using the TULRA legislation in protest situations".

What prompted a change in operational plan?

816. The Inquiry was told that protester tactics changed over time and that, in early 2018, more dangerous tactics were being deployed. These claims were contested by some protesters who said that any proposed actions harmful to the trees or people were swiftly dismissed. However, the protesters were diverse and disagreed on many topics including non-violent direct action.

817. Many protesters recall that numbers attending protests increased in 2018 and that the previously amicable atmosphere fell away. Protesters did develop new techniques. Some of these allowed them to continue with non-violent direct action which did not breach the injunction or the law, such as geckoing and standing with permission on private land under the canopy of trees due for replacement. A few state that they did knowingly break the injunction by entering the designated work zones (including climbing high fences or rolling beneath them) either masked or unmasked and sitting or standing under trees or climbing them. Others have recalled that they did take action such as clipping a tie to enable them to access areas to stand. While the Inquiry does not comment on whether any of these were criminal acts, they are consistent with the police view that tactics were changing.

818. The Inquiry also heard testimony at its public hearings from James Henderson, the Council's Director of Policy, Performance and Communications, and Darren Butt from Amey about people on the fringes of the campaign engaging in aggressive harassment. Operation Quito refers to a small handful of activists and differentiates them from the majority of protesters.

819. At a public hearing with the Inquiry, Dr Billings described the police justifying their new approach, in part because, *"the police had seen a difference in the meantime in the groups attending the protests from what they saw as groups of local residents and interested parties, to groups made up of people from outside of Sheffield, including people that the police believed were known activists"*.

820. This was disputed by protesters. In another Inquiry public hearing, former STAG chair Chris Rust denied the protests had begun to attract people from outside Sheffield. In his public hearing with the Inquiry, Paul Brooke also said that this was *"misinformation"* and *"totally untrue"*. He said that a handful of people may have protested before or observed an anti-fracking protest, but he believed that even these people were local residents.

821. Councillor Dagnall said in a public hearing with the Inquiry that that he could personally recognise many of the people protesting on Meersbrook Park Road in some of the most intense episodes of the dispute.

822. By early 2018, the police decided that the protests had changed sufficiently that a new tactical approach was required. Part of the tipping point appears to be protests on 22 January 2018 on Meersbrook Park Road. Information and intelligence available to the police, set out in operation Quito, says that on that day:

- Protesters remained inside the safety zone and wrapped their arms around railings at the side of the road next to the bordering park with other protesters outside the safety zone, shouting encouragement.
- The security team delivered a five-step appeal before exercising their powers to remove the protesters. Protesters outside the zone attempted to prevent this by trying to remove the security guards' arms from the protesters inside the safety zone and shouting to the police officers present that the security guards' actions constituted assault.
- At the same time, a masked protester jumped over the fence and climbed one of the trees.
- At this point, protesters outside of the safety zone became involved in disorder by pushing over the fences causing damage and at one point a section of fence collapsed on a security officer and a protester and several people entered the safety zone.
- Some of the protesters had brought their children to watch these events as they unfolded.
- Protesters claimed the police did nothing to prevent the action of the security guards and stated that force used was not reasonable. (The police received few complaints but wrote into the operational plan that each complaint would be investigated.)
- Several security officers reported being assaulted, one reporting a broken wrist.
- The subsequent police investigation identified eight people of interest for a range of potential offences including public order, assault and criminal damage.

823. In this context, the police said that the situation had escalated and noted that work ceased due to safety concerns. This section of Operation Quito says that several serious incidents had occurred, including a masked protester pulling at the rope of an arborist and evidence that an iron bar had been inserted into a tree.

824. The police continued to monitor the situation, saying in Operation Quito that:

"Information from a meeting with the protest group at Snig Hill Police Station on the 22nd February 2018 suggests that direct action is inevitable and that low-level criminality would be highly likely. This was in relation to the discussion around the use of Section 3 Criminal Law Act."

825. On 23 February 2018, Assistant Chief Constable David Hartley made a public statement referring to *"a definite change in behaviour and atmosphere – we saw disorder and violence, resulting in a number of injuries"*. In a statement on the same day, the Council welcomed the statement, saying *"some members of the campaign group are now adopting increasingly violent tactics"* and went on to refer to *"activity shifting from peaceful protest to criminal behaviour"*.

826. There has been debate about the sources of claims of more dangerous tactics. Operation Quito appears to rely primarily on direct police observation.
827. The original publication of the Policing Sheffield's Trees Protests report by the Advisory Panel on Policing Protests referred to dangerous tactics. This was later amended to make clear that the source of the actions described was the police communications plan. This plan, dated 8 March 2018, says that the police were seeing changes in capability and intent, including:
- New attendees at protests, believed to be professional, who were aggressive towards workers;
 - Ropes being pulled on and cut;
 - Trees having olive oil sprayed on them and one being studded with nails and glass; and
 - The presence of, often very young, children at protests.

828. The Inquiry has not seen evidence which corroborates the claims of oiling and studding trees or cutting ropes included in the police communications plan. These claims were repeated in the Policing Sheffield's Trees Protests report, which gave them significance in people's understanding of the police decision-making. However, they are not mentioned in the police tactical plans.

829. Some protesters have refuted claims that protester tactics changed sufficiently to merit a change in policing. At his public hearing with the Inquiry, Dr Billings referred to a statement he made on 6 March 2018:

"The police response to tree felling in Sheffield has not changed. They must allow for peaceful protest on the one hand and enable people to go about their lawful business on the other. They must keep the peace and uphold law and order.

"What has changed is the decision by Sheffield City Council to take out an injunction against the protestors, which they, and not the police, implement. This has raised the temperature."

830. Andrew Lockley, chair of the Advisory Panel on Policing Protests and author of the Policing Sheffield Trees protests report, said at his public hearing with the Inquiry that:

"We specifically agreed that the police tactical plan was a proportionate response and we also formed the view that what happened in reality, not just in the plan, reflected the tactical plan and therefore that too was proportionate. And certainly our observations on the 8 March did not lead us to believe that the police were acting disproportionately".

831. Some media coverage and individuals have taken exception to the police and Council making safeguarding teams aware of the presence of children at protests. The Inquiry has seen no evidence that this was improper, used as a tactic of intimidation or out of line with usual safeguarding polices.

Inquiry observations on the policing of the dispute

832. The role of the police is to ensure public order and uphold the law, rather than (as some protesters suggested to the Inquiry) to act as protection for individuals. The police cannot choose whether to attend public order incidents. So, while the Council and Amey chose to maintain the tree replacement programme, the police had to attend where public order issues were likely or when concerns and allegations of offences were reported.
833. Overall, at most times, the police plotted a clear route through the dispute. They were faithful to their responsibilities to allow all sides to exercise their legal rights and were at times wrongly criticised. They were placed in a difficult position on the streets, especially by the Council whose lack of presence and refusal to sign the memorandum of understanding made the police's role more difficult. They were put under pressure by both the Council and Amey, which they rightly resisted.
834. Much of the police presence and reasoning has already been examined by the investigations into complaints submitted to the Independent Office for Police Conduct and the Advisory Panel on Policing Protests report on policing Sheffield's tree protests.
835. While the police presence had a calming effect once the animosity on the roads rose, it also enabled the tree replacement programme to continue. The protesters were well organised and plentiful. Without the police, they would probably have slowed the Council's operation to a halt prior to the March 2018 pause. That was the view of the Advisory Panel on Policing Protests report on Policing Sheffield's Trees Protests:

"We judge that this part [the tree replacement programme] of the Streets Ahead programme of SCC can only be implemented if the police remain in place."



836. Likewise, without the police powers, the operation on Rustlings Road would not have been possible in the same way, as the Council would not have had a way to move vehicles without notice. As such, the Inquiry agrees with the Advisory Panel on Policing Protests finding that the Council relied on the duty of the police to maintain order and protect its contractors to keep on with the tree replacement programme.
837. The introduction to the versions of Operation Testate seen by the Inquiry state that the legal team in the Council told the police that they had attempted to work with the protesters and residents, but the trees due for replacement were in a unsafe condition, so the work must go ahead. This statement was, reasonably, taken by the police in good faith.
838. Officers on the street and the Police and Crime Commissioner tried to make clear that the police were there to ensure public order and enforce both the rights of the protesters and Amey. But the perception of hand-in-hand working with the Council and Amey grew and bred mistrust, contributing to a belief that the police were siding with the Council. This was exacerbated by high-profile incidents, such as their role in the Rustlings Road operation.
839. Likewise, the police tried to make clear that they were not involved in the enforcement of injunctions or undertakings. However, when arrests were made, it is easy to see how this was interpreted as police enforcement of Council or private contractor priorities. There were also specific incidents, such as travelling in convoy with Amey, which added to these impressions (addressed by previous reports). Following the dispute, the police have taken steps to ensure transparency, including publishing FOI information related to the dispute, on their website.
840. Overall, the Inquiry has seen no evidence of collusion or inappropriate working practices between the police and any other party, including the Council. The Inquiry has seen evidence that the relationship between the Council and the police was, at times, fraught.
841. Some protesters drew the Inquiry's attention to previous controversies involving South Yorkshire Police. Orgreave, the Hillsborough disaster and the Rotherham child sex abuse scandal cast a long shadow. The police are no doubt aware that they need to take this wider context, specific to South Yorkshire, into account when planning protest policing.



Chapter 4.4: Contributions from experts

842. Throughout the dispute, expert organisations and individuals offered contributions to try to influence the course of events. This chapter charts some of their contributions.

Expert organisations

843. As noted in **Chapter 2.1**, the Inquiry has not seen evidence that environmental organisations, either local or national, were consulted during the project preparation phase.

844. The Sheffield and Rotherham Wildlife Trust became concerned about plans for Sheffield's street trees in 2013. Their members met Amey in 2013 and the Trust published a position statement in 2014, highlighting the value of mature street trees, criticising the consultation process and calling on the Council to ensure that removal genuinely was a last resort. In 2015, a member of the Trust joined the panel for the two Highway Tree Advisory Forum meetings. She contributed suggestions for engineering solutions, ideas for resolving the Rustlings Road issues, the need for an ambitious tree strategy and ongoing communication issues with the public. They continued their efforts through 2016 and 2017, lending their voice to concerns around the approach to Rustlings Road as well as lobbying Councillor Bryan Lodge, then cabinet lead for Streets Ahead, and meeting with Michael Gove.

845. As set out on their website, in 2017 they were sufficiently concerned about the future of the Chelsea Road elm, home to the rare white-letter hairstreak butterfly, that they:

"...took legal counsel and considered legal action in relation to the future of the Chelsea Road elm tree, which supports a colony of s41 priority species – the White-letter Hairstreak butterfly, as an example of the contravention of the NERC Act s40 by the Council, and to illustrate our concerns about the wider tree felling programme."

846. The Woodland Trust also took an interest in the dispute. In a statement quoted in arboricultural trade media in spring 2016, they said:

"We would like to see a pause in all but dangerous tree removal until a Trees and Woodland Strategy has been finalised; and we want an independent arboricultural consultant to survey and report on a sample of the trees which are proving most controversial. There seems to have been a breakdown of trust between the Council, Amey and some local residents and getting an independent external view would be a positive way forward. For each street tree lost, a minimum of two should be planted. Preferably as close to the original site as possible; with species which mature to provide significant canopy cover. Over time, this should ensure the value of the Council's trees is maintained, both for people and wildlife."

847. The Woodland Trust offered to mediate the situation in 2017, first at a meeting with the Council Leader and staff and reiterated in a letter to the Leader in June 2017. This included an offer to finance independent assessments of trees scheduled to be replaced:

"I would like to take this opportunity to reiterate the offers I made during the meeting: to help facilitate and mediate with concerned local residents and community group leaders; to finance and publicly support an independent assessment of a selection of the remaining trees set to be felled; and our willingness to help establish contact with other sympathetic councils we know have faced similar difficult decisions when looking to retain mature trees in an urban landscape. I believe you were also going to contact the Secretary of State."

848. They told the Inquiry that these offers were not taken up.

849. In 2018, the Woodland Trust released their Street Tree Heroes, featuring two campaigners from Sheffield, along with others from around the country.

850. Trees for Cities, a national charity, had worked in Sheffield for over ten years, funding programmes such as community tree planting, until 2017 when it decided to withdraw. In media coverage on 7 March 2017, Councillor Lodge criticised the charity's decision to withdraw, saying that *"We understand that Trees for Cities is a member-led organisation and it appears that some of its members are tree protesters who may have influenced the charity with incorrect information regarding our street tree programme."*
851. In letters exchanged between Trees for Cities and the Council in March 2017, the Council referred to the removal of street trees as a last resort and claimed that *"we consider 25 alternative engineering solutions before taking the decision to reluctantly replace a tree"*. They also refer to the proportion of trees in scope for replacement as 0.3% of the Sheffield tree stock, rather than 50% of the street tree stock. The letter asks for retractions of parts of the Trees for Cities statements and for apologies to be made.
852. The response from Trees for Cities is robust, refuting the criticisms and assertions in the Council letter and previous media coverage. And reiterating the charity's position:

"We cannot invest our donors' money in planting trees in one part of the city when 'down the road' perfectly healthy trees are being brought down unjustifiably by the very same partner organisation.

"Attempting to place the guilt on Trees for Cities for a situation wholly created by the council is a very 'low blow'. I am sorry to say that we will not be swayed by attempts of emotional blackmail!"

853. It also sets out clearly why neither retractions nor apologies would be forthcoming. The Trees for Cities letter concluded by suggesting ways that they could support the Council. While this signalled a pause in Trees for Cities work with the Council, it retained an interest in what was going on in the city.
854. The Woodland Trust supported Trees for Cities in their work to retain the Vernon Road oak, challenging the Council's assessments of costs, seeking their own quotation and offering to fund the engineering work necessary to retain the tree.
855. They issued a joint statement in support of the progress made in December 2018:

"This new approach is a turning point that has come after months of pressure from STAG, local residents and organisations including Trees for Cities and the Woodland Trust. Through development of a new street tree strategy, we look forward to seeing Sheffield City Council continuing to make improved decisions to preserve and protect the city's trees. We're watching progress closely to see that commitments are fulfilled."

Independent experts

856. The dispute attracted the attention of local and national experts. Professor Ian Rotherham of Sheffield Hallam University and the South Yorkshire Biodiversity Research Group was involved throughout.
857. His concerns were mirrored by other independent experts. For example, urban tree expert and specialist Jeremy Barrell visited in 2015 and published his findings in an article in The AA Arb News in spring 2016 (and in summarised form in Horticulture Week in January 2016). He draws attention to several sources of professional advice which should underpin street tree planning decisions, including the London i-Tree project (which identified the significant value of street trees) and the Climate Change Act 2008. He also points to Well-Managed Highway Infrastructure: a Code of Practice, Department for Transport endorsed guidance, which he refers to as the “highway managers’ government-endorsed bible”. Alongside a set of recommendations, he concluded that:

“From what I saw, the level of tree removals in Sheffield seems hard to justify on any reasonable arboricultural, highway management or sustainability grounds.

“...Sheffield currently has the benefit of thousands of trees that have taken the best part of the last century to grow into an enviable environmental asset, making its urban communities healthier and better places to live. I saw that green resource being rapidly eroded through recent management, contrary to government and professional guidance, and to the detriment of the people of Sheffield.”

858. On 16 January 2016, Jeremy Barrell wrote an article, called Comments on the Sheffield street trees issue, on behalf of the Arboricultural Association, for its website:

“In the light of the benefits that trees bring, there can be no credible case to adopt an automatic presumption to remove trees causing low levels of damage to infrastructure.

“In the context of the broad thrust of all this guidance and advice, the Arboricultural Association would urge all managers involved in this sphere to appreciate the importance of trees in streets, and particularly their beneficial effects on human wellbeing and health, flood buffering and their ability to make urban environments more pleasant places to live and work. We actively advocate that when tree removal is being considered, in addition to the maintenance costs associated with the presence of street trees, the benefits are also properly factored into the decision-making process. This particularly applies to infrastructure damage, where the highways guidance clearly implies that a flexible and balanced assessment is required.”

859. In July 2018, Jeremy Barrell visited Sheffield after the pause in the tree replacement programme but prior to the mediation. He said:

“No one should be under any illusion, this is the worst industrial scale felling of good quality urban trees that I have ever seen anywhere in the world.”

860. Other experts also expressed their views. The Department of Landscape at Sheffield University put in a blog, in 2016, that *“planning and management of the urban forest is an extremely important topic, with hugely significant implications for human health and well-being, biodiversity and climate change”*.

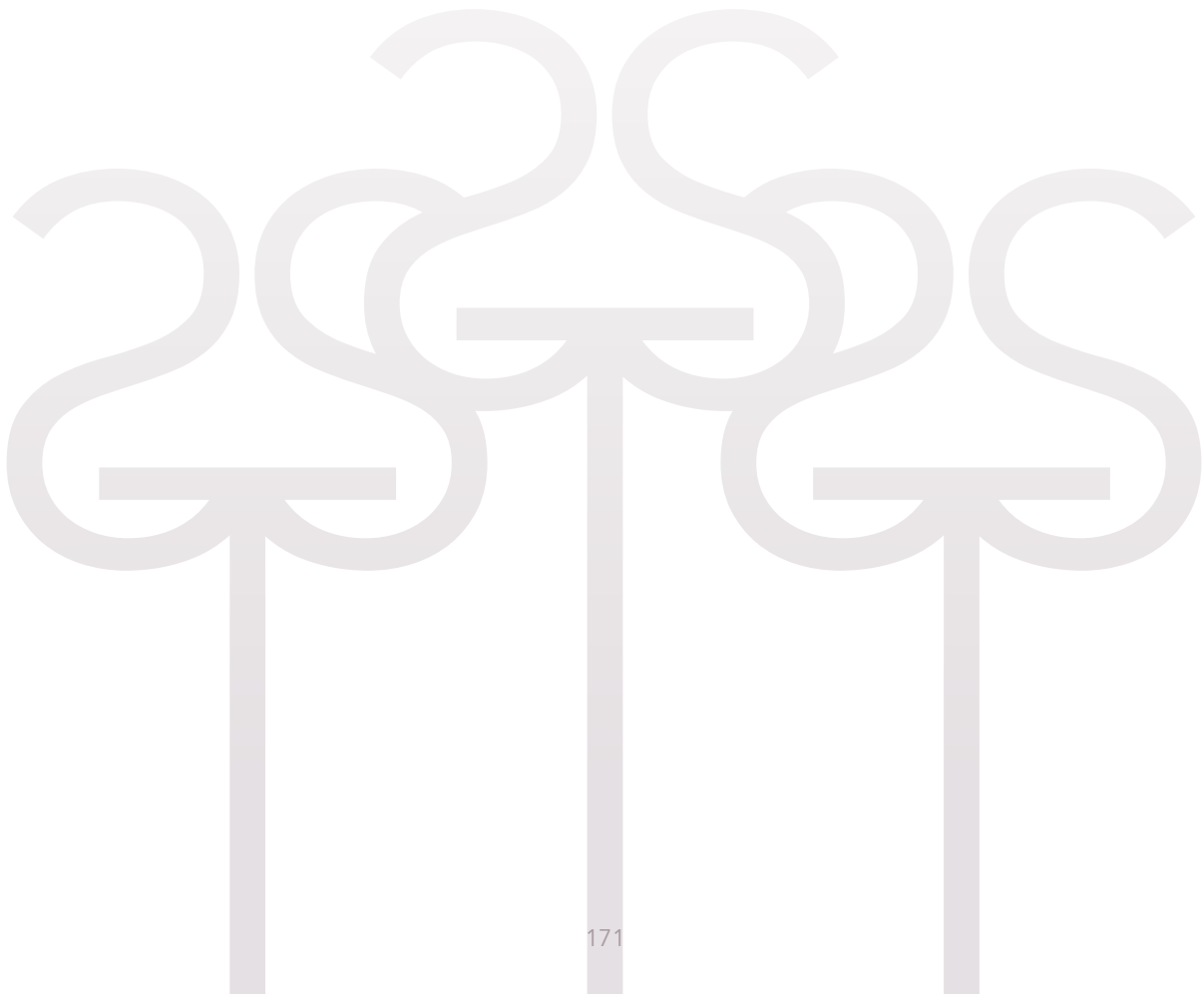
861. In a Landscape Institute article, in 2017, Steve Frazer noted that:

“Streets form a significant setting to our lives. We may sometimes drily commute upon them, but we also cheerfully stroll, jog, chat and play within them and happily settle upon them. Journeys and activities for which the setting is incredibly important, contributing to our sense of health and well-being.” It summarised criticism of the Streets Ahead programme by saying the Council had identified a highways issue and “they intend to solve it by making them smooth and flat, whatever the consequence.”

862. They also pointed to the *“wealth of technical advice and information available across the relevant sectors that provide practical and comparatively low-cost methods of achieving the objective of permitting highly valued trees to exist within a well-maintained and inclusive highway”*. This criticism was repeated in relation to the original contract for which *“the prevailing context of good practice activity and guidance available at the time should have been a material consideration in the drawing up of the contract, its specifications, performance standards and associated supplementary tree management documentation”*.

Inquiry observations on the input of experts

863. A common theme for outside experts was lack of access to information and engagement from the Council. Healthy trees were being removed for what they considered spurious reasons. Charity executives and experts told the Inquiry that they had reached out to the Council to better understand the issues and support them to a better approach, but found themselves rebuffed. This put them in the position of engaging more with protesters.



Chapter 4.5: Media, communications and information handling

864. The dispute attracted attention from local, national and occasionally international media, from national politicians and celebrities. This chapter describes their role in the dispute. It then covers the conclusions of outside bodies asked to assess the Council's handling of public information.

Media, politicians and celebrities

865. Few councils secured PFI contracts as large as Sheffield and early media coverage focused on the creation of up to 400 jobs by Amey and their supply chain. A trade press interview in December 2012 with then Head of Highways, Steve Robinson, reported plans to *"replace half of the city's 36,000 highway trees"* as well as the highways improvements planned.
866. By 2014, early concerns about trees were appearing on social media. Local and national media became more interested as local pushback became more organised and visible. In June 2015, regional BBC news reporting covered resident action to stop works on Wayland Road. Where residents are quoted, the tone is measured but communicates confusion and concern. One resident said:

"Some of these trees do need replacing, but not all of them. We're a little concerned that what is happening here is more ease of maintenance than seriously looking at the trees in the area. Sheffield is the city of trees."

867. The 2015 Rustlings Road petition was covered in The Guardian. Councillor Terry Fox, cabinet lead on Streets Ahead, told the press it was a *"myth"* that removing mature trees is the cheapest option: *"The removal of any tree is always a last resort and we look at all viable options before removal is considered"*.
868. Through the autumn, local and regional media coverage, including from the BBC, became more regular. In November 2015, the establishment of the Independent Tree Panel got attention. Councillor Terry Fox was quoted in regional BBC reporting as saying:

"We're aware of three or four hotspots around the city that has [sic] issues. This [the ITP] gives the opportunity to the residents to have their say."

869. Up to this point most, media coverage was factual. This began to change in early 2016. The Sheffield Star reported:

"Tree felling 'frenzy' in Sheffield after survey results released. Trees across Sheffield have been axed in what residents called a felling 'frenzy' days after the results of household surveys on the topic."

870. In this article, the Leader of the Council, Julie Dore, is quoted as saying:

"Removing trees is a last resort, and when we do have to do this, we always plant a replacement. We understand people are worried about the future of Sheffield's trees and want to reassure residents that this is the largest, positive programme of investment in the city's trees ever to happen.

"Without it, tree numbers will decline and future generations will not be able to say they live in one of the greenest cities in Britain.

"To date we have removed 3,388 trees and replanted 3,618. We recognise there are a lot of myths circulating about our tree programme and we want to set the record straight.

"We recognise people want more information about the work and our priority over the next few weeks will be to make this more readily available and be clearer about the council's commitment to the city's trees."

871. In February 2016, The Sheffield Star reported a debate between Councillor Julie Dore and protesters, including coverage of costs:

"The council said there are 200 trees which would cost between £50,000 and £100,000 to save, 1,000 which cost between £3,000 and £5,000, and 700 trees which would cost around £1,000 to save.

"While the authority stressed that the numbers were estimates, this gives a figure of up to £25.7 million."

872. Julie Dore is also reported as saying it was not acceptable that disabled residents were unable to use footpaths in Sheffield, due to trees making pavements uneven. The Council also used the article to explain their Five Year Tree Management Strategy (see **Chapter 4.2**). The same article reported the protesters urging the Council to take a wider view on the benefits of street trees and questioned the Council's cost estimates of alternatives.

873. This was followed quickly by Nick Clegg, then MP for Sheffield Hallam, writing an open letter to Julie Dore, calling on her to *"abandon"* the Streets Ahead programme and admit the Council had got the decision to fell *"hundreds of healthy trees"* wrong. In response, regional BBC reported her as saying:

"Ms Dore said plans to replace trees were given the green light in 2009 when Liberal Democrat councillors were in control of the council. A survey conducted under their tenure found 75% of the city's trees - some of which were 150 years old - were at a risk of a "catastrophic decline" in their health.

"It gave us a once-in-a-lifetime opportunity to safeguard the streets of Sheffield and [the Liberal Democrats] were complicit in that," said Ms Dore."

874. The interim injunction in 2016, ahead of the judicial review, paused tree replacements, but not the media coverage. Somewhat against the grain of media coverage, regional BBC reporting covered a public letter signed by 17 union officials and councillors in their personal capacities, calling for *"perspective"* from opponents. Protesters felt the letter unfairly described the objections as focusing on affluent areas and overstated public opinion in favour of the programme. Councillor Fox welcomed the letter and said: *"We'll work closely with communities to get this situation sorted out as quickly as possible"*.

875. As the injunction was lifted, Simon Green, the Council's Executive Director of Place, was reported in regional BBC coverage saying:

"We are delighted that the court has agreed with the council's case to have the tree injunction lifted. However, we have been clear throughout that we want to make sure that our work with communities on this issue is right, so we will not resume the full street tree replacement programme until we have had the court's final decision. We will of course continue to assess our trees and replace those that are dangerous."

876. March 2016 brought judicial review hearings in the High Court. This was reported in The Independent, which included Nick Clegg saying:

"When I helped to secure the £1.2 billion of Government money to fix Sheffield's roads, no one expected that money to be used by Sheffield City Council to chop down hundreds of healthy mature roadside tree against the wishes of the public."

877. In July 2016, The Sheffield Star reported Liberal Democrat Councillor Joe Otten and protesters criticising the Council for not waiting for Independent Tree Panel recommendations and, in other cases, rejecting recommendations. Councillor Otten said *"modest, sensible demands have been largely ignored"* and criticised the Council for using the Panel to *"kick the tree protesters' concerns into the long grass"*. In response, Councillor Lodge said that the Council would take account of ITP advice but were not bound by it. He added that:

"We are working hard to retain as many street trees as possible as well as managing a backlog of under investment and trying to have a balanced tree stock going forward."

878. The first arrests in November 2016 on Marden Road got little media attention. Tree works on Rustlings Road that month generated a media storm which added to pressure for a Council apology.

879. In regional BBC reporting, Nick Clegg said the Council had acted as if it were running an *"anti-terrorist operation"*:

"I do not know what planet these people are on," he said "Arresting elderly residents? Arresting them when they are just trying to say 'don't chop this tree down'?"

880. Councillor Lodge's apology was carried by many media outlets: *"We know we got it wrong last week with the way the work was started. We have listened and are sorry for the mistakes that we made"*.

881. The Sheffield Star reported that Shaffaq Mohammed, leader of Sheffield Liberal Democrats, said what happened on Rustlings Road was a *"national scandal"* and compared it to the Battle of Orgreave. Rustlings Road is covered in detail in **Chapter 3.5**.

882. In early 2017, local celebrities added their voices to criticism of the Council, alongside Nick Clegg, as The Guardian reported allegations that senior members, including Julie Dore, had not seen the unredacted Streets Ahead contract. The Council defended the allegations explaining that the contract ran to over 7,000 pages and members had been properly involved in the approval of the project.

883. From February 2017, there was local and, later, national coverage of the legal aspects of the dispute with the arrest of Councillor Alison Teal and six others. March 2017 also saw press reports that Trees for Cities had withdrawn their programmes from Sheffield. The dispute continued to feature regularly in local media through 2017.

884. Environment Secretary Michael Gove's intervention played out in press articles in The Yorkshire Post in early August 2017. Michael Gove said *"the destruction of thousands of mature trees from the Steel City will surely damage our children's rightful inheritance"*, that *"...the council has not provided transparency in the decision-making process, which would seem to me a minimum for any elected body dealing with such a highly-contested policy decision"* and called on the Council to *"...listen to the people of Sheffield and end the tree-felling and replacement programme"*.

885. The Council responded robustly to Michael Gove saying the Council had *"gone to great lengths to consult and work with the people in Sheffield affected by the programme"* and that:

"... [Michael Gove] seems to call for us to breach the terms of the Streets Ahead contract... the Department for Transport, are party to the contract, and it was at central government's instruction that the PFI model was used to finance this programme of work."

"...The truth is that a small number of people in the city have strong views against the tree replacement programme. We respect this, but the majority of people in Sheffield want to see the work completed..."

"There is a lot of misinformation around, and it is surprising that the Secretary of State would not seek a full understanding of an issue before announcing a position."

886. Councillor Lodge signed the formal reply, saying:

"I know that you have publicly stated that you believe 'the country has had enough of experts' but our council believes they still have a role to play...We would rather follow the robust workings of the many expert groups involved in the Streets Ahead programme, and deliver what the majority of Sheffield residents want us to, rather than follow the ill-informed whims of a Conservative minister."

887. He also argued that stopping the work now would have financial consequences:

"The reality is that the consequences of withdrawal would, as you should be aware, represent profound financial imprudence, dire environmental consequences, be counter to what a majority of Sheffield residents want, and would put the council in neglect of our legal duties,"

888. The Woodland Trust objected to a statement by Councillor Lodge which said that the Council was *"working with groups such as The Woodland Trust to ensure everything possible is being done to protect wildlife and Sheffield's rich biodiversity."* In an open letter reported in The Yorkshire Post, Becky Speight, then Chief Executive of The Woodland Trust, said:

"I would like to make it absolutely clear that Sheffield City Council is not 'working with' The Woodland Trust as claimed in Councillor Bryan Lodge's letter."

889. Paul Billington, Director of Place, was also quoted in The Yorkshire Post, saying:

"...we have planted an additional 65,000 trees in the city since the beginning of the Streets Ahead programme, making Sheffield greener than ever by the end of the contract..."

890. This number was clarified in media coverage in September 2017 with an explanation that the 65,000 figure referred to the previous three years and *"including those planted as part of the Streets Ahead contract and those in parks and woodlands included in the Council's community forestry programme"*.

891. On 15 August 2017, the Council were granted injunction orders. In the surrounding media coverage, Councillor Lodge was quoted as saying that the Council *"will be looking to seek associated costs and damages"*.

892. As the injunctions came into effect, the protesters formed a blockage through slow-walking at the Olive Grove depot. In coverage of this, The Guardian quoted Judge Males as having said *"Those are social and environmental questions which are politically controversial and can only be resolved in a political forum"*.
893. Further large financial claims were reported in The Sheffield Star from an open Council meeting on 20 September 2017:
- "...the council's head of highway maintenance Steve Robinson said he thought that work could cost about £350,000. In Western Road alone...the figure could come to £250,000... to keep the remaining 20 [un-diseased trees], the pavement would need to be built out around them...taking away at least three parking spaces per tree. And it would also mean Western Road becoming a one-way street.*

"[Six of twelve other memorial trees earmarked for replacement could be] retained if the pavement were built out, which including the related highway work could cost about £100,000."
894. Media coverage acknowledged that the Council agreed not to replace 23 out of 54 memorial trees on Western Road unless they were dangerous. However, much of the coverage focused on the very high costs quoted by Council officers and members.
895. Michael Gove visited Sheffield in September 2017 to speak to protesters, the editor of The Yorkshire Post and the Council. He confirmed to the press he had asked Defra *"lawyers and policy officials to let me know what we can do either now or in the future to cause the council to pause, think again and go down a different route"*. He branded the replacement of one tree *"bonkers"*. The day after his visit, protesters prevented that tree from being felled.
896. The autumn and winter of 2017 and early 2018 were characterised by coverage of the legal proceedings and larger and more acrimonious protests. These were factually reported in the media, as was the protesters' continuing defiance and new tactics.
897. Amey and the Council expressed disappointment at the ongoing protest activity in media coverage and defended decisions made to enable the works to continue. The police came under increasing media scrutiny, being asked to justify the numbers of officers present. They told the media that their approach was based on a risk assessment, and as the protests had become more confrontational, the demands on the police to maintain the peace had increased.
898. Increasingly, the media reported local and national politicians across parties calling on the Council to pause or change direction. Local Labour MPs Louise Haigh and Paul Blomfield publicly asked the Council to change its approach. Shadow Environment Secretary, Sue Hayman, offered to mediate in the dispute.
899. The Council released the redacted contract on 9 March 2018 at the direction of the Office of the Information Commissioner. In the media, the protesters were quoted in The Yorkshire Post as saying this was a *"smoking gun"* exposing the Council's commitment to replace half of Sheffield's street trees. The Council reiterated their *"...aim to minimise the number of trees being replaced"* and that the 17,500 figure was *"'insurance cover' to ensure we aren't vulnerable to long term risks as the health and impact of our street trees continue to change over time"*.
900. After the March 2018 pause, media attention continued mainly focusing on the Council's approach to the dispute through the rest of 2018 and into 2019.

Key Council messages on trees

“There is no target” and “felling is a last resort”

901. As the dispute emerged, the Council insisted that there was no target for the street tree replacement programme. This was repeated regularly in the media: for instance, in February 2016, in *The Sheffield Star*, Councillor Terry Fox said:

“We are not removing 18,000 trees as the campaigners have been suggesting. We look after 36,000 street trees and will remove and replace around 14 per cent.”

902. Likewise, the Council claimed that replacing street trees was a last resort. For example, in early 2016, the Leader of the Council, Julie Dore, is quoted by *The Sheffield Star* as saying:

“Removing trees is a last resort, and when we do have to this, we always plant a replacement. We understand people are worried about the future of Sheffield’s trees and want to reassure residents that this is the largest, positive programme of investment in the city’s trees ever to happen.

“Without it, tree numbers will decline and future generations will not be able to say they live in one of the greenest cities in Britain.”

903. This was justified in the media by references to the ageing street tree population. In spring 2016 Julie Dore told the media: *“...A survey conducted under their tenure found 75% of the city’s trees – some of which were 150 years old - were at a risk of a catastrophic decline”*. (This appears to be an inaccurate interpretation of the Elliott Consultancy survey from 2006/7 as discussed in **Chapter 2.3**). Such claims were further undermined by the release of the contract in March 2018.
904. Scepticism of these claims was repeated in the witness statements to the committal hearings where Green Party Councillor Douglas Johnson said *“I did not feel confident the mantra of “absolute last resort” was genuine”*. The Local Government Ombudsman also questioned these claims which were counter to earlier communications: for example, Steve Robinson telling the trade press in 2012 that Streets Ahead would see half of the city’s street trees replaced.
905. The Council’s assertions created a false impression and this contributed significantly to a loss of trust in the Council. Further analysis is in **Chapter 2.3**.

“Catastrophic” costs of change or delay

906. The Council referred to costs, which were at times described as *“catastrophic”*, as a reason that street trees due for replacement could not be subject to a different solution. Varying costs were put into the public domain during the dispute period. In February 2016, in *The Sheffield Star*, the Council said:

“There are 200 trees which would cost between £50,000 and £100,000 to save, 1,000 which cost between £3,000 and £5,000, and 700 trees which would cost around £1,000 to save.

“While the authority stressed that the numbers were estimates, this gives a figure of up to £25.7 million.”

907. In March 2017, Councillor Bryan Lodge was quoted in *The Sheffield Star* as saying: *“We anticipate the cost to the council and taxpayers will run into millions”*. In the same article, he also claims that *“The vast majority of the people of Sheffield are now starting to say ‘this is costing money – get on with it’”*.
908. Claims around the high costs associated with specific trees, such as those on Western Road, also garnered coverage. While loosely caveated at the time, the Inquiry has not seen any explanation for these costs. They were challenged by protesters and experts. The Inquiry considers that some of the costs quoted by the Council are likely to be speculative and unreliable.

Local Government Ombudsman

909. The Local Government Ombudsman's (LGO) role is to assess complaints about councils and certain other public service organisations. They published three reports related to the dispute.
910. The first report, in December 2018, considered a complaint about a road where the Independent Tree Panel (ITP) had advised four out of ten trees could be retained. The LGO found that the information the Council published in response to the Panel's advice *"could give no member of the public any indication why the Council considered the advice proposed by the ITP was impractical. Nor did it show the Council had taken further third-party advice"*. The Council *"had simply not addressed the key question – which was if it considered the ITP advice practical?"* The LGO found that *"the Council not only needed to consider it conscientiously as it promised. But also to show it had done this"*.
911. However, they noted that the Council had entered into mediation since the complaint was made, which had the potential to lead to different decisions for the trees concerned. They therefore made *"a finding of fault against the Council, but recording this did not cause injustice to the complainant"*.
912. The second LGO report, published in January 2019, related to the Aldam Way alder identified for replacement and referred to the ITP. The Panel advised that the tree could be retained, but the Council disagreed. The investigation centred on the reasons given for replacing the tree and the communication between the Council and the complainant.
913. The Ombudsman found that the tree had been identified for replacement and referred to the Panel, with the tree's condition as the primary reason, but the Council changed the reason to the pavement condition. The LGO found the Council at fault for not flagging concerns about the pavement to the Panel: *"if the Council considered damage to the pavement justified removal as well as the condition of the tree (as it later went on to state) then the ITP should have known this too"*. They found *"no evidence of how they [the Council] reached their conclusion"* and noted the contrary advice of other evidence supplied. As a result, the LGO *"consider this a case where the evidence justifying removal as the last resort open to the Council was far from convincing."* They also criticised the Council for not publicising the views of two experts commissioned following the ITP's.
914. The report found further fault against the Council for misrepresenting expert advice in emails to the public, finding that:
- "No-one reading that email could read it any other way than the third-party opinion supported the Council and its contractor in their decision the tree needed replacement. Not that the opposite applied. The fact another email was sent in the same terms to a different complainant, by a different officer, means I do not think this was just poor drafting."*
915. The LGO noted that this action *"along with the lack of evidence showing that it always believed the pavement condition justified removal of the tree, has undermined trust in the effectiveness of its complaint procedures"*. The report found two injustices to the complainant: the uncertainty as to whether without these faults a different decision would have been made, and the misleading reply and its avoidable distress.
916. The Council accepted the findings, agreed to apologise to the complainant and set out the new approach to street trees which was being followed by the end of the investigation. The apology was made but found by the complainant to be lacking. Through the new approach, the tree has been retained.
917. The final LGO report, published in September 2020, was about Rustlings Road. The complaint was both about the decision to remove the trees and Council communications.

918. The LGO found multiple examples where the Council had not met the standards of good administration. They criticised the initial rationale for the tree removals, the secretive practice in handling ITP recommendations and misrepresentation of advice from surveys and the police. The complainant had received misleading information from the Council.
919. The Ombudsman found faults against the Council in the handling of the operation on Rustlings Road, including subterfuge and potential breaches of civil law in the operational plan. They also found fault with the Council putting up a temporary road traffic regulation order but deliberately omitting the dates. They criticised the handling of the complaints, failures to respond to the complainant and delays and discrepancies in information provided to him. They also said that the complaint was *“helpful, informative and constructive in his engagement with the Council”* in the way he endeavoured to make the Council aware of discrepancies and concerns, concluding that: *“many of the faults we identified could have been avoided had the Council engaged with the substance of his concerns at an early stage”*.
920. The LGO did acknowledge the pressures on the Council throughout the dispute period. They also welcomed the actions taken after March 2018, including the release of the redacted contract, mediation, joint inspections, formation of the Street Tree Partnership and the subsequent strategy.
921. As the LGO found fault which caused injustice, remedies were appropriate. The LGO said that its report should be considered at full Council, cabinet or other appropriately delegated committee of elected members and that evidence of that was to be provided to the LGO. The Council was also to confirm within three months the action it had taken or proposed to take.
922. The LGO also told the Council to provide an unreserved public apology accepting the findings of its investigation and a private apology to the family of the complainant (as, sadly, the complainant died prior to the investigation reporting), specifically on the way they communicated with him. They also made recommendations to the Council on contracting and management arrangements, complaints procedure signposting, lesson-learning and embedding the principles of openness and accountability. The Council accepted these recommendations.

The Information Commissioner’s Office and Bevan Brittan LLP

923. The Information Commissioner’s Office (ICO) published decision notices in relation to complaints raised around the dispute concerning Freedom of Information Act 2000 (FOI) and Environmental Information Regulations 2004 (EIR) requests. These were submitted to the ICO, most commonly in relation to the Council, but also in relation to South Yorkshire Police. Of those submitted against the Council, around half were upheld or partially upheld.
924. When decisions upheld the Council’s position, this was most commonly to agree that the information was not held or to confirm the correct exemption had been cited. On some occasions where the Commissioner found issues, no further action was required. On other occasions, the Council were told to take action, including providing the requested information, responding to aspects of requests which had not been sufficiently addressed or issuing a substantive response.
925. In 2019, several emails with a subject heading marked *“Covered by legal privilege and not subject to FOI”* or similar were published. This prompted questions from protesters about the appropriateness of this marking. As reported in the media in July 2021, the ICO received complaints about this practice and investigated.

926. As the complaints about this issue continued, the Council commissioned legal firm Bevan Brittan LLP to conduct an independent evaluation of whether section 42 of the Freedom of Information Act (which relates to exemption around information which is legally privileged) and Regulation 12(5)(b) of the Environment Information Regulations (which relates to information which, if disclosed, would adversely affect the course of justice) were applied in accordance with law and best practice. This responded to a member of the public's allegation that information had been incorrectly exempted from disclosure due to the practice of marking emails "*Covered by legal privilege and not subject to FOI*" or similar. The Council showed the draft and final Bevan Brittan LLP reports to the Inquiry.
927. Bevan Brittan LLP asked for all relevant information relating to a sample of requests, both street tree specific and general, but the Council could not provide them with sufficient information to complete the review for all requests. Bevan Brittan LLP note that this suggests a failure in the Council's records management procedures and a failure to gather the information which was the subject of requests.
928. Of the requests that they were able to fully review, in most instances, rules had been correctly applied. But in some instances, officers had inappropriately labelled information as being "*not subject to FOI*" and, in at least one instance, this resulted in information which should have been disclosed being incorrectly withheld (although it was later disclosed). Where rules had been incorrectly applied, the reasons for this were unclear but Bevan Brittan LLP did not see evidence that information was deliberately withheld to avoid publication.
929. This partial picture of information meant that Bevan Brittan LLP were unable to state conclusively whether rules had been correctly applied. This also limited the findings and recommendations they could make. However, as the Council had in some instances labelled information they considered sensitive as "*Not Subject to FOI*", Bevan Brittan LLP state that:

"This practice was inappropriate. Officers accept this and the practice is (as far as we are aware) no longer used. We have seen evidence that the intended purpose of the labelling process was to flag information which is sensitive, for the IMT [information management team] to then review carefully before making decisions on disclosure under FoIA, and not to intentionally withhold information which should otherwise be disclosable. We have seen evidence that in one instance this practice resulted in information being incorrectly withheld under FoIA; that information was later disclosed."

930. Bevan Brittan LLP made recommendations to improve practice, including reviewing: policies and procedures; record management systems to ensure information is logically stored and easily retrievable; sign-off practices; training; and resourcing of the information management team. They also recommended that:

"In relation to the Tree Requests and General Requests where we have found that the exemption in s.42 FoIA/re. 12(5)(b) EIR was incorrectly applied, revisit the information and consider whether it can and should be disclosed to the relevant applicants (we appreciate other exemptions may apply, and this should be assessed)."

931. The Council published the Bevan Brittan LLP report on 6 December 2022 with a press notice in which they accept the findings and:

"Also accepts it [the Council] could not demonstrate suitable record management processes and procedures. The organisation has taken steps to ensure that this has and continues to improve. Such steps include increasing capacity in the relevant teams and making this a top priority in the corporate delivery plan."

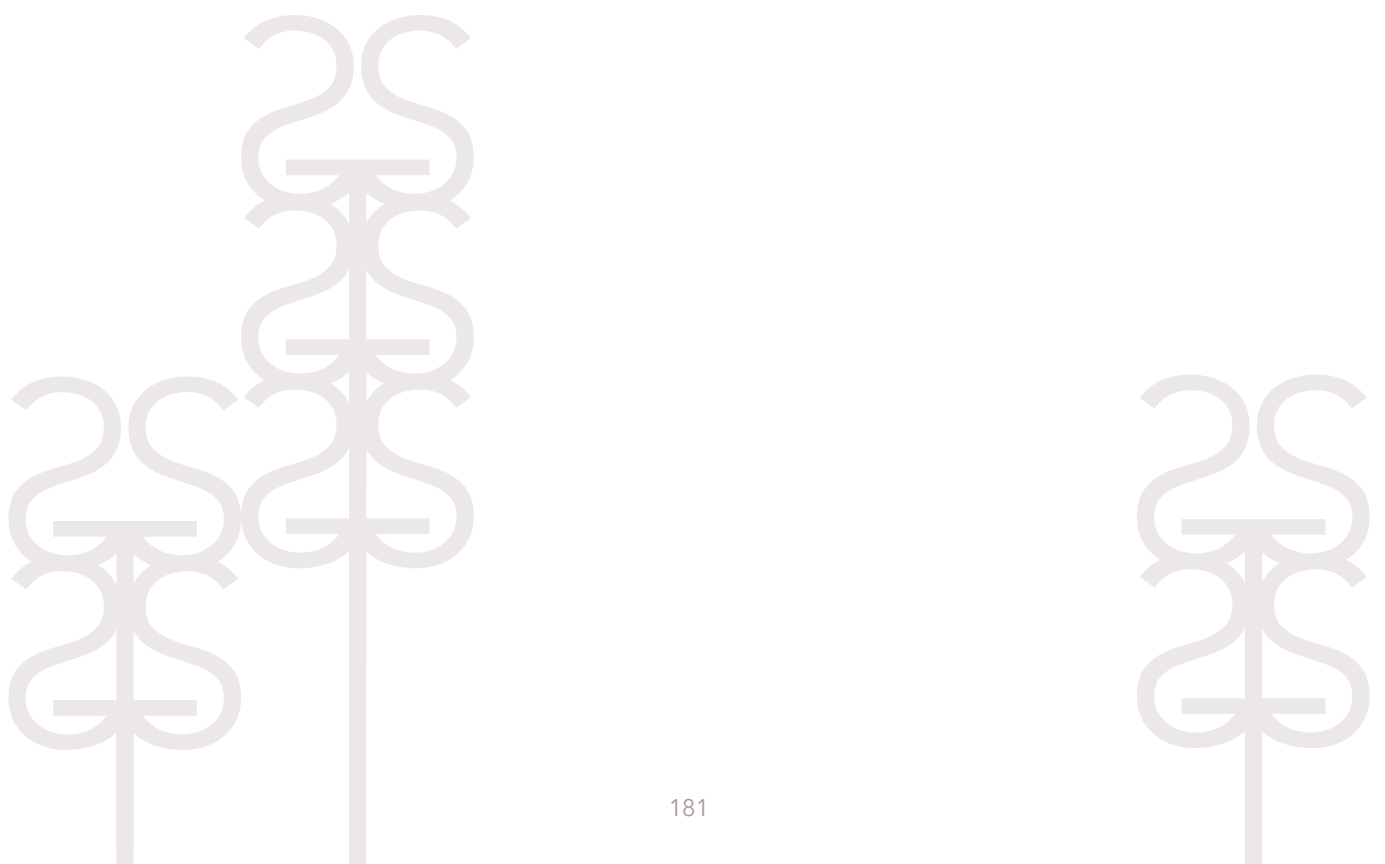
932. This was expanded on by Terry Fox, the Leader of the Council, who reaffirmed the Council's commitment to openness and transparency and said:

"Although the report makes for uncomfortable reading in parts and does not reflect what we want to be as an organisation, we welcome the recommendations and are committed to implementing the necessary changes to improve how we handle requests for information"

933. Media coverage of the Bevan Brittan LLP report and the Council's response focused on the investigation being hampered by a lack of data.

Inquiry observations on media communications and information handling

934. As the dispute grew, it gathered more press and national political interest. With rare exceptions, this was consistently and increasingly critical of the Council. The Council failed to convince people of their reasoning and relied on misleading messaging that the protesters and public did not believe.
935. While attacks from politicians from other parties than Labour may be seen as partisan, concerns spread across the political spectrum. Local celebrities joined in. All of this contributed to the build-up of pressure around the dispute.
936. As the protesters became more frustrated, they used multiple channels to seek change and redress. Faced with budgetary constraints linked to central government austerity programmes, the Council's ability to switch resources to manage new demands was limited. The investigations by the Local Government Ombudsman, ICO and Bevan Brittan LLP show a pattern of systems being sometimes overwhelmed by the volume of demands and information not being provided; and also an unwillingness to provide the public with accurate information or explanation of why decisions had been made. This pattern contributed to deteriorating trust between the public and the Council.
937. The Council has now acknowledged that it needs to improve its data management. The progress made in restoring trust through mediation, new Council governance arrangements and the Sheffield Street Tree Partnership are described in **Chapter 5.1**.



Chapter 4.6: Inquiry observations on 2012-18

The context

938. In 2012, there was understandable enthusiasm in the Council for the Streets Ahead programme. It promised a rapid upgrade of the city's highways and associated infrastructure, a long-term solution to maintenance, and a reduction in complaints about potholes and ill-lit streets.
939. Central government had agreed to pay a large proportion of the bill. It monitored progress and needed to endorse contract changes, but contract implementation was largely left to the Council.
940. The coalition government's austerity programme sharply reduced other central government funding for councils. This brought pressure to make savings on Streets Ahead, and wider constraints on the Council's spending choices. However, it did not force the Council to stick to the tree replacement programme in the face of strengthening opposition.

The Council's mindset and approach

941. Current and former staff, politicians and external observers all told the Inquiry that the Council culture was insular during these years. There was a small, sometimes weak, corporate centre and siloed working within portfolios. Senior officers in the Highways team had a strong determination to implement all of the improvements envisaged in the contract. The handling of the dispute was largely within the Place portfolio – which was consistent in its approach throughout – enabling little collective conversation and problem-solving. The change in the relevant Council cabinet lead in 2016, as well as the judicial review ruling going in the Council's favour, appears to have hardened its line against compromise.
942. The Inquiry was frequently told, in private discussions with Council staff and others, about a political culture that was unwelcoming of external input, interpreted anything other than positive endorsement as disloyal criticism, and was prone to defensive reactions. At times, this bordered into blame culture. The Inquiry has also been told of meetings with the political leadership which were robust and frank in the later stages of the dispute and of some that went beyond this. This made attendees less likely to voice dissent.
943. The Council's response to the delays to the tree replacement programme during 2017 and into 2018 was to seek injunctions, and increase the pressure on Amey and the police. The Council and Amey upped the ante in January 2018 by introducing the use of reasonable force, angering the protesters and leading them to take further action. The Council doubled down on achieving the programme as planned, at increasingly greater costs both reputationally and in the toll they took on people in the Council, Amey, the protester groups and others.
944. At key points in the dispute – for example, in making arguments for the need for works without notice on Rustlings Road – the Council relied on concerns for public safety. Some from the Council repeated these points to the Inquiry, including in public hearings. The Inquiry did not find public safety to be the dominant purpose of many of the Council actions, including the approach on Rustlings Road and seeking the injunctions. In these cases, the ability to continue the tree replacement programme as planned was the primary objective, with public safety a necessary aspect to achieving that aim. The claim of concern for public safety also falls down in the contemporaneous evidence seen by the Inquiry around the pressure placed on Amey to continue the programme, especially after December 2017 when the Core Investment Period milestones had been signed off. Had public safety been the dominant concern in this period, different decisions may have been made: for example, the Council could have decided to change its approach, as it eventually did after the end of March 2018.

945. Council officers told the Inquiry they always followed the political (and/or senior executive) direction they were given. They said there was never any indication of a political will to adopt more flexible highways standards prior to March 2018. The Inquiry did not find evidence of officers deliberately ignoring the direction they were given by governing politicians. That said, some officers observed that where some elected members did ask for alternative approaches, this was not always welcomed. James Henderson told an Inquiry public hearing that:

"I felt that Councillor Fox, the lead cabinet member, had asked the highways client team to explore some alternative options and to bring forward some proposals about what might be done differently. I didn't get a sense that that request had been responded to particularly positively... I had a real sense that Councillor Fox had tried to lead a slightly different way of approaching this but that perhaps hadn't been followed through by the service and I thought that there was some resentment at an operational level that that plan was being challenged by members, by campaigners or indeed by anyone else."

946. There was no serious consideration of whether ratchetting up their response would deter the campaigners. The Council failed to understand their determination. Only the hard-line stance of the Council leadership and the Highways team can explain why things were allowed to escalate in the way they did, and only a determination to prevail in the dispute irrespective of the substantive issues can explain their hard line.
947. In taking this approach, the Council failed to see the harms it was doing to itself, its reputation and the city.
948. The Inquiry was struck by a comment made by James Henderson, Director of Policy, Performance and Communications, at a public hearing with the Inquiry:

"One of the things you might ask is the extent to which the trees issue was discussed within the senior officer leadership meetings of the Council as the protests grew and became a national, and indeed international, reputational issue for the authority and the city. The answer is surprisingly little. What happened in practice was the management of the programme and response to the campaign was very largely contained within the Place [including Highways] portfolio... That was perhaps understandable I think in the early days of the dispute... but that very largely carried on right through, so right through the three and half years to the point of the mediation process. I think, again in hindsight, that that does appear less than ideal..."

"...the fact that there was so little opportunity for collective conversation and some constructive challenge about what other options might be available to us meant that a very particular pattern of thought was allowed to develop and was left unchecked and unchallenged for too long. The potential for other possibilities or courses of actions was probably a bit closed off as a result..."

"I don't think until the point of mediation that we really sought external views or advice from other authorities or from the Local Government Association or from any other body that might have been able to come in and take a step back and help us to... think through what our options were and to give us a bit of a view about what was going on. That sort of process didn't happen."

949. At a public hearing with the Inquiry, Eugene Walker, Executive Director of Resources, was asked whether there was proper internal consultation, whether established processes, rules and delegation systems – for example, between members and officers – were followed. He was also asked whether decisions taken were taken properly. In reply, he said:

"I have no reason to believe that they weren't followed...knowing the way the Council works and the people involved, if some of the people involved in giving advice on that had been concerned about inappropriateness it would have got flagged, that's the way it works. That what my and other peoples' roles are, to have people involved in projects and issues, and when someone doing that has concerns they go up my chain and other chains and go "hang on a minute, this isn't being handled in the right way". That wasn't the tone of what came out of that, so I have no reason to believe that things were taken at the wrong level or taken inappropriately from the role of members and officers. And from what I know, members and officers worked pretty closely on it throughout the period."

950. While the evidence provided to the Inquiry does show that the governance processes for the contract seem largely to have been followed, there appears to have been a reluctance to use the governance systems to ask important questions about whether there were alternative strategies that would have worked better. There also appears to have been a disconnect at times between the governance system for the contract and that of the Council's most senior management boards. This also meant that checks and balances on the use of a local authority's power did not always function as well as they could. While the Inquiry did not find that the Council exceeded its authority or acted unlawfully, the relationship between the Monitoring Officer, Chief Executive and Executive Directors could have provided a greater level of challenge over whether the Council was using its authority wisely, proportionately and appropriately. For that, the Council's senior leaders bear responsibility.
951. The Council also had a verbal culture. This meant that decisions were routinely taken at meetings but may not have been recorded. This is not necessarily a problem, but it meant that decisions not part of the Streets Ahead formal governance systems at times lack an audit trail. The lack of a consistent written record or communication around the final plan for the Rustlings Road operation is a good example.
952. Throughout this period, given the balance of political power across the Council, there was limited political pressure inside the Council to compromise. While a Strong Leader cabinet model with fewer checks and balances arguably gives authority to get things done, it can also, as in this case, enable the wrong things to be done without serious challenge.

The contract and the role of Amey

953. Any 25-year performance based contract that includes capital investment and long-term maintenance for a city's highways was bound to be complex, whether a PFI contract or not. The Sheffield Streets Ahead contract, with its 752 performance requirements and monitoring arrangements, was certainly complex. A misjudged design intent to replace half of the city's street trees was agreed by Amey and the Council and written in.
954. All contracts are shaped by how well they are prepared, the assumptions that are made and how easy they are to amend. In this case, there were gaps: it was assumed that the tree replacement programme would be popular, guidance on managing street trees and calculating their value was ignored, risk assessments were not done thoroughly and warnings went unheeded.
955. All contracts generate incentives. The Streets Ahead contract set demanding milestones for the Core Investment Period. From the Council's and Amey's perspective, this provided an incentive to get the main work done quickly, bringing benefits to Sheffield and, no doubt, to Amey commercially.

956. The Council argued that the contract was difficult to change. Amendments, of course, require work, but the Streets Ahead contract has been amended multiple times and PFI contracts elsewhere are often amended. The contract was changed by the Tree Compensation Event in December 2016 but only to enable negotiations to remove areas around certain trees and to allow Amey to charge the Council for the costs of some tree-related interventions. This facilitated the end of the Core Investment Period for both parties but did not deter the Council from pursuing the tree replacement programme. The Council said it was concerned about the cost of contract changes but was ready to spend significant resources on legal action (even after that was proving ineffective).
957. Amey have provided the Inquiry with multiple examples of the pressure they felt they were under. This included concrete examples of the way deductions were used by the Council and the financial concerns this created within Amey.
958. During 2016, Amey proposed flexibilities which could be used to manage the dispute. The proposal at the time included the use of thinner kerbs, gaps in the kerb and other solutions. While Amey did not proactively offer to bear the financial cost of these, the Council had considerable leverage over them. The Unitary Charge payment arrangements and Clause 19 of the contract (which made Amey responsible for protest risk) could have been used to start to negotiate a solution with Amey at that point. However, the Council turned the proposals down.
959. While deductions from the unitary charge are based on evidence, their use is also a matter of judgement, negotiation and understanding how to manage a productive relationship which provides value across 25 years. The Council's approach was to use its leverage over Amey to pressurise them to pursue the tree replacement programme, and at times to make cost savings, rather than to explore compromises which Amey may have financed. Fearful of financial penalties, Amey were reluctant to challenge the Council, even though it had qualms about the approach being taken.
960. There is another noteworthy point here. In **Chapter 4.1**, we noted that, in the first part of 2017, the Council had observed (in the context, it appears, of discussions on the injunction) that Amey appeared *"to be confident that they can hit the milestones and de minimis thresholds while leaving the controversial trees in situ"*. We also noted in **Chapter 3.4** that on the small number of occasions when the Council decided to accept recommendations from the ITP to save trees, the way they acted on that was to remove the relevant trees from the approved list for replacement. They did that while leaving the risk with Amey. The Inquiry's view is that they could have done this for a larger number of trees. The best explanation of the fact that they did not is that they wanted to keep as closely as possible to the original standards of the contract (even where that was not necessary) and they wanted to have their way over the protesters.
961. Amey also missed opportunities to bring a resolution to the dispute earlier, critically by failing to call what became the final pause sooner (for example in January or February 2018). As Peter Anderson, Amey's current Managing Director said in a public hearing with the Inquiry:

"I think with the benefit of hindsight, in the heat of the moment, in real time, perhaps Amey could have pushed back a bit harder, I think at the time against the escalatory measures.

"And we've talked about reasonable force. I think if we had our time again as Amey, I think we'd have pushed back a lot harder a lot sooner against that level of escalation. And we'd have pushed back against Sheffield and against the SPV, and against the shareholders in the agreement. We'd have done that sooner and we'd have looked to look afresh at the engineering solutions that were potentially available to us and the funding mechanisms perhaps for some of those engineering solutions."

962. This was also discussed with Darren Butt, former Amey account manager, at a public hearing with the Inquiry. He said (in response to a question noting what Mr Anderson had said (previous paragraph)):

"I think Mr Anderson is probably correct in what he said as well. I think you have to bear in mind though that through 2018, whilst it sounds like a significant period of time, around three months, it wasn't. It was a matter of weeks that operationally we were delivering within that period. We weren't out every day for that three month period cutting down trees. There were a number of suspensions of the programme put in place, by ourselves, by the police, by the authority. So it was a very short period of time that reasonable force was actually in place. So if you actually looked at the number of days or number of weeks actually involved things escalated very very quickly during that period when reasonable force was introduced."

963. The Inquiry Chair then asked: *"Those points are all well taken, but in hindsight, you're not disagreeing that the company should have been stronger in saying to the Council we can't go on in this way?"* Darren Butt replied:

"With the benefit of hindsight, I'm sure we could have done that a lot sooner."

Stakeholder relations

964. As set out in **Chapters 4.4** and **4.5**, the Council took a consistently firm approach to communicating. Playing out spats in the media, using unevidenced assertions, refusing to give ground and repeating opaque and misleading public messaging ultimately damaged its credibility and wrought significant reputational damage not only on the Streets Ahead programme, Amey and the Council, but also on the city.
965. The Council's and Amey's initial approach was to explain the work programme to local people. They often referred to this as consultation. The Inquiry considers notification or explanation of the programme a better description. It is not clear that in the first three years of the programme it resulted in changes of approach and thereafter only some delayed work. The Council and Amey failed to listen to and understand the concerns being clearly expressed and for too long deluded themselves into believing all was well with the programme.
966. The Highway Trees Advisory Forum and the idea of the Independent Tree Panel appear to have been genuine attempts by Councillor Fox, then the street trees responsible cabinet member, to build a consensus on the way forward. But both were seriously flawed. In the case of the Independent Tree Panel, setting up a process which the Highways team were not bought into, misleading the panel and then going against the majority of its recommendations to save trees undermined the positive impact it might have had and severely damaged the Council's credibility.
967. There were also uncomfortable meetings between politicians and members of STAG. As Chris Rust, former STAG co-chair, told a public hearing with the Inquiry:

"at a certain point [in the meeting] Ms Dore became quite agitated and started saying lots of things that were very angry...and the chief executive just looked embarrassed, I'm not sure if he'd been in that situation before, and my colleague Rebecca was leaning over and saying: it's OK, we can talk about this, don't worry. It was one of the strangest experiences of the campaign for me."

968. Earlier in the report, the Inquiry has made observations on the tone the Council adopted when speaking to the public, experts, Amey and the media. The Inquiry has also been struck by reports from current and former staff of the confrontational tone used by some in the Council in internal discussions, and has seen email correspondence corroborating that.

969. In addition the Inquiry observes that over this period:
- a) The Council put out and perpetuated statements that were misleading and at times dishonest in their correspondence, media handling and in the information it provided to the Independent Tree Panel and others. Where it was challenged or shown to be inaccurate the Inquiry has seen little evidence that the Council took action to correct misinformation. The Local Government Ombudsman reached a similar view, saying that *“one of the root causes of the significant loss of trust the Council suffered in carrying out its Streets Ahead policy... lies in its lack of transparency, openness and on occasion, honesty”*. Council officers told the Inquiry there were occasions when they were made aware of statements made by political decision-makers which had either been inaccurate or were potentially misleading, but did not think they had further scope to raise concerns about that.
 - b) The Council’s culture of defensive insularity fed an approach to information management which focused on minimising that which was released. This was exacerbated by the demands the dispute placed on the Council. Key information such as the redacted Amey contract was withheld until the Information Commissioner required the Council to release it. This bred mistrust and that mistrust was proven well-grounded as more information was made public.
 - c) The tenor of Council meetings, at times, became fraught. The tone adopted by some Council leaders added to the battle mentality and entrenchment – for example, media messaging which appeared to try to make the dispute a class issue, behaviour dismissive of members of the public at open council meetings and a focus on debating issues such as where there was popular support for the tree replacement programme (for which the Council held and gathered no objective evidence), instead of focusing on how to resolve the dispute.
 - d) Weaknesses in the Council’s record-keeping and in its structures for managing communications were exposed, and capacity was not increased adequately to meet demand. The democratic process allows questioning of those in government through petitions forcing debates, freedom of information requests, letters and peaceful demonstration. These were answered inconsistently. Experts and other organisations also sought information from the Council. It was provided, at times, reluctantly (as highlighted by the Forestry Commission) and was often incomplete (as shown by Bevan Brittan LLP). The Council was referred to the Information Commissioner several times. The Local Government Ombudsman also found failings on the Council’s part on several occasions and made extensive recommendations.
 - e) Knowledgeable people and organisations made multiple attempts to engage with the Council. These were mostly initially generous, good natured and offered in the spirit of partnership. They highlighted relevant guidance and made offers of support, and, in some cases, mediation. These were consistently and systematically rebuffed, including when raised by senior local politicians.

The protesters

970. The protests grew gradually as the tree replacement programme rolled out. People became more aware of what was happening and disillusioned by the replies they were getting from the Council and Amey. What started out as a series of local groups brought together by social media grew into a coordinated campaign using increasingly sophisticated tactics. Sheffield Tree Action Groups (STAG) provided an effective meeting point and publicity hub for the protesters and proved to be skilful users of social and traditional media.
971. The protesters were described by some to the Inquiry as a minority and as environmental extremists encouraged and supported from outside Sheffield. There are few objectively verifiable statistics. The Inquiry noted the ease with which numbers of signatures on petitions to force full Council debates were achieved and the reports of hundreds attending demonstrations. Many protesters testified that this was the first time they had taken to the streets. They came from a wide range of backgrounds, often older people concerned about what was being done to their local streets. Several people, including former councillors, have spoken about recognising the vast majority of the protesters as local to Sheffield.

972. The protesters have also been commended by some of their opponents for running a smart campaign: finding new tactics to thwart tree removal, garnering support from experts, celebrities and the media to support their cause at opportune moments. The Council had no answer to them beyond the programme must go on, no other approach is affordable and they are a minority. And by refusing to negotiate, they helped the protesters to remain a largely coherent group which did not need a clear negotiating position. In all of the contact with the protesters, media and experts, the Council did not persuade any group of their reasoning.
973. Until the last year of the protests, demonstrations were mostly good humoured, but tempers then frayed. The naming and harassing of Council and Amey staff, when they were doing their jobs and, in some cases, when they were living their private lives in the community, crossed the lines of acceptable protest behaviour. Confrontational and aggressive behaviour also occurred.
974. It was clear that there was a strongly felt cause. The Council failed to understand it, and the determination of those involved. In the Inquiry's view, the Council relied for far too long on the misplaced belief that the protesters were an unrepresentative minority whose views therefore did not need to be engaged with meaningfully and who could be overcome through the use of the Council's authority.

The role of the law

975. Both sides in the dispute tried to use the law to support their case. The protesters lost their 2016 judicial review bid to have the tree replacement programme ruled unlawful. The Council, as a result, felt emboldened – unwisely, as it turned out. Their approach to Rustlings Road attracted negative coverage, raised the political profile and further galvanised the protests.
976. In 2017, as the protests escalated, delaying the tree replacement programme, the Council sought injunctions, and, later committal proceedings without adequately considering whether this would be effective. Like others whose evidence was referred to earlier, the Inquiry is particularly concerned by the Council's decision to pursue committal proceedings against Green Party Councillor Alison Teal. The Inquiry suspects many people would question whether this decision was in the public interest. Actively seeking punishment through the courts, including potentially imprisonment, of an elected opposition politician who was clear that she intended to comply with the law, sits badly with democratic tradition.
977. The police were drawn into the dispute because of their duties to facilitate people going about their lawful business but also to facilitate peaceful protest. It was an awkward balancing act. The Police and Crime Commissioner proved a strong advocate for a political rather than a law enforcement solution which clearly was not working.
978. The Inquiry saw little evidence that the Council paused at any point in any meaningful way to consider whether its legal strategy would work or was reasonable. Instead, the leadership of the legal teams focused on what could be done, encouraged by the inflexible approach of some within the Highways team, with little thought to effectiveness or political or reputational consequences. Others in very senior executive positions who might have intervened to get the Council to rethink its approach did not do so effectively before the spring of 2018.

The final stages

979. The Core Investment Period for Highways was completed in December 2017 (followed by street lights in April 2018). Despite this, the dispute ratcheted up, with the Council leadership ever more determined to complete the programme of tree replacement; and, as it seemed to the Inquiry: to win against the protesters. This phase saw Amey employ security contractors, ongoing debate with the police, the Council putting pressure on Amey to put pressure on the police, and further injunction action in the courts. Meaningful consideration was given to seeking a judicial review of the police and to ring barking trees to kill them to ensure they qualified for replacement. Fortunately, neither of these was pursued.

980. Once the pause of late January 2018 was called, the Council had an opportunity to take stock. The clearest evidence the Inquiry has seen of how it did that was in the paper written by Paul Billington (citing views ascribed to Julie Dore, the Leader of the Council) in early February 2018. The Inquiry considers this document, the content of which is summarised in **Chapter 3.6**, to be indicative of the mindset of a number of important Council decision-makers at the time. The Inquiry observes that:
- a) The author's request that the paper and its covering email be deleted from the email system once printed speaks for itself.
 - b) It is conceivable that the author thought the advice he was providing was in line with the political direction he had received, and that he did not have leeway to depart from that.
 - c) The paper shows that the Council knew that Amey were offering a different approach to trees at their own expense.
 - d) The Council knew that, because the Core Investment Period (except for streetlights) had been signed off, with only around 250 trees remaining to be replaced, any contractual pressure was sharply reduced.
 - e) The tone of the paper and the references to "*criminality*" have the effect of demonising STAG.
 - f) While the extreme option of ring barking trees is not recommended as the next step, the approach that is recommended involved tactics which had already been shown to have failed and conveys a strong impression that a main objective was to defeat the protesters.
981. The Council's attempts to restart the tree replacement programme in March 2018 quickly attracted strengthened opposition. The protesters became more, not less, determined. On 15 March 2018, The Guardian reported that two local Labour MPs had issued statements calling for a pause and meaningful mediation. The Police and Crime Commissioner again called for a political solution. It was by this stage hard to find any influential person willing to support what the Council was doing.

It did not have to be this way

982. That the dispute was covered at every Council meeting between September 2016 and March 2018, and the obvious effectiveness and determination of the campaigners, should have persuaded leaders earlier that a different approach was needed for a resolution.
983. There were opportunities to end the dispute through the ITP in 2016, in the lead-up to the operation on Rustlings Road, during 2017 and then throughout January and February 2018. As time passed, and especially with the end of the Core Investment Period, many of the pressures within the contract dissipated, but the Council continued to press hard for tree replacement. They continued to put pressure on the police and Amey, both of whom would have preferred an earlier negotiated solution. Offers of mediation were declined.
984. Extending the dispute meant that more harm and reputational damage was done.
985. In the view of the Inquiry, effective strategic leadership requires clear understanding of problems, the identification of stakeholder interests and likely behaviour, the analysis of options available to decision-makers and the development of solutions which are both likely to lead to a resolution and are a wise and reasonable use of authority. Against this benchmark, the Council displayed serious and sustained failures in strategic leadership in its handling of the dispute between mid-2016 and March 2018. The Inquiry did not find that the Council had exceeded the use of its authority (nor that there had been criminal conduct, contempt of court, or breach of professional standards), but considers that it did not use that authority in a proportionate or appropriate way.



Part 5:

April 2018-22

The peace process and looking ahead

- Chapter 5.1: The peace process
- Chapter 5.2: Achievements, risks and opportunities

Part 5: April 2018-22

The peace process and looking ahead

986. Part 5 contains two chapters:
- 5.1 Follows the peace process from April 2018 to the end of 2022 and the reasons why it succeeded.
 - 5.2 Assesses the challenges ahead for the Streets Ahead contract and continuing reconciliation in Sheffield.

Chapter 5.1: The peace process

987. As **Chapter 3.6** describes, the Streets Ahead tree works were paused on 26 March 2018. The Council Leader decided by early May 2018 that a new approach was needed and appointed a new cabinet member to oversee it. Labour lost seats in the local elections, but retained its Council majority. The Council and representatives of Sheffield Tree Action Groups (STAG) began talks to end the dispute. This involved mediated discussions, chaired by the Bishop of Sheffield and the Centre for Effective Dispute Resolution, in the second half of 2018. This was challenging, but through this new dialogue, the Council, Amey and the protesters agreed and published a joint position statement which marked a significant moment in resolving the dispute.

A new approach

988. On 26 March 2018, after events on Meersbrook Park Road, Amey decided that there should be a pause in the replacement programme. This was agreed, and the Council issued a statement on the same day announcing the pause. It focused on safety concerns, citing *“danger to staff and members of the public”*. After the statement was published, the Chief Executive, John Mothersole, emailed the Liberal Democrat former Leader of Sheffield Council, Lord Scriven, saying that *“There is a review period which has become referred to as a pause. It is to allow Amey to explore options for completing the work taking into account the actions of recent weeks. There is no confirmed timescale for the review period”*.
989. There had been previous pauses and this one was not initially intended to be long-term. Several factors combined to ensure that this pause lasted. They are prefaced in Parts 3 and 4 and summarised here:
- The police were increasingly uncomfortable with their role in the dispute and under pressure to use their resources elsewhere.
 - Amey had called a pause at their own risk for the first time because they saw that the programme and approach was unsustainable.
 - The protests were gaining more support and becoming more confrontational with the risk that people could be seriously hurt.
 - There was increasing pressure from politicians on all sides, including senior local Labour politicians, for a different approach.

Timing and consequences of the local elections

990. Some people told the Inquiry that the proximity of the local elections also influenced the decision to pause in March 2018, but others dispute this. An Amey submission to the Inquiry says that *“with the local elections taking place in May 2018, the continuation of the suspension until after these elections was deemed appropriate for all parties”*. This, and emails between Council officers, suggest that the pause was not called because of the local elections, but once it was in place, they affected the duration of the pause. Similarly, councillors did not seek a new approach to affect the local election results, but the pause during the election period created a gap when immediate tensions were calmed, and protests and media coverage of the dispute reduced.
991. On 9 April 2018, the Council Leader, Julie Dore, was challenged about the dispute when she appeared on BBC Radio Sheffield to launch the Labour Group’s manifesto. The manifesto said little about the dispute, pledging to *“complete the Streets Ahead project and ensure the highways are maintained for the lifetime of the project”*. In the Parks, Countryside and Trees section, it pledged to *“publish a strategy for the city’s trees in parks, countryside and on the highways”*. Including highways trees helped to meet a protester demand.
992. The outcome of the elections brought changes to the Labour Group. In 2017, it had elected Olivia Blake as its new Deputy Leader. She later said that she *“was elected Deputy Leader of Sheffield Council on a ticket of reform”*, because people wanted change from the approach taken by the incumbent Labour Group leadership and cabinet.
993. The Inquiry was told that a group of backbench councillors told the Leader in January 2018 that the dispute was causing significant reputational damage to the city. They were concerned that the protesters included many older residents, who could be at greater risk of injury during protests; and injuries would reflect badly on the city. This group was also encouraging a change in approach.
994. After the local elections in May 2018, Councillor Lewis Dagnall was brought into the cabinet, along with other new members. The Council Leader, Julie Dore, asked him to replace Councillor Lodge as the cabinet member responsible for Environment and Street Scene, and therefore Streets Ahead.

The Council and Amey review their approach

995. The pause allowed time for the Council and Amey to discuss new options, including the possibility of greater engagement with STAG.
996. At first, some Council officials were not convinced that talking to STAG would be productive. Tensions were still very high and trust was low. Paul Billington, the Director of Place, said in correspondence with a protester:

“The decision as to whether the Council enters into discussion with STAG will be a political decision and not one for me.

“However, my view on the context is as follows:

“1. STAG commands little support amongst the wider Sheffield public... (the media support is way out of step with public support)...

“4. STAG has relentlessly attacked the council and continues to do so – often, in our view, with untruths and misrepresentations and occasionally with unnecessary personal attacks

“5. STAG ‘leadership’ has repeatedly said they have ‘no control over protestors’ – so what would be the point of even attempting to agree positions with the council?”

997. On 16 April 1998, the co-chairs of STAG wrote to the Council to propose a meeting. The invitation says that they *“have a clear proposal to discuss on how, by mediated negotiations, we believe we can find a resolution to what appears to be a deadlock”*. They had booked a venue, invited Amey, South Yorkshire Police and representatives from the press, and arranged for an Independent Chair.
998. It was not possible for Council officials to attend this meeting because of restrictions on business during the pre-election period. Council officers were also concerned that STAG had invited the media and had not consulted them on the arrangements or the chair. But the Council Chief Executive, John Mothersole, did discuss the possibility of a meeting with the chairs of STAG.
999. During April 2018, John Mothersole continued to seek dialogue with the chairs of STAG by email and in person. He instructed other officials to do the same, asking them to focus on constructive dialogue. There was a meeting between Council officers and Amey on 20 April 2018 to discuss negotiation tactics. Paul Billington’s notes from the meeting record that:

“I asked them [Amey] to start with the potential narrative to sell to residents, media and STAG. This took us towards the principles set out below...”

[The principles included]

- *“SCC will not accept STAG assessing/approving every tree*
- *“STAG accept replacement of ALL trees which are dead, dying, dangerous or diseased (possible 3rd party verification of presence of disease as a fallback compromise)*
- *“STAG accept replacement of all discriminating trees (about 4% of trees in 2018 programme)*
- *“Council and Amey agrees to a ‘retain or phase’ approach on damaging trees (aka ‘healthy trees’) and Amey fund all required works. In other words, apply workable and affordable solutions to retain a tree, but where not possible, apply phased replacement. Damaging trees are the critical ‘battle ground’ and make up over 90% of the trees that are earmarked for replacement in the coming year (after that they become a much smaller % of trees needing to be replaced)*
- *“Offering phasing (in return for STAG accepting replacement of trees in the other D categories) - is what residents have been asking for and will help us regain the high ground with residents and media (we’ve listened and compromised)*
- *“Rejection by STAG of phasing will allow us to present them as ‘fanatics’ who refuse to compromise*
- *“The ‘carrot’ of retention/phasing needs the backup of the ‘sticks’ of renewed injunction, commitals for breach and a legal solution (if possible) to oversail. Without sticks, STAG will roll us over in any discussions and the sticks will be needed anyway for the real hardcore who will never compromise on ‘healthy’ trees*
- *“Our justification for phasing (why didn’t we do this before?!) is that for the first time, Amey has agreed to fund the associated works.”*

1000. It is clear that trust on both sides was still low, and there was some scepticism about talks. But from April 2018, the Council began planning for negotiation with protesters in a way that had not happened before.

Preparing for mediation

1001. Councillor Dagnall took on cabinet responsibility for Environment and Street Scene, including the street trees dispute, on 9 May 2018. The following day, he told BBC Radio Sheffield that:

"It's a really exciting opportunity to work with Julie and the cabinet as a whole to try and reach a compromise from all sides on this issue and draw a line under it... I think the first thing I want to do is to go out... and listen to people across the city about where we should go next... we want to be able to move on."

1002. Councillor Dagnall told the Inquiry that he followed this up by meeting residents, who invited him to walk around their local areas and discuss their opinions on the trees. Councillor Dagnall told a public hearing with the Inquiry that:

"I did about 8... different tree walks of about an hour and a half to three hours each..."

"Everywhere I was invited I went out and had very long conversation with the campaigners to try and understand the widest segment of the campaigners... I wanted to try and understand these different views."

1003. Efforts at dialogue and preparation within the Council continued through the spring and summer of 2018. Reflecting on the change in approach by the Council, Councillor Dagnall told the Inquiry:

"What I then found when I came on board was he [Paul Billington] really did believe 'Politicians are there to make decisions and I am there to implement them'... I'm guessing Paul had got instruction from Bryan that they were kinda taking quite a tough line and so he was tough. But as soon as he got the message from me that we were seeking compromise and that we were being constructive I found him to be constructive..."

"I had come across James [Henderson] working on previous tricky issues... so I asked him, 'look this is the biggest comms challenge part of your role, the biggest policy challenge and the biggest performance challenge of the council, can you help?'... They were a very good team in terms of working on the compromise and working out how we would do that."

1004. While progress continued steadily, it was, at times, shaken by continuing legal action. On 13 May 2018, the chairs of STAG wrote to the Council advising them that legal action from both sides might create problems for their talks. STAG's proposed legal challenges never emerged, but the Council's pursuit of injunctions continued.

1005. The dates of legal proceedings were close to key moments in the move towards negotiations. Committal hearings were brought by the Council against protesters who they said had breached injunctions. Hearing dates were on 5 to 7 June, and 21 June 2018. On 21 June, the Council also wrote to a group of protesters, stating their intention to renew the injunction against them. On 29 June, they applied for injunction renewal, with hearings held on 2 and 11 to 12 July. This resulted in a final order for costs against the protesters, published by the court on 26 July.

1006. Meanwhile, on 2 and 9 July 2018, Councillor Dagnall, James Henderson, Paul Billington and other Council officers met to develop proposals for mediated talks with STAG. Then, on 18 July, they held a meeting with the Council Leader titled, Preparation for dialogue with STAG, followed by a letter from Councillor Dagnall to the STAG chairs on 27 July, inviting them to a meeting to *"discuss how best to structure the upcoming dialogue to gather views from across the city and in particular, how STAG and supporters would like to contribute"*.

1007. Councillor Dagnall told a public hearing with the Inquiry that the decision to proceed with legal action in parallel with plans for mediation was taken by officers and:

"Had I been asked, "It's up to you, shall we proceed? Shall we go ahead with renewing the injunction or not?" I would have preferred not to... It would have been a significant concession, a show of good faith, for the subsequent [meetings]. STAG felt that we went into the mediation speaking softly and carrying a big stick... and I guess we were."

1008. Despite the risks caused by these legal proceedings, the Council and STAG made progress towards mediation. In August 2018, the Council reached agreement with the Bishop of Sheffield, the Rt Revd Dr Pete Wilcox, and the Centre for Effective Dispute Resolution (CEDR), to act as mediators and facilitate meetings. By the end of August, the CEDR had circulated plans to all parties, with an outline of proposed discussions to take place in September.

Mediation

1009. The first mediated talks took place between the Council, Amey and STAG on 27 to 28 September 2018. Both sides approached the discussions constructively but warily. Protesters felt that they had little to lose, as former STAG chair Paul Brooke told a public hearing with the Inquiry:

"I think we felt that if, as a precondition of sitting down and talking, you weren't cutting any trees down... then take as long as you like... we'll take a break. We could do with a break."

1010. Another protester, Paul Selby, told the Inquiry:

"The campaign went in with three key things... we want to deal with the past, the present and the future... So we wanted an Inquiry to deal with the past. We wanted to have some sort of review of the 309 trees that remained for felling to see how many could be saved, and we wanted that done independently, so that dealt with the present. And we wanted a street tree strategy, that would be exemplary, and that would hopefully protect... the potentially eleven and a half thousand other trees that would have been felled to hit... the contractual obligation."

1011. The protesters told the Inquiry, that in their view, the Council arrived at the mediation with a very different agenda. They felt the Council's sole focus was the trees that remained to be replaced from the Streets Ahead Core Investment Period. James Henderson told a public hearing with the Inquiry that:

"Paul Billington had been working with Amey on a different approach to the remaining trees left in the Core Investment Period, and we intended to present that to STAG during the mediation as a significant step in a concession on our part. And that proposal effectively placed each of the remaining trees in one of three categories, either they would be retained indefinitely, there would be a phased removal, or there would be immediate removal. I think it's important to recognise and emphasise that that was a major concession on the part of the Council, because it required us to accept suboptimal highway solutions such as permitting missing kerbs. It required Amey to agree to pay for all of those changes, and the future 'make and mend' repairs for the duration of the contract, and it required the tacit approval of the Department for Transport."

1012. STAG representatives told the Inquiry that they were initially shocked by this proposal. They felt the Council only wanted to discuss specific trees and expected them to compromise by agreeing a specific number of healthy trees for replacement. They felt that this would lead to the Council replacing almost all of the trees they had originally intended. Protesters said that the Council wanted to limit discussion, avoiding the wider issues and principles that protesters wanted to raise, not least the future of the remainder of the 17,500 street trees. The two sides had arrived with very different positions and all acknowledged that talks were difficult.

1013. However, talks continued to a second round on 23 October 2018, after which negotiations continued by correspondence. Building trust proved difficult, but to both sides and the mediators' credit, they stuck at it. The mediation process culminated in a joint position statement, published by the Council, Amey and STAG on 13 December 2018. The statement was released online, along with a press statement. They held a roundtable to launch the statement and take questions from the media.
1014. The joint position statement opened with the areas they agreed, including that the dispute had been damaging to the city and that neither side wanted it to continue. Next it covered shared values and some principles for street tree management, including that tree canopy cover was an asset to the city, bringing many benefits that should be preserved for future generations. They agreed that dead, dying, diseased or dangerous trees should always be replaced.
1015. They had not reached agreement on four main issues:
- a) The service standard in the contract that mentioned the replacement of 17,500 trees, which the Council maintained was not a target (as discussed in **Chapters 2.3** and **4.5**);
 - b) The Five Year Tree Management Strategy and the list of engineering solutions it contained, which the protestors maintained were never used, but the Council said were actively considered (as discussed in **Chapter 4.2**);
 - c) Kerb specifications and whether it was appropriate to vary them to accommodate retaining street trees; and
 - d) Whether there should be an independent Inquiry into the dispute.
1016. The joint position statement sets out a new approach to dealing with healthy street trees:

"Through the use of a range of solutions that would have been previously considered undesirable and/or uneconomic, the Council and Amey have identified a significant number of healthy street trees that would have been removed and replanted that can now be retained indefinitely.

"For those trees that do still need to be replaced because no long-term solution can be found that still allows the contract specification to be delivered, the removal and replanting will happen over a much longer period (up to a decade). This will allow a phased approach on individual streets.

"Where a tree is still due to be replanted, a review will take place before any work begins to confirm that this remains the only practical and/or economic course of action.

"The outcome of the review, including the detail of the assessment will be published on the council's website for each tree.

"That there are some streets and trees (e.g. war memorial avenues or some veteran and heritage trees) that should be treated as special cases."

1017. Flowing from this is the first of two joint actions:

"As part of this new approach, STAG and Amey will undertake joint assessment/ investigation of individual street trees, although final decisions will continue to rest with the Council as the statutory Highways Authority..."

"Amey will work with STAG to coordinate on-site assessment/investigation of the group of trees that remain from the initial period of the Streets Ahead programme and which are earmarked for removal and replacement in the first phase (i.e. during 2018 and 2019)."

1018. This prescribed a collaborative approach to the agreed number of 309 trees on 78 streets remaining from the Core Investment Period. The statement explains that *“Where possible, this [inspection] team will implement any identified, viable solution immediately or make a temporary repair”*.

1019. The second action was their agreement that:

“the approach to the future management of the city’s street trees should be set out in an exemplary new street tree strategy that should be informed by a wide range of stakeholders from across the city, including STAG. To provide confidence for all sides, the development of this strategy will take place under an Independent Chair.

“This new street tree strategy will become part of the Trees and Woodlands Strategy, due to be considered by the Council’s cabinet in December 2018, and will explore a number of issues such as the long-term aims for street tree numbers and canopy cover, management and maintenance of the tree stock, and how communities can become more involved in the future.”

1020. As agreed, the Council also published their Trees and Woodlands Strategy in December 2018, which the promised street tree strategy would sit alongside. This strategy also included a first i-Tree report on the value of trees in the city, from the consultancy Treeconomics.

1021. The joint statement was a significant moment in the dispute. It represents constructive compromise from all parties, combining elements of the Council’s proposals for a new approach to street trees, with the protesters’ requests for a strategy and a role for STAG in inspecting trees. It paved the way for joint tree inspections and the Partnership Strategy. It heralded a different relationship where the Council and Amey would work with protesters. As James Henderson told the Inquiry:

“It wasn’t the end of the dispute, but for me it certainly marked the beginning of the end of it. I think if we hadn’t done that, gone through that process of mediation, it’s not clear to me that we would have been able to reach a resolution.”

Joint tree inspections

1022. The inspections began in early 2019 and continued through the first half of the year. As planned, STAG representatives attended each tree inspection, along with an Amey work crew, to investigate whether a tree should be scheduled for phased removal or could be retained.

1023. This process was notably successful. On 17 July 2019, the Council's cabinet received an update on progress, which included:

"The assessment and investigation process is an ongoing one; however as at 19 June 2019, of the 309 street trees remaining from the Core Investment Period of the Streets Ahead programme, 191 have been identified as being able to be retained on a longer term basis. A further 26 require bespoke solutions to be designed, but are, in principle, capable of being retained, and one has been identified as needing to be removed and replaced as part of the phased process. A further 91 trees were still to be investigated."

1024. The protesters were pleased with the results. Paul Brooke told a public hearing with the Inquiry that:

"And then we started putting on social media the film and photographs of the joint inspections and the mood went through the roof... you go to the first tree and they fixed it in two hours..."

"It... was everything we had said for five years!"

1025. The mood was also helped when Councillor Dagnall issued an apology in July 2019:

"I'm personally sorry about the situation we got into and the impasse that was reached..."

"I'm sorry to those workers on this programme, the campaigners and the residents most of all who just wanted good quality highways without this controversy. I'm personally regretful that we reached the position that we did. But that underlines how happy I am that we have found a way forward."

1026. The apology was well received but disagreement continued over the claims that felling was a last resort and the engineering solutions which were possible. This is discussed in detail in [Chapter 4.2](#).

1027. A further joint statement was published in December 2019. The Review of Tree Investigations – Lessons Learned & Actions was produced by the Council, Amey and STAG, and reflected positively on the outcomes of the joint inspections. It covered a range of lessons from the process, some of which informed future inspections and tree management. For example:

"Tree investigations involving the removal of pavement tarmac for some trees showed that pavement uplifting and humps/trip hazards were not due to roots near the surface but were due to multiple layers of tarmac repairs where roots had lifted the surface. Layers of old tarmac of up to 25cm in places due to previous repairs were found and assumptions made regarding surface roots..."

"Lesson Learned 1

"Where pavement cracking due to roots is identified the preferred solution is to excavate by hand to identify the depth of roots prior to any patch repairs. Repeated overlaying repairs is not good practice and may result in future accessibility problems."

1028. Some of the lessons reflected back on the dispute. For example:

"There was agreement that as the 'dispute' over trees grew and with the later introduction of the 6Ds (Dead, Diseased, Dying, Dangerous, Damaging and Discriminatory) as an attempt to simplify the explanation for the public, that in some cases the original reason for replacing a tree was obscured. When the proposals were published it was often the case that the reasons for replacement on the notice attached to the tree were for one of the 6Ds, for example 'damaging'. This may not have fully reflected the original reason(s) the tree was identified for replacement. Consequently, when some trees were jointly inspected as part of this process, the reported damage was neither significant nor irreparable and the other reasons were less obvious."

1029. As well as learning from this process, the participants made progress on some of the issues not agreed in the initial joint statement. They clarified that the list of alternative solutions were not part of the contract and some were never appropriate to be used. They also reached a common understanding on kerb lines, with the report recording:

"Lesson Learned 6

"Using the contract flexibility that allows a 50mm deviation over 2m would provide greater growth space for street trees.

"Action 7

"Kerb deviation up to the limits of the performance requirements is something that will be used where appropriate and practicable."

1030. As well as delivering a key pledge from the joint position statement, it is noteworthy that trust was being rebuilt, allowing all parties to make progress on unresolved issues.

The Sheffield Street Tree Partnership and Strategy

1031. In July 2019, the Sheffield Street Tree Partnership was launched. This was a new group with members from the Council, STAG, Amey and expert organisations such as the Woodland Trust. It was chaired by Liz Ballard, CEO of the Sheffield and Rotherham Wildlife Trust. Their aim was to develop the new street tree strategy together, as agreed during mediation.
1032. In November 2019, the Partnership worked with the consultancy Treeconomics, as the Council had for the Tree and Woodlands Strategy in 2018, to get independent analysis of street tree value in the city and their environmental benefits. Taken together, these reports provided an assessment of the value of Sheffield's trees on streets, in parks, gardens, open spaces and amenity areas, woodlands and along the railways and waterway on both public and private land. The 2019 report focused on street trees. Treeconomics calculated an estimate of the value in pounds of all the services provided by the street trees in Sheffield each year.
1033. To calculate this value, they used Capital Asset Value for Amenity Trees (CAVAT). The 2019 report found that the street tree stock in Sheffield was worth over £340 million, and provided environmental services worth £131,000 every year. This includes the value of environmental services provided by street trees such as *"air pollution, carbon storage, carbon sequestration, stormwater benefits and amenity value"*, but the report explains that it does not account for the *"role of trees in moderating local air temperatures, in reducing noise pollution and improving health and well-being, providing wildlife habitat and, even, the ability to unite communities"*, so the values provided are a conservative estimate.
1034. The lack of trust between the parties made working together to develop a new strategy difficult at first. Christine King represented STAG in the Partnership and told a public hearing with the Inquiry:

"When we all went into that room for the first meeting, I think everyone was nervous. We're all people from radically different positions coming together, but the one thing that united us was none of us wanted it [the dispute] to restart... people really wanted to make it work, that was the thing... so we did form a partnership and made an, in the end, quite remarkable thing happen."

1035. The Partnership published a working version of their strategy and opened it to public consultation on 16 July 2020. The consultation ran for 12 weeks and gathered over 280 responses from individuals and organisations.
1036. While the consultation was under way, the new Tree Warden Scheme for the city was launched in August 2020. It created opportunities for a wider group of residents to monitor street trees. The proposal for this project was set out in the strategy:

"The Tree Warden Scheme is a national initiative co-ordinated by The Tree Council. There are many Tree Warden Networks with Tree Warden Co-ordinators right across the UK helping local tree enthusiasts to get involved and care for the trees in their area. Tree Warden Volunteers are usually people who love trees and are willing to offer some of their time to help care for their local trees and woods, work with the local community and/or be the eyes, ears and voice for the trees down their street..."

1037. The Partnership published a final version of the Sheffield Street Tree Partnership Strategy in May 2021. Paul Selby, one of the STAG representatives in the Partnership, told a public hearing with the Inquiry that:

"I have to say the experience of creating it was really really good... Don't get me wrong, there was some honest and occasionally difficult conversations because you had to get over some of what happened in the past, but actually, Liz Ballard who was chair, Darren Butt from Amey, Mick Crofts, Karen Ramsey from the council at the time, they were brilliant to work with... And we created a brilliant, exemplary document that's now seen across the country as an exemplar street tree strategy... I think we did a great job and the Council officers involved at the time really got into it and saw this was a really good thing."

1038. The Sheffield Street Tree Partnership Strategy sets out a future vision for a Sheffield street tree stock:

"A network of street trees that Sheffield can be proud of: well-maintained and cared for; resistant to the threats of disease and climate change; and delivering many benefits for people and our environment. These benefits include:

- Enhancing Sheffield's 'green city' reputation and contributing to a sense of place*
- Improving our physical and mental health and wellbeing*
- Cleaning the air that we breathe*
- Contributing to offsetting our carbon emissions*
- Helping combat the effects of climate change such as flash floods and rising temperatures*
- Providing a connection for people to the natural environment on their doorsteps*
- Bringing communities together, fostering a sense of belonging, and being part of the heritage and history of an area*
- Making the city more attractive to encourage students, visitors and businesses to come to Sheffield and help boost the local economy*
- Supporting and protecting the city's biodiversity and wildlife*
- Providing local environmental benefits like shade, natural traffic calming and reducing verge and pavement parking."*

1039. It then breaks this down into six outcomes, each with associated actions to achieve them. These can be summarised as:

- *“Outcome 1: Our street trees are sustainably and carefully managed and maintained in accordance with best practice”*. This also covers transparency in the way guidance and best practice is applied, so people can give feedback/challenge if they would like to.
- *“Outcome 2: Our street trees are more resilient through the type and age of trees we plant and how we manage the current street tree stock”*. This covers tree species selection and measures tree condition, diversity and age profile.
- *“Outcome 3: Increase the value and benefits that flow from our street trees”*. This outcome builds on the CAVAT/i-Tree evaluations of the street tree stock to create a baseline and commits to regular monitoring of changing asset values.
- *“Outcome 4: Contribute to a more equal distribution of urban forest across the city”*, including increasing planting in areas of low canopy cover, so the whole city gains from the benefits provided by street trees.
- *“Outcome 5: Increase street tree canopy cover”*, measured as a trend over a five-year period.
- *“Outcome 6: The wider community of all ages is involved in caring for and valuing street trees”*. This means including residents and communities in the care of street trees and improving knowledge on the benefits they provide throughout the city.

1040. This strategy, and the Partnership who now facilitate its delivery, resolved some of the outstanding issues from the dispute. The Partnership continues to work through plans for the final street trees from the Core Investment Period. The strategy also deals with issues such as the valuation of trees, the relative costs and benefits of retaining them, environmental services, biodiversity and species selection, all of which were debated during the dispute.

1041. The Partnership published their first Annual Report in October 2022, updating on their progress against the six outcomes listed above and their associated actions. Of the 31 actions listed in the strategy, five are now complete, and seven are ongoing and to be delivered on a regular basis or across the life of the strategy. A further nine actions are in progress, with ten still to be started.

1042. The Annual Report also highlights two external certifications that show how Sheffield’s current street tree management practice aligns with best practice. First, Sheffield is now recognised as a Tree City of the World:

“Another ambition within this outcome area was for Sheffield to apply to become part of the ‘Tree Cities of the World’ community. Having submitted an application in early 2022, the Partnership is delighted that Sheffield is amongst the 138 cities worldwide, and one of the 19 UK cities to be recognised in 2021 as Tree Cities of the World. Cities are recognised for demonstrating leadership in management of their urban trees and have to meet five core standards of urban forest management in order to earn recognition. By joining a network of internationally recognised frontrunners in urban tree management, the Partnership can connect with other cities, share ideas and examples of best practice, celebrate progress made in terms of improving tree stock management practices, and help to create a positive narrative to reinforce Sheffield’s ‘green city status’.”

1043. Second, Sheffield has achieved independent certification on the quality of its street tree management practices:

"In autumn 2021 Sheffield became the first city in Europe to take part in a new pilot for urban tree management certification. The audit was undertaken by industry professionals and Sheffield's Streets Ahead Partnership was awarded a certificate of compliance for managing our street trees sustainably, from PEFC UK (Programme for the Endorsement of Forest Certification), the world's largest Forest Certification Scheme. The Trees Outside Forests standard is expected to be fully endorsed by spring 2023, at which point Sheffield will be awarded the first ever certificate for a city in Europe for sustainably managing its street trees. This means that Sheffield's management of street trees has been found to be at an exemplary standard, and Sheffield residents can benefit from a pioneering tree management process. Knowing that the management of Sheffield's street trees meets this demanding international standard is a significant achievement for the Partnership."

Challenges in the Sheffield Street Tree Partnership

1044. The Inquiry notes the evident progress on outstanding street tree issues following the joint inspections and the establishment of the Sheffield Street Tree Partnership. It is extremely positive that most of the arboricultural issues arising from the dispute have been solved in this collaborative way. This is significant progress for a city formerly so divided over this issue.
1045. But there are still challenges. Ann Anderson was a protester and is still involved in STAG. She told a public hearing with the Inquiry:

"I did talk to a couple of people about the tree wardens, which we now have a system of tree wardens throughout the city. And I think in principle that's a brilliant idea, but I don't think they have enough resource, and I don't think they have enough authority or kudos attached to them."

1046. Christine King, still a member of the Partnership, told another public hearing with the Inquiry that:

"Trees are still not valued... when it comes to finding money to save a tree the will isn't always there, because while trees have a value, mostly it's money that isn't spent in future, in terms of a reduction in the impact of ill health or flooding. That value can't be cashed in, so it's not viewed as real. It's not in a budget for the costs to save a tree. I do understand that perspective, but it's always a challenge."

1047. It was also a slow process for people who had been on opposite sides to rebuild trust and to recover from the stress caused by the dispute. Protesters described to the Inquiry that it took time to overcome this, even as they worked with the Council and Amey on ways forward. In testimony sent to the Inquiry, one protester said that:

"It took over a year not to flinch at the sight of hi-vis gear... There was a day in 2019 when there was a call-out that there was a pile of wood on the floor, probably pruning, but we didn't know... I went out and when I saw the "footpath closed" sign, the barriers, the wood on the floor, I had a massive flashback and an enormous sense of dread came over me. It was really hard to walk past it and into the tree zone to ask the arb what the works were. Intellectually I didn't think we were betrayed, knew it would be justified, just didn't know what the work were... the strength of my reaction shocked me; I'd been dealing with Amey and SCC directly for months, thought I had 'moved on', so it was shocking to find out what feelings were still there, that I'd just buried. This is why SCC needs to fully acknowledge the damage they did, and properly apologise for it."

1048. Despite progress, not all of the issues around street trees from the Core Investment Period have been resolved. Nathan Edwards, who took over as Chair of the Sheffield Street Tree Partnership in 2022, said in a public hearing with the Inquiry that:

"The biggest challenge we face currently, because clearly before we can get to increasing canopy cover and all those other good things, we do need to deal with the CIP..."

"I've referred to it in the partnership before as a bit of an anchor. If we were a ship then that's the thing that's preventing us from moving forward... So the focus of the moment... is really to look at each of those streets in turn and try to move them forward, to the point where they can be consulted upon and developed into a programme."

1049. He explained what he thought was required:

"I think resource is probably going to be the single biggest issue beyond that sort of sense of mistrust. I think the mistrust point will dissipate, I genuinely do, but resource at the moment is the one thing that will inevitably lead to inertia, and inertia means that we won't achieve against the strategy..."

"I think committed resource from the Council side, particularly for the CIP process, is only part of the equation. I think more of the issue lies with Amey on the CIP side, because of the need to design through the streets and work through what's technically possible... Amey equally are dealing with the whole Streets Ahead programme. The tree part of the programme is only a relatively modest part, so they're dedicating resources all over the place and there isn't necessarily a dedicated resource for the partnership..."

"The rest of us are all volunteers. The Woodland Trust, the Wildlife Trust and so on, we're all volunteers. We give of our time freely, so equally we're constrained in what we can achieve. Ultimately, I think if there was the opportunity to ringfence and safeguard some additional resource that would only be a benefit."

1050. Nathan Edwards also told a public hearing with the Inquiry that:

"I think it's important that the political leadership of the Council understand what the partnership is seeking to do, but it's a balance, because the partnership does need to maintain its independence. It can't be viewed as a Council vehicle because it won't succeed, and the fact that we do have independent voices and that it's a bringing together of different voices is actually one of its greatest strengths... I think that's a fine line that we need to tread. Giving it the recognition... could be one positive step or way forward..."

"The reason I got involved with the Partnership is that the strategy... is an exemplary piece of work, and you can see that the formation of that document and the objectives that document has set are quite far reaching..."

"I think that the partnership are already on a good footing to do that and to deliver that. The various members of the partnership are all clearly very committed to making a success of the delivery of the strategy."

"My experience of the partnership to date of the partnership has been a really positive one. Everyone is genuinely trying to move things forward and to make a difference."

It's Our City referendum

1051. In 2021, Sheffield held a referendum on its system of governance and decision-making. The campaign, which led to this referendum, was called It's Our City.
1052. This campaign had origins in the street tree protests. It was a community campaign, though it was not led by any of the groups involved in the street trees dispute and on a broader issue. But in a public hearing with the Inquiry, former councillor Alison Teal explained that it was a campaign based on concerns identified during the dispute:

"Of course, It's Our City happened clearly as a result of what we learnt about the lack of transparency, the difficult to access information, the difficulty to access councillors..."

1053. The Council also acknowledged this connection. In another public hearing with the Inquiry, Councillor Bryan Lodge said that *"It was clear that it came and it developed from things around the street tree protests as members of that campaign were also members of the street tree campaigns"*.
1054. The It's Our City campaign asked the Council to change from its Strong Leader cabinet model of governance. In this model, the majority party in the Council elect a Leader who then appoints a cabinet. The cabinet take decisions, but the Leader is ultimately responsible for all Council decisions. The campaign wanted a change to a Modern Committee system, where decision-making is delegated to a series of committees, each made up of a group of councillors drawn from across the political spectrum. For example, street trees and Streets Ahead would come under a Waste and Street Scene Committee. Campaigners said that this would involve more councillors in decision-making, and therefore was a more democratic model.
1055. The Strong Leader cabinet model was specifically criticised by protesters throughout the dispute. In testimony sent to the Inquiry, one protester said that bringing judicial review proceedings in February 2016:

"Brought into focus the Strong Leader model of SCC, since one of the reasons our JR did not work is that the cabinet could not make the decision we had asked them to make, only the responsible cabinet minister could, under the Strong Leader model."

1056. A particular criticism from It's Our City campaigners was that the Council were not adequately engaging communities or consulting the public about the decisions taken. David Dillner made this same criticism in a public hearing with the Inquiry, saying that the Council did not listen and instead *"were hell-bent on sticking to projecting this image of the Strong Leader"*.
1057. It's Our City launched a petition on 25 August 2018. Under the Localism Act 2011, if they collected signatures from 5% of the city's residents, the Council would be required to hold a referendum on their governance. At the time, this meant collecting 20,092 signatures.
1058. In summer 2019, the campaign submitted their petition with 7,000 signatures to the Council, triggering a debate in a full Council meeting on 3 July. Campaigners said that they were actually close to having the 20,000 signatures required but that the Council could elect to change the governance model themselves. After a debate, the Council voted to commission a report on the Modern Committee system within the next six months. This was not enough for campaigners, who submitted their petition again in August 2019 with 26,000 signatures.
1059. The Inquiry heard from Councillor Bryan Lodge that some councillors supported the campaign, but some did not. The most widely reported example of this was when Councillor Olivia Blake, the Council's then Deputy Leader, and Councillor Lewis Dagnall resigned from the Council's cabinet to support the campaign. Councillor Joe Otten told the Inquiry that, if the Council had moved to this new structure by choice, they would have had more flexibility to make further governance changes.

1060. The referendum was delayed by the 2020 Coronavirus pandemic and was held in May 2021. 89,700 residents voted for a change to a Modern Committee system, compared to 48,700 voting to retain the Strong Leader cabinet model. The street tree dispute was a factor in this result, though not the only one.
1061. The Council changed their governance model from May 2022. They still have a Leader, but decisions are now taken by eight new committees, each with cross-party membership. Public engagement remained a focus and they introduced new Local Area Committees at the same time. The current Deputy Leader, Councillor Julie Grocutt, told a public hearing with the Inquiry that:

"...part of the work that we've done for the new governance arrangements, we have put in place quite an extensive toolkit about how we will engage and liaise with communities through all areas of business. We've also set up Local Area Committees, so that all members are meeting regularly, locally with their communities in formal settings and have local action plans for work that we will do as local councillors, on behalf of our constituents, which is consulted on."

Agreement to hold an Inquiry

1062. During mediation to end the street trees dispute, protesters asked for an Inquiry to investigate what happened during the dispute. The Council felt that this was not necessary and the Leader, Julie Dore, maintained this position in the media through 2019 and 2020. In May 2021, Labour lost overall control of the Council and entered into a coalition with Green Party councillors. Holding an Inquiry into the dispute was a condition of this coalition.

Inquiry observations on the peace process

1063. By late March 2018, all parties had reached the conclusion that a new way forward was needed. Trust was low and needed to be carefully rebuilt. When entering mediation, the Council proposed a new way to approach tree replacements and the protesters sought an Inquiry, joint tree inspections and a street tree strategy. All of these things have now been achieved. The commitment on all sides to finding a new solution, the skill of the mediators, a new openness with information and harnessing of the skills and knowledge of local experts all create grounds for optimism.

Chapter 5.2: Achievements, risks and opportunities

1064. This chapter considers the progress made and some outstanding issues for the remainder of the Streets Ahead contract until 2037.

What has been achieved

1065. The Streets Ahead programme has made a measurable difference to the street scene and satisfaction with the highways. As Peter Anderson, Amey's Managing Director for Transport Infrastructure, told a public hearing with the Inquiry:

"Some examples of what our team have achieved: 755 miles of road resurfaced, 123 traffic signal sites upgraded, 1,500 miles of footway resurfaced across the city, over 232 public roadshows held to inform the public and engage and communicate with the public about the works that were coming up, satisfaction in condition of the road surface up by up to 65% a significant improvement on historic position and over 326...bridges and structures improved... 65,000 new LED street lights, low carbon street lights, installed across the city and 1.5 million leaflets and letters dropped to residents informing residents of the works in their areas. So a huge amount of construction work, improvement work and significant engagement with the local population."

1066. Table 7 summarises the main achievements of the Streets Ahead programme to date:

**Table 7:
Achievements
of Streets Ahead
between 2012
and 2022**

Source:
Streets Ahead
briefing
documents.

Milestones and achievement	As of August 2015	As of August 2018	As of August 2022
Improvements to bridges and structures	200	1,350	1,351
Miles of road resurfaced in Sheffield	350	755	916
Miles of footway resurfaced in Sheffield	600	1,492	1,800
Street lights replaced	32,000	55,028	66,837
Trees replanted	2,000	5,500	7,876
Gullies replaced	1,500	3,355	3,426
Potholes repaired	87,000	145,000	169,051

1067. The Core Investment Period milestones were signed off for all elements apart from street lighting in late 2017. That followed in April 2018.
1068. Kate Josephs, the Council's Chief Executive, said at a public hearing with the Inquiry:

"I am confident that we have a good grip on Amey's performance and implementation... the culture around, recognising this is a long term partnership, around support, around challenge, scrutiny, performance management and escalation feels to me to be relatively healthy."

Tree replacement

1069. The tree replacement programme was front-loaded by Amey. Prior to their walk and build surveys, they estimated they would replace 5,007 in the first five years. They would also plant 1,000 trees to replace those removed by Street Force before the Streets Ahead contract.
1070. Data seen by the Inquiry data suggests that, between 2013 and 2018, approximately 5,600 trees were removed and 5,116 were planted. Since 2018, the replacement rate has outstripped the removal rate.
1071. The years after the tree replacement programme was paused (2018 to 2022) are summarised in Table 8 below:

Table 8:
Trees removed and replaced by year and cumulatively 2018 to 2022

Source:
Amey's Annual Service Report.

Contract year (August to March)	Trees removed	Cumulative Trees removed	Trees planted	Cumulative trees planted
Contract year 7 2018-19	305	5,802	532	5,648
Contract year 8 2019-20	343	6,145	1,312	6,960
Contract year 9 2020-21	420	6,565	435	7,395
Contract year 10 2021-22	439	7,004	481	7,876

1072. On 1 November 2022, the Council and Amey signed an exchange of letters changing the service standards for street trees. This removed reference to the Highway Tree Replacement Policy and replaced it with the Sheffield Street Tree Partnership Strategy. The new required outcome is:

"1.7 ensure that an Annual Tree Management Programme is developed, approved by the Authority and carried out with all Highway Tree (and trees forming part of Highway Tree Clusters) replacements being undertaken having regard to the requirements of the Sheffield Street Tree Partnership Strategy"

1073. Service standards 6.34 and 6.36 were amended and now consolidate the work of the Street Tree Partnership and the Tree Wardens respectively:

"[6.34] The Service Provider shall have a duty to cooperate with the Sheffield Street Tree Partnership. This includes the provision of data, information and reports to support the overall aims of the Strategy and the decision-making process for individual trees as requested by the Authority in a timescale set by the Authority (acting reasonably)..."

"[6.36] The Service Provider shall provide two sessions per annum of health and safety training and any equipment required, as necessary and as determined by the Service Provider (acting reasonably), for each Street Tree Warden."

1074. This process also removed the reference to replacing 17,500 street trees and removed the minimum rate for doing so:

**Table 9:
Changes to
Streets Ahead
service
standards
6.38 and 6.39**

Source:
Service
Standard 6
of the Streets
Ahead contract.

	Original	Current
6.38	The service provider shall replace highway trees in accordance with the Annual Tree Management Programme at a rate of not less than 200 per year so that 17,500 highway trees are replaced by the end of the term, such replacement to be in accordance with the Highway Tree Replacement Policy, unless authority approval has been obtained for deviation from this policy.	The service provider shall replace highway trees in accordance with the principles and appendices of the Sheffield Street Tree Partnership Strategy unless authority approval has been obtained for deviation from this policy.
6.39	The service provider shall ensure that each replacement or additional highway tree is of an appropriate level of maturity having regard to the location of the replacement or additional highway tree required and is of a species included in the appropriate species list in the Highway Tree Replacement Policy.	The service provider shall ensure that each replacement or additional highway tree is of an appropriate level of maturity having regard to the location of the replacement or additional highway tree required and is of a species included in the appropriate species list in the Sheffield Street Tree Partnership Strategy.

1075. The Environment Act 2021, Section 115, once enacted, will require local authorities to consult local residents if they are planning to fell a street tree. A range of exemptions will apply: for example, relating to the Highway's Act and Equalities Act. Prior to this new requirement, there were no central government requirements on consulting about the felling of street trees. However, many councils already do consult local residents, like now in Sheffield where the removal and replacement of a street tree is subject to public consultation via the Council's consultation hub.

Outstanding challenges and risks

The Streets Ahead programme

1076. When the pause was called in March 2018 there were trees which were due to be replaced as part of the Core Investment Period still in situ. Through the mediation process, 309 trees on 78 roads were agreed to be outstanding. Most of these are now resolved but there are more than would be expected remaining, including Sheldon Road, where the pavements are in serious need of attention. In data available as of January 2022, the outstanding roads are concentrated in Nether Edge and the wards that border it. For some of these roads, residents are to be consulted following an options review; for the others, further design solutions are required.
1077. The streets which are outstanding from the Core Investment Period include some where there are not obvious solutions to the issues and where different stakeholders hold different views. In a public hearing with the Inquiry, Councillor Joe Otten, chair of the Waste and Street Scene Policy Committee, said his:

"Frustration, I think, is with some of the outstanding roads that weren't dealt with and that were left over... I think what they [the street tree partnership] have been asked to do is quite a monumental task really in terms of solving what was a political dispute in the city in a non-partisan, non-political way. But the current performance of Amey against delivery and against the contract is also not what it ought to be so that is also impacting on these outstanding roads."

1078. He went on to outline how the committee system could be part of the solution if decision-making were to be a barrier.

1079. Council Chief Executive, Kate Josephs, also addressed the outstanding challenges to the Streets Ahead programme. She told a public hearing with the Inquiry:

"We know there are areas for improvement... we know that resident satisfaction with the roads is no longer improving... that's stagnating now. And there are some specific challenges around service standards around the city. We also know from all of our community engagement through the local area committees that highways, the environment of neighbourhoods, cleanliness, safe roads, effective transportation and public transportation are priorities almost consistently across the whole city... we have clear routes to address challenges."

1080. Through the Lifecycle Investment Period, Amey will provide core services and maintenance for the whole of the highway network. They will also undertake capital works, including second resurfacing and working, for the first time, on parts of the network which were of a sufficiently high existing standard not to have been in scope of the Core Investment Period capital works. Trees not previously causing damage to the highways may begin to do so and trees on roads previously not treated may bring with them specific challenges.

The environment agenda, new technology and skills

1081. Since 2012, environmental issues have grown in public discourse and technology has opened new opportunities. The arrival of electric vehicles brings the need for more charging points. The government published its Net Zero Strategy and, at COP 27, reaffirmed commitments to limiting global temperature rises. All these emerging priorities and shifting societal attitudes will require flexibility in the Streets Ahead contract. Kate Josephs told a public hearing with the Inquiry:

"I think there are also some questions for me about how we can seek to leverage the partnership and the contract to seize opportunities for improvement including, I hope, increasingly capitalising on new and developing technologies..."

1082. The Council and Amey will face decisions about the skills needed to understand and meet these challenges. This will require managing competing demands between environmental, business, infrastructure, health and others. The ultimate goal is to ensure that, at the end of the contract, Sheffield has a highway network which is fit for 2037 and beyond.

1083. Large PFI contracts are inherently complex and, with issues outstanding, the Council will need access to financial, technical, engineering and other skills. In the project's design phase, the Council purchased external advice from providers including PWC (finance), DLA (legal) and Mott MacDonald (engineering). External input of this type has not generally been a feature of the contract's implementation years to date. A modest investment would likely pay dividends if it enabled effective management of the contract to 2037.

1084. Looking ahead, the Chartered Institute of Public Finance and Accountancy (CIPFA) made a wider point about Streets Ahead contract management, advising that:

"HM Treasury business case good practice sees the business case as a living document to be used to track the benefits, costs and risks of a project through life. We recommend that the original business case be revisited and updated. Also, we recommend that HM Treasury good practice business case approach is used as a decision-making framework with respect to amendments to the contract, material efficiency plans and material future changes to the project."

1085. The Council and Amey will also need to integrate emerging good practice and address issues in the contract. To support decision-making on tree planting, Forest Research, the research agency of the Forestry Commission, has released The Urban Tree Manual which provides advice on selecting the right tree for the right place in urban areas. In 2019, the Forestry Commission published Highway Tree Management: Operations Note 51, which gives examples of good practice in street tree management. They also set out recommendations in their 2019 report on alleged illegal felling in Sheffield (see [Chapter 4.1](#)).

Sheffield City Council – internal processes

1086. The Council was criticised by public bodies including the Forestry Commission and the Local Government Ombudsman. They were referred to the Information Commissioner's Office and themselves commissioned Bevan Brittan LLP to investigate whether Freedom of Information Act and Environmental Information Regulations (see [Chapter 4.5](#)) had been applied in accordance with law and best practice.
1087. The LGO, Forestry Commission and Bevan Brittan LLP also all recorded difficulties in obtaining the information they needed from the Council. For example, the Forestry Commission observe that:

"The information shared by SCC in relation to the felling of each tree could and should have been more substantial. Had it been, the FC would likely have not been required to conduct a full assessment into alleged illegal felling as SCC would have been able to demonstrate that an exception to the need for a felling licence applied to every tree that had been felled. This would also have been prudent practice given the case law in this area."

1088. The Forestry Commission also comment on the Council's engagement, saying:

"The record keeping undertaken by SCC was limited in nature and not shared with the FC until a request under the Environmental Information Regulations was made. Moreover, SCC did not fully engage with FC throughout the process. This is demonstrated by FC's reliance upon the Environmental Information Regulations 2004 in order to extract information from SCC, as well as SCC's insistence that all correspondence was directed to their legal department, which prevented constructive engagement with their street management team. More open engagement by SCC may have revealed earlier in the process that exceptions did apply to the felled trees and may have saved the FC, SCC and the wider taxpayer both time and money."

1089. The Council was unable to provide Bevan Brittan LLP with sufficient information to allow them to complete their review. As a result, Bevan Brittan LLP were unable to state conclusively whether the regulations they were investigating had been correctly applied. They also made recommendations to improve practice, including reviewing: policies and procedures, record management systems to ensure information is logically stored and easily retrievable, sign-off practices, training, and resourcing of the information management team.
1090. The Local Government Ombudsman's three investigations also record that the Council had not met the standards of good administration, including complainants receiving misleading information and experiencing delays in what they did receive. While they acknowledge the pressures on the Council during the dispute, this did not excuse them.
1091. Demand for answers has continued to outstrip Council capacity and continues to feed a negative cycle between frustrated residents and overwhelmed Council processes. As former STAG co-chair Rebecca Hammond described to a public hearing with the Inquiry:

"The Council were just generally unwilling to voluntarily provide information, so people realised that the only way forward seemed to be to use Freedom of Information Requests. It's like getting blood from a stone but at least FOI was legally enforceable. Even then the Council went to great efforts to refuse FOI requests on various grounds."

1092. The Inquiry's terms of reference include that *"Sheffield City Council have agreed to provide the Inquiry access to all the information it holds which the Inquiry may consider relevant"*. The Inquiry found that it was not always easy to obtain the information that it needed because of Council record-keeping systems.

1093. Chief Executive, Kate Josephs, added: wrote to all staff in October 2021 advising them on data retention related to the forthcoming Inquiry. In her email, she said:

"The Council is committed to the work of the Inquiry, and to ensuring the Independent Chair has access to all the information and documentation they need in order to deliver a successful Inquiry for Sheffield. With this in mind, I am reminding all employees that it is essential that any data, documentation or information that might be of interest to the Inquiry must be retained so that it can be made available if requested. If, in your paper or digital files, or your email inbox, you have any relevant material, you must preserve this and be ready to make it available to the Inquiry."

"Some of you may have already been asked to undertake work to identify relevant material for the Street Trees Archive project through your Portfolio Leadership Teams. Please be aware that, although the Archive will be available to the Inquiry as a source of evidence, the Inquiry will not be restricted to this. As a result, even where you have provided in full all requested material to the Archive, you must not see this as the end of your responsibilities for preserving relevant material."

1094. Where inbox material had been deleted, it was retrieved and reconstructed by the Council's IT department. This led to delays but meant the Inquiry received all the inboxes it requested.

1095. The Council committed to clearing its backlog of FOI requests by March 2023. In order to resolve these ongoing issues effectively, they will need to ensure systems and capacity are reviewed and the lessons from the Forestry Commission, LGO, Bevan Brittan and this report, as well as the results of its first peer review by the Local Government Association, are learnt and changes made.

1096. Separate to the Inquiry, the Council has made available, and continues to add to, the Tree Archive.

Inquiry observations on progress to reconciliation

1097. The Streets Ahead programme has transformed Sheffield's highways. The changes to the contract cement the role of the Street Tree Partnership and remove the controversial 17,500 figure. This should give reassurance that the Streets Ahead ways of working are fully aligned with the post-dispute progress and joint working.

1098. However, there are issues outstanding, five years on from the March 2018 pause. It would further encourage trust and respect, and enable people to put the dispute behind them, if outstanding issues on the remaining roads from the Core Investment Period were resolved quickly. The Street Tree Partnership strategy gives a clear, consensual way to approach this. Continuing investment in open working between all parties will be essential to resolve these and emerging issues.

1099. During the remaining years of the contract, trees will continue to die or become dangerous or diseased. Their replacement should be uncontroversial. For other trees which Streets Ahead may wish to replace, the Council and Amey should ensure the Partnership has the specialist skills and support it needs reach agreements. The Inquiry also encourages campaigners to invest their energy in supporting the principles of the strategy to better enable negotiated solutions to be found.

1100. During the dispute years, the Council appeared defensive in response to offers of support, reflecting a siloed working culture. This appears to have impeded the Council from welcoming advice and challenging Amey to integrate best practice approaches as they emerged. Those expert groups who challenged the Council and Amey during the dispute and supported mediation remain a valuable source of expertise.
1101. Within the Council, there were people not in the direct management chain for Streets Ahead who had reservations about whether the best decisions were being made. The Inquiry believes that encouraging a stronger culture of curiosity, discussion and collaborative working would help prevent similar issues occurring again.
1102. Amey should also work with the Council to incorporate new best practice guidance through the life of the contract. As Leader of the Council, Terry Fox, told a public hearing with the Inquiry:

"There's a real period of learning...personally I've got the scars on [my] back on a lot of this stuff, and I really want to use that experience that we've gained. I don't want to go into anything like this again and I'm sure everyone involved doesn't want to go into this again. We need to make sure we put policies and procedures in place...we want to move on and move forward, we'll take on board what you say as well."

1103. Chief Executive, Kate Josephs, added:

"We have a beautifully diverse city with lots of communities and loads of people who... really care and want to be involved and we need to engage with those citizens not in a paternalistic, distant way but as partners..."

"I don't think there's one right way to do those things [learn the lessons] I think what the point is that we approach them as priority areas to develop. Beyond that I think probably it's most appropriate for me and all of us who have a part to play moving forward to wait to hear and reflect on your conclusions and recommendations before I say too much more because I think...a lot of what we have learnt so far has perhaps missed something and that we've missed that really objective view of what actually happened and what the key lessons need to be so...the main thing now is for us to hear what you have to say and learn from it."

1104. There have been multiple reviews of how the Council used information during the dispute. All acknowledge the pressures that the Council was under, but that pressure was increased by weak data management systems. This problem has not been fully resolved and should be made a priority. This will help to avoid public frustration in future.
1105. In doing so the Council should address information management policies, application of policies and procedures, storage systems and accuracy, the application of GDPR and data retention schedules. This is not straightforward. As Kate Josephs said in a public hearing with the Inquiry:

"Every public body is in a very challenging climate when it comes to FOI, SARs, EIA requests. I was aware of the Information Commissioner John Edwards only a few weeks ago said, and I quote, I will read this out "the FOI caseload is stretched to breaking point right across the public sector, we have large backlogs and people are waiting months for responses to their requests which is not good enough. Limited funding and increasing FOI cases and an increased need to support stretched public authorities during the covid pandemic created a perfect storm." And that is a picture that I think I recognise, that my team would recognise...so yes we have had a significant backlog of FOI and SAR requests and compliance rates are still recovering from the pandemic. Relating to the tree street dispute we have 10 outstanding FOI requests and complaints and one outstanding SAR."

Part 6:

Harms

- Council staff
- The protesters
- Amey and their subcontractors
- The police
- Institutions and wider reputations
- Inquiry observations on harms

Part 6: Harms

1106. The Inquiry has received personal testimony from members of the public, as well as Council and Amey staff, about the dispute. Many recount illness, stress, mistrust and sacrifice. It affected the streets where they lived, with neighbours taking different sides, in some cases by virtue of their jobs. This part of the report highlights the main harms caused. This section does not name individuals who have given evidence but believes their concerns and experiences to be genuine.

Council staff

1107. Junior and senior Council staff report being confronted in the street, supermarkets and parks while with their children. Some report being subject to scrutiny from family members or friends as tensions around the trees spilled over into their personal lives. Others reported that working for Sheffield Council made it harder for them to find other jobs because of the dispute. This was exacerbated for some whose names appeared in FOI request responses but should not have been made public. Council staff of all levels were also subject to their names and photographs being posted on social media by protesters, leading to an increase in harassment outside of work.
1108. As Director of Policy, Performance and Communications, James Henderson, told a public hearing with the Inquiry:

"Members, and sometimes quite junior members of that team [highways team] were put through significant and in my view wholly unwarranted aggravation and harassment by some of those associated with the campaign, both personally and professionally. And that caused some of those officers real stress and anxiety and ill-health. And the behaviour of some of those associated with the campaign was quite simply not good."

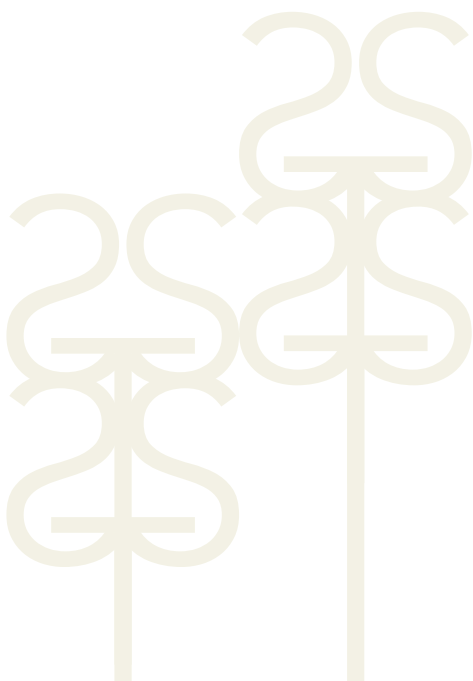
1109. There was a rise in sick leave, stress and mental health issues. Staff reported permanent damage to personal relationships, being unable to have derogatory or personal information about them removed from social media and reluctance to go to pubs and other amenities due to the harassment they would face. Some even felt forced to move house. Leader of the Council, Terry Fox, told a public hearing with the Inquiry, *"We've lost a lot of staff through this issue"*.
1110. Officers of all levels spoke to the Inquiry about the pressures of long working hours, changing directives and a lack of coordination. The pressure to respond to the dispute fell, initially, mainly on a group of middle level Council staff. The austerity agenda meant the wider Council faced cuts and little extra capacity was ever found to support them in their roles.
1111. They reported a culture of siloed working with a lack of join-up between the Highways team, the commercial team and communications experts. Staff felt left out of key decisions, unable to get their voices heard and recipients of unwelcome surprises when one team acted without notifying others, leading to unintended consequences and mixed messages.
1112. Staff felt that the pressure they were under was not acknowledged, particularly by politicians and some of the Council's senior staff, who made decisions without considering the impact on them. One middle-ranking officer told the Inquiry that they had been (wrongly) named as responsible for the handling of a high-profile incident by the relevant lead cabinet member. They felt strongly that this action damaged their reputation and was indicative of political decisions being quietly blamed on officers.

1113. Some staff told the Inquiry that the Council offered no systematic support to help them address issues such as personal information being spread online. How well staff were supported reportedly seemed to have depended on the skills and empathy of their immediate line managers. At a public hearing with the Inquiry, Chief Executive, Kate Josephs, said:

"There was support offered to those staff who were under significant pressure and similarly we've offered similar support to any staff who've been affected by the fact of the street tree Inquiry...what we're offering is broadly similar to what we were offering when the matter was live so...our employee assistance programme...the support of management and supervision where wellbeing will be discussed. We have self-service psychological and therapeutic support available...opportunity to be referred to occupational health, counselling and more intensive therapies can be available and in some cases, in rare cases, we can access medical alerts if we do have any serious concerns for someone's wellbeing..."

"During the period of the dispute and conflict a number of staff accessed a combination of those services."

1114. Managers were under pressure, too, as were elected members. Senior managers and Councillors have described to the Inquiry being subjected to abuse, both verbally and online, as well as being harassed outside work while attempting to live their private lives, with some instances taking place at their homes or in front of their families. Some reported this continuing for an extended period after the pause called in March 2018, while the Council and protesters sought to find a compromise solution.
1115. Pressures on staff continued after the tree replacement programme was paused in 2018. Workloads remained heavy: a high volume of letters and requests continued with mediation and formation of the Street Tree Partnership and subsequent strategy. As some staff left, pressure increased on those who stayed. Over the following years, pressure decreased but the dispute did lasting damage. Some staff told the Inquiry of continuing mental health issues, others of long-term physical health problems. Others left either for other roles or stopped working altogether.



The protesters

1116. Many of the protesters did not fit the stereotype of those typically perceived to be involved in environmental campaigning, particularly at street protests. Many of them had no history of protesting. They came from a broad range of backgrounds, often older, well-educated people working in or retired from professional jobs. Few had anticipated they would participate in non-violent direct action. Those who advocated its use did not foresee how the protests would escalate.
1117. In the early years of the dispute, most protesters assumed that letters pointing out their concerns would be their contribution. They expected to be listened to, given accurate information, clear justifications and that an acceptable resolution would be found. They were surprised and confused at encountering instead what they felt was stonewalling, obfuscation and dismissal. People went online, spoke to others in their local communities and soon found a groundswell of like-minded people.
1118. As frustrations grew, the protesters became more coordinated and vociferous. While there were hopes that the Independent Tree Panel would bring experts and the views of local people together to significantly resolve the issues, this did not happen. Concerns for the trees escalated and became a major part of some people's lives. Due to the perceived inconsistency and lack of transparency from those in decision-making positions, mistrust and suspicion built.
1119. When the police started making arrests, it entrenched many protesters in their positions, but scared others away. Having had little previous contact with the police, protesters experienced how long it takes to be processed and what it feels like to lose your freedom – even for a few hours. These were distressing experiences for people who regarded themselves as law-abiding and had a long-term impact on some of them. One of those arrested on Rustlings Road was quoted in *The Guardian* as saying she did not feel safe after the arrest: *“When you have noises outside there’s now a sense that those powers that be could intrude into your life”* and *“You recover from the arrest and it’s like any loss, slowly you feel grief and anger”*. Some of those arrested now look back on the experience with emotions ranging from sanguine to good humour. Others have struggled to process the experience and move on.
1120. Some have spoken to the Inquiry and publicly about their experiences of rough treatment, physical injuries and being spoken to in dismissive, disrespectful or contemptuous ways. Protesters told the Inquiry of the stress of always being alert to where you might be needed; dropping everything to respond to a call-out on WhatsApp for people to protect specific trees. They did this through the seasons, spending hours under trees in inhospitable weather. The dispute pitted neighbours against each other. As Darren Butt, former Account Director for Amey who maintained cordial relationships with all sides throughout the dispute, told a public hearing with the Inquiry:
- “...one of the more heart wrenching days I recall was having the campaigners and residents against each other, and you’re stuck in the middle with residents telling you to get the tree out and campaigners trying to retain the tree. And I recall a protester being harmed by one of the residents and you don’t want to be in that position.”*
1121. For older protesters, with a higher likelihood of pre-existing health conditions, protest was particularly challenging. This was equally the case when protesters received false alarms and would spend hours sitting under a tree with a single Amey van on the road with no visible intention to work on the tree.
1122. By autumn 2017, the previously friendly atmosphere had withered. Arborists, other contractors and protesters alike were ground down by months of protest. Tempers flared, rude and confrontational encounters occurred. There were no more shared jokes or cups of tea. Protests became confrontational, noisy and crowded and the atmosphere febrile. The emotions caused by attending the protests did not cease at the end of the day but followed all involved home, caused stress, poor sleep and other health issues.

1123. Media coverage, while mostly supportive of the protesters, was not always so. They were sometimes disparaged as middle-class NIMBYs, out of touch with the wider world, only looking to get a better deal for themselves. They felt that their arguments about the benefits of trees to everyone in the city, particularly those in poorer areas, were largely ignored. When arrests were reported, those arrested felt their reputations were tarnished, with little apology forthcoming when charges were dropped. Allegations of drinks for Amey staff and contractors being spiked with laxatives, which were later dropped, caught the imagination of the national media with a disregard for the impact on those accused. Protesters caught up in the media coverage report feeling they were under suspicion from their own neighbours, with little power to get their side of the story heard.
1124. Though the protests ceased in 2018, protesters still feel the impact of their time protesting and campaigning. While most protesters who spoke to the Inquiry had positive memories of friendships formed, many report health concerns that they or their doctor have attributed to the stress – physical and mental – of taking part. Some point to the trust which has been broken with the Council and police which they fear cannot be rebuilt, others to their involvement making it harder to find work. Some report they have borne a financial impact, others that they still do.
1125. As former STAG co-chair Chris Rust said in a public hearing with the Inquiry: *“some people suffered serious harm but actually some people flowered”*.

Amey and their subcontractors

1126. Amey have provided evidence to the Inquiry about the impact of the dispute on their staff and contractors. This was generally kept within the organisation during the dispute, though more than one protester commented that Amey staff and subcontractors on the street were stuck being the face of a dispute over which they had no power.
1127. Amey also provided the Inquiry with evidence of the written complaints received by their customer services team. These included much strong feeling and, at times, verged into abuse.
1128. As conditions deteriorated on the streets, the staff working for, or subcontracted by, Amey were subject to verbal abuse, continued questioning and hectoring. This created a difficult work environment. There was unfair abuse of people who were not decision-makers. Aware of this, Amey moved some staff who lived in Sheffield to non-tree replacement work.
1129. As the tenor of the protests changed, working conditions on the street worsened. Amey staff and contractors were advised not to engage with the protests but, as shouting, questioning and hectoring continued, it is unsurprising that arguments and antagonism ran both ways.
1130. Senior Amey staff have provided evidence of the impact on them of sustained pressure, confrontations with protesters and bruising encounters with politicians. As Darren Butt told a public hearing with the Inquiry:

“It’s fair to say it was one of the most difficult periods of my career to date.

“...the tree teams obviously did feel [it], they were Sheffield residents they were accosted in the local shop or the local pub. I recall one of our employees...was accosted in the pub because of their work and who they worked for in relation to the project.

“We did put [in] security protocols and Amey’s executive was extremely concerned about staff...we did put a number of programmes in place in terms of conflict management, trying to support staff in terms of the stress that they were going through.

“We had some exceptional staff who worked for Amey, and a number of them transferred over from the authority as well, and we lost staff as a result of the programme. It was extremely stressful for some people and they couldn’t progress and others just wanted to leave the contract as a result.”

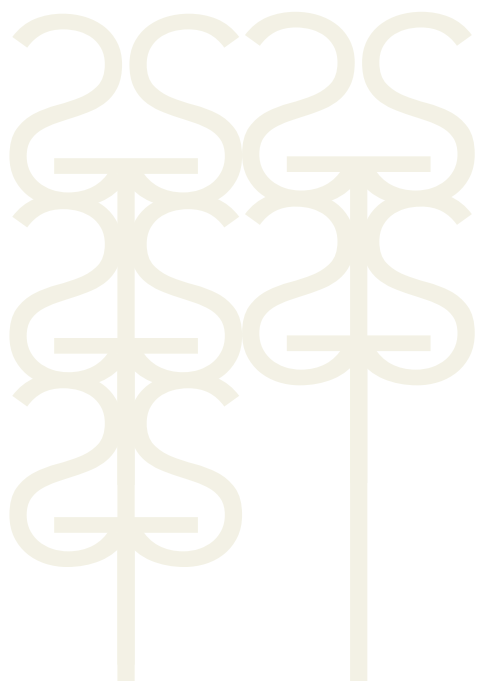
The police

1131. **Chapter 4.3** assesses the police's role in detail. In the context of harms, the police suffered some reputational damage by association. They are required to ensure public order and so cannot choose whether to attend public order incidents, but the Police and Crime Commissioner, Dr Alan Billings, was a consistent advocate for a political solution. The Inquiry's understanding is that some officers faced verbal abuse from protesters.

Institutions and wider reputations

1132. The Council appears not always to have fully understood the long-term consequences of reputational damage. The Guardian reported, in March 2018, that the ongoing "**tree war**" had prompted the Sunday Times to drop Sheffield from its annual survey of the best places to live in the UK. The Council was slow to grasp the reputational damage which still lingers on. The tree dispute is still mentioned online and in the media by people who are neither local nor tree experts. This suggests that the dispute did enough damage to have infiltrated shared memory as a defining fact about Sheffield, years later.
1133. The message that the Council were replanting more trees than they were removing did not gain traction in the media at the time, nor since.
1134. The tree dispute also provided the origins of the It's Our City Campaign which successfully changed the governance structure in the city (see **Chapter 5.1**).
1135. Some people have focused on the positives arising from the dispute. As former councillor, Lewis Dagnall, told a public hearing with the Inquiry:

"Despite all these 'death of democracy in Sheffield' headlines that were flying around, in a funny way democracy actually worked, in a very painful and staggered way... we're in this position where having achieved peace and having this fantastic fact that the city's street trees now co-managed by former enemy campaigners and Council, Amey workers. It's a good place we've ended up at."



Inquiry observations on harms

1136. Throughout the dispute, people on all sides felt they were demonised and that they had suffered as a result. The consequences of pressure within an organisation which is already stretched are well documented in research. It leads to a lack of perspective and foresight and poor decision-making. These issues create a vicious cycle where uncoordinated actions and confused direction lead to negative unintended consequences.
1137. More junior staff under pressure felt prevented from challenging the prevailing narrative focused on ploughing ahead. These conditions encouraged a bunker mentality.
1138. Senior managers in the Council were also under extreme pressure and subject to many of the same mental and physical health issues. Politicians were also subject to intense public scrutiny and aggressive behaviour. Unclear areas of responsibility and parachuting people into unfamiliar jobs with simplistic directions to get it sorted left some exposed and ill-equipped for the challenges they faced.
1139. Some senior managers told the Inquiry that the most senior executives and politicians missed opportunities to take a strategic view of the dispute. The Inquiry has seen evidence showing that the prevailing culture and approach was inflexible, non-strategic and, at times, focused on blame and passing the responsibility. Senior Council representatives (officers and members) were, at times, unnecessarily confrontational and unsympathetic in dealing with the public, including at open Council meetings.
1140. As one protester said to the Inquiry: *"people ask me why I bothered, it was just some trees but if it really was just some trees why did my Council do this to me, why did they force me into this position?"*
1141. Christine King, former STAG chair and member of the Sheffield Street Tree Partnership, told a public hearing with the Inquiry that:
- "Large numbers of people suffered, its going to be hundreds. I mean it was exhausting, stressful, sometimes deeply traumatic. Some campaigners had breakdowns, some were treated with PTSD. But it's not just STAG.*

"Street communities were divided, there are still neighbours who aren't talking to one another. Tree crews were going to work in a conflict zone, they didn't have the choice not to do it. Workers from both the Council and Amey were subject to denigration even if they worked in different departments purely because of the organisation they worked for... on our side people put their life on hold, the self-employed lost income.

"The thing that angers me most is the colossal long term emotional damage caused by the failure of a few to admit that they were wrong in the first place."
1142. Other protesters told the Inquiry privately that reconciliation required an admission from the Council and Amey that it was understandable that the protesters behaved as they did and that they were unfairly demonised by the Council and Amey.
1143. Likewise, there are some on the protester side who should reflect on their actions against Council and Amey staff, their attitude to the police, and whether they too mischaracterised others or behaved wrongly.

1144. As the current Leader of the Council, Councillor Terry Fox, told a public hearing with the Inquiry:

"We're a public organisation, so falling out with our public is going to give us a massive impact and obviously I've apologised at the start of the meeting [the Inquiry public hearing] about that.

"So it was an impact and it did have real consequences on members, on staff within the organisation, not discounting about the activists and residents along the way.

"It has held us back in some ways, it has been a drag on us to get to this point and... hopefully having this Inquiry can actually close that chapter."



Annexes

- Annex A: Terms of reference
- Annex B: Inquiry methodology

Annexes

Annex A: Terms of reference

Independent Inquiry into the Sheffield Street Trees Dispute Independent Chair: Sir Mark Lowcock KCB

Terms of Reference and Management Statement

Background

Mark Lowcock has been appointed under contract by Sheffield City Council to act as the Independent Chair for the Inquiry.

Purpose and methodology

The goals of the Inquiry are:

- a. To support the ongoing recovery in Sheffield from the dispute;
- b. To draw conclusions and make recommendations designed to help minimise the risk of the dispute re-emerging in future.

In establishing the Inquiry, the Council has referred to a need for "truth and reconciliation". The Inquiry will be guided by that.

In order to achieve its goals the Inquiry will examine what happened and why it happened. It will consider the facts of the dispute and why stakeholders on all sides acted in the way they did.

The Inquiry will review documentation, organise private discussions and hold public events including hearings. It will provide opportunities for interested stakeholders to be heard.

The Inquiry will publish a report at its conclusion.

Sheffield City Council have agreed to provide the Inquiry access to all the information it holds which the Inquiry may consider relevant.

The Inquiry will provide other stakeholders with the opportunity to submit whatever information they consider relevant. It will also seek additional information from stakeholders and other parties, including relevant experts.

The Inquiry will consider issues raised in previous relevant reports on the street trees dispute.

Issues for consideration

The Inquiry will examine inter alia:

- a. The context, including the situation of Sheffield's highways, pavements and street trees around 2008-10;
- b. The decision to use a PFI scheme;
- c. The appointment of Amey and the terms of the Streets Ahead contract;
- d. The implementation of the contract in particular tree felling;
- e. Opposition to the implementation of the contract and the emergence of the dispute;
- f. How the Council, Amey and others responded as the dispute progressed, in particular in the period between 2016 and 2018 in which the dispute escalated and then de-escalated;
- g. The impact of the Streets Ahead programme, the development and implementation of the 2021 Sheffield Street Tree Partnership Strategy, and ongoing issues.

Conduct of the Inquiry

The Inquiry will be independent of all stakeholders. It will adopt a constructive and inquisitorial approach; that is to say, it will pose questions and seek information in order to help all stakeholders better understand what happened, why it happened and why other stakeholders behaved as they did.

The stakeholders and participants will be provided with a fair process.

The Inquiry will comply with Freedom of Information, data sharing and confidentiality requirements as set out in the contract between the Independent Chair and Sheffield City Council.

The Independent Chair will be supported by a small team of staff and experts led by a Secretary to the Inquiry (selected by the Chair) and by Weightmans LLP.

The Independent Chair will be mindful of the need to keep the cost and duration of the Inquiry within reasonable limits, taking account of the experience of Statutory and other relevant Inquiries.

The Inquiry will provide periodic updates via statements from the Independent Chair on the Council's website.

The Inquiry expects to complete its work by March 2023 or earlier.

The Inquiry will notify individuals and organisations who are referred to in the conclusions of its report and provide them with an opportunity to respond to any significant criticism proposed for inclusion in the report.

The full report of the Inquiry will be made available at the same time to all stakeholders (including Sheffield City Council) by publication on the Council's website.

Annex B: Inquiry methodology

Documents

Through the Inquiry's legal representatives, Weightmans, the Inquiry procured a document storage and review platform to manage, search and securely process documents received. This standard Inquiry practice enabled the secure and flexible receipt and processing of high levels of information from multiple stakeholders. This enabled the Inquiry to quickly and effectively target relevant information using a continuous active learning computer model and sophisticated, targeted searches as well as hands-on processing.

Following processing to remove duplications and computer programme/system files the Inquiry received about 1.1 million documents.

The Council provided the vast majority of this data. Email inboxes and cloud storage of members, staff and shared (e.g. FOI) services accounted for over one million documents. (Where inboxes had been deleted, they were recovered by the Council's IT services and transferred to the Inquiry.) As the Inquiry received full inboxes and cloud storage spanning many years, the vast majority of this information was irrelevant. Inboxes were filtered to ensure that sensitive information not relevant to the Inquiry was not viewed.

The Council also provided the Inquiry with over 65,000 digital and hard copy documents. Again, as many files were transferred in full to ensure the Inquiry was given access to all relevant material, much of that supplied was irrelevant. The Inquiry also received the entire, unredacted Street Tree Archive.

The Inquiry received over 11,000 documents (and a further cache of emails and links) from non-council sources, including evidence from over 100 individuals which included personal testimonies.

The documentation received was in Microsoft Office formats, hard copy formats. It also received a large number of audio and video files.

To support the processing of this information, an IT review platform ran multiple searches, targeting relevant information. The Inquiry team also individually reviewed tens of thousands of documents, and audio and video files.

The Inquiry also considered a wealth of information from open sources including the media, publicly released FOI files and information held on central government, ICO, LGO, South Yorkshire Police and other websites.

Taken together, the Inquiry estimates that it read, watched or listened to material which, if transcribed into this report, would run into tens or hundreds of thousands of pages.

Where information has been provided in confidence, the Inquiry has respected that.

People

The Inquiry made multiple announcements inviting and encouraging the submission of evidence, including in most of its monthly updates between March 2022 and February 2023.

The Inquiry held 119 meetings with 159 individuals on a private and unattributable basis. These meetings included 18 organisations and groups as well as Sheffield residents, former and current Council employees, politicians (both past and present local councillors and national politicians), experts and others.

All individuals the Inquiry wished to engage were contacted and, though a handful declined to participate, the Inquiry is confident that all those concerned were given the opportunity to share their views and supply any evidence they held. In order to ensure a fair process, the Inquiry contacted individuals it thought had important information. Some people were contacted a number of times until it became clear they were declining to take part.

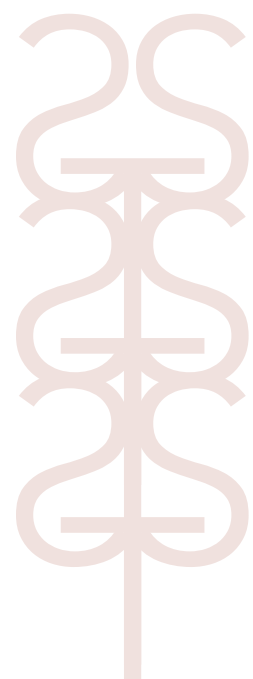
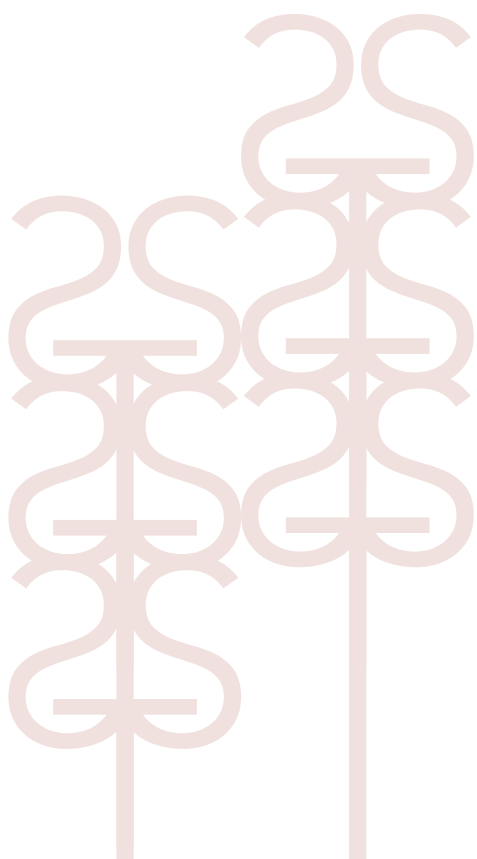
Hearings

The Inquiry held public hearings with 26 people over 11 days. This amounted to 32 hours of public hearings, which were available for the public to view at the time and of which recordings were made.

The following table includes all of those invited to a public hearing and whether they attended or not. In addition, the Inquiry decided not to invite one person to a public hearing out of concern for their health. A further person would have been invited to a public hearing, but the Inquiry was unable to reach them.

Chartered Institute of Public Finance and Accountancy (CIPFA)

The Inquiry commissioned CIPFA for advice on the Streets Ahead contract, providing 23 questions for their experts to consider, covering how the contract was set up, run and financed, the incentives it created around trees requirements and the implications of the contract specification on the approach that Amey would take to tree replacement. CIPFA was chosen for their specialism and expertise in public sector finance and PFI.



Name and role	Date attended public hearing
Councillor Douglas Johnson, Chair of the Housing Policy Committee, Sheffield City Council	22 September 2022
Eugene Walker, Executive Director of Resources, Sheffield City Council	22 September 2022
Councillor Julie Grocutt, Deputy Leader, Sheffield City Council	22 September 2022
Alison Teal, former Green Party Councillor	27 September 2022
Professor Ian Rotherham, Environmental Expert	27 September 2022
Christine King, Sheffield Tree Action Groups	27 September 2022
Andrew Lockley, former Chair of the South Yorkshire Police and Crime Commissioner's Advisory Panel on Policing Protests	28 September 2022
Dr Alan Billings, Police and Crime Commissioner for South Yorkshire	28 September 2022
Rebecca Hammond, former Co-Chair of Sheffield Tree Action Groups	29 September 2022
Paul Selby, former Co-Chair of Sheffield Tree Action Groups	4 October 2022
Dave Dilner, former Co-Chair of Sheffield Tree Action Groups	4 October 2022
Lewis Dagnall, former Councillor for Gleadless Valley, Cabinet Member for Environment, Street Scene and Climate Change	5 October 2022
Andy Buck, former Chair of the Independent Tree Panel	5 October 2022
Chris Rust, former Co-Chair of Sheffield Tree Action Groups	5 October 2022
Ann Anderson, Save Dore, Totley and Bradway Trees	25 October 2022
Councillor Bryan Lodge, Co-Chair Finance Sub-Committee, Sheffield City Council	26 October 2022
Paul Brooke, former Co-Chair of Sheffield Tree Action Groups	26 October 2022
John Mothersole, former Chief Executive, Sheffield City Council	27 October 2022
Darren Butt, former Account Director, Amey	29 November 2022
Peter Anderson, Managing Director Transport Infrastructure, Amey	29 November 2022
James Henderson, Director of Policy, Performance and Communications, Sheffield City Council	29 November 2022
Kate Josephs, Chief Executive, Sheffield City Council	8 December 2022
Councillor Joe Otten, Chair of the Waste and Street Scene Policy Committee, Sheffield City Council	8 December 2022
Councillor Terry Fox, Leader, Sheffield City Council	8 December 2022
Nathan Edwards, Chair, Sheffield Street Tree Partnership	8 December 2022
Andy Milner, Chief Executive Officer, Amey	8 December 2022
Gillian Duckworth, former Director of Legal and Governance and Monitoring Officer, Sheffield City Council	Declined to attend public hearing, but provided a written statement
Martin Toland, Investment Manager, AHHL/Albany	Declined to attend public hearing, but provided a written statement
Simon Green, former Executive Director of Place, Sheffield City Council	Declined to attend public hearing
Laraine Manley, former Executive Director, Sheffield City Council	Declined to attend public hearing
Lord Paul Scriven, former Leader, Sheffield City Council	Declined to attend public hearing
Julie Dore, former Leader, Sheffield City Council	Declined to attend public hearing
Rob Allen, former Business Director, Amey	Amey proposed to send Darren Butt instead – proposal accepted by the Inquiry
Amanda Fisher, former Chief Executive Officer, Amey	Amey proposed to send Peter Anderson instead – proposal accepted by the Inquiry



SHEFFIELD STREET
TREES INQUIRY

END