

Agenda Item No: 13

Report To: Cabinet

Date of Meeting: 30th July 2020

Report Title: Memorial Safety in Burial Grounds

Report Author & Job Title: Colin Munro: Grounds Maintenance Safety, Health, Environment and Quality Manager

Portfolio Holder Cllr. Buchanan
Portfolio Holder for: Environment and Land Management

Summary:

In 2016 members endorsed a policy and procedure for inspecting memorial headstones in both open and closed cemeteries. Following the completion of the inspections, the risk assessment for the activity has been reviewed in line with guidance issued by the Ministry of Justice and the Health and Safety Executive also using data gathered during the inspection process. The report provides Members with an update on the present position, summarises key findings of the reviewed risk assessment and details proposed changes to the policy and procedures for the safe management of memorials in the Borough.

Key Decision: YES

Significantly Affected Wards: All wards in Ashford

Recommendations: **The Cabinet is recommended to:-**

- I. Note the current position with regard to memorial testing and inspection; and**
- II. Adopt the updated policy and operational procedures as set out in Appendix 1**

Policy Overview: Original policy adopted at Cabinet in 2016, reported on in 2018 and revised in this paper.

Financial Implications: Reduced burden to record every inspection, the process will be leaner as not every inspection will need to be recorded. Potential for officer time to be used more productively, elsewhere.

Legal Implications: Health and Safety at Work Act 1974; Management of Health and Safety at Work Regulations 1999; Occupiers Liability Act 1957 and 1984; and Local Authorities' Cemeteries Order 1977.

Equalities Impact Assessment: Not required

**Data Protection
Impact
Assessment:**

Not applicable

**Risk Assessment
(Risk Appetite
Statement):**

The risk of injury or death from unstable memorials is recognised by the Health and Safety Executive as being low. Research carried out by the Ministry of Justice in 2009 found that nationally a falling memorial has killed eight people in the previous 30 years. Given the population of the country and the number of memorials, the risk of being killed by a falling memorial is inherently low and in the broadly acceptable risk region nationally speaking. The risk assessment relating to the activity was reviewed in line with data from council burial grounds following initial inspection.

**Sustainability
Implications:**

**Other Material
Implications:**

**Exempt from
Publication:**

NO

**Background
Papers:**

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Introduction and Background

1. When Members endorsed the original Policy and Procedures for the Management of Memorials in 2016, no inspections had previously been undertaken under the proposed methodology. Therefore, it was unknown how many defective memorials there were within the Borough and what level of risk management would be proportionate.
2. This report outlines the changes proposed to the Policy and Procedures for the Management of Memorials. The changes are proposed because following initial benchmarking inspections, the reviewed risk assessment for the activity has determined that recording an inspection for every single memorial, irrespective of its risk category is time consuming and disproportionate to the risk.
3. Memorials are categorised as follows: category 1 are immediately dangerous; category 2 are not immediately dangerous, but not fully stable; and category 3 are perfectly stable.
4. At the time the risk assessment was reviewed (October 2019) all category 1 memorials had either been laid flat or were in the process of being repaired. 253 (3 percent) of memorials were deemed to be category 2 with the remainder of memorials found to be category 3. Category 2 memorials require an annual inspection and category 3 memorials require an inspection every five years.

Proposal

5. Make revisions to the previously agreed policy as detailed below (and final amended policy appears at Appendix 1). These amendments reflect Health and Safety Executive (HSE) approved guidance and have been agreed with the Councils Corporate Risk and Safety Officer. This has also been agreed with the Mid Kent audit partnership on the report produced on the Cemetery service in May 2020.
6. Record inspections of category 1 and 2 memorials only. Where a category 3 memorial becomes a category 2 memorial that will be included in this recording.
7. Under the Paragraph 4 in the Key Aims of the Policy and Procedures for the Management of Memorials, remove references to good practice published by the Institute of Cemetery and Crematorium Managers (ICCM). The ICCM guidance would require a record of all inspections to be made and is not in line with the HSE approved guidance from the Ministry of Justice.
8. Under Clause 7 (Inspection Process), remove the sentence that refers to inspections being carried out in line with guidance from Institute of Cemetery and Crematorium Managers. Replace this sentence with the following: "The

inspections of memorials will be undertaken in line with the risk assessment for this activity. The risk assessment was recently reviewed following an initial benchmarking inspection exercise and will be subject to further review if there is a significant change or a reason to suspect that it is no longer valid”.

9. Under Clause 11 (Inspection Process), remove the reference to inspections being undertaken by properly trained and certificated personnel and replace with inspections being undertaken by competent personnel. This is an unnecessarily restrictive clause and there is no requirement for personnel to be certificated.
10. Under Clause 12 (Inspection Process), remove all references to mechanical force device tests with the exception of where a hand stress test is inconclusive. Ministry of Justice and Health and Safety Executive guidance suggests that results from these instruments are liable to overestimate the actual risks.
11. Under Clause 14 (Inspection Process), remove references to the installation of support using staking and protective banding. Ministry of Justice and Health and Safety Executive guidance suggests that there is a risk of harm during the installation of such supports and that the operation risks damaging the memorial.
12. Add “The installation of a temporary barrier to the perimeter of the memorial or sections of a cemetery where there is more than one Category 1 assessed memorial” to Clause 14a (Inspection Process).
13. Add “In circumstances where the memorial poses a significant risk, such as an imminent collapse in a way which could cause death or serious injury, the memorial will be made safe by removal and will be laid flat as soon as is reasonably practicable” to Clause 14b (Inspection Process).
14. Clause 17 (Records and Information) becomes “Appropriate records relating to defective memorials will be kept for a period of five years. After this time they will be archived. Following initial inspection, category 3 memorials will not be recorded as part of the inspection process. All memorials will be inspected once at least every five years. However, a detailed record will only be made of the inspection where a defect is found” (negative exception reporting) as it is felt that this is proportionate to the current risk.
15. Remove Clause 18b as this will not be possible unless all inspections are recorded.

Equalities Impact Assessment

16. Not applicable

Consultation Planned or Undertaken

17. Not applicable

Other Options Considered

18. Maintaining the requirement to record all inspections as per the endorsed policy and procedure is the other option. However, the risk assessment for the activity shows that this is time consuming and disproportionate. The endorsed policy results in over 8,500 additional records over a five-year period. As each record takes time to input into the system, this equates to just over 3.5 weeks of officer time to record the category 3 (completely stable) memorials.

Reasons for Supporting Option Recommended

19. The proposed approach of recording only memorials with defects apparent will streamline the inspection process. Baseline data from the first round of inspections demonstrates that the level of risk to the Council is low, which is further supported by national data. This ensures that the management of the risks from memorials is proportionate and officer time is able to be spent more productively, whilst the safety of our memorials is maintained.
20. Aligning the council's inspection methodology to that endorsed by the Health and Safety Executive is likely to be viewed favourably in the unlikely event of enforcement action, as the Health and Safety Executive is the enforcing agency.

Next Steps in Process

21. Adopt the revised policy and procedure and continue with streamlined inspection programme.

Conclusion

22. Extensive time could be saved by streamlining the requirements of inspection records, allowing resource to be deployed effectively elsewhere.
23. Aligning the process with guidance endorsed by the Health and Safety Executive is sensible from a compliance point of view.
24. All recommendations appear as the final revised policy in Appendix 1.

Portfolio Holder's Views

25. The communication with memorial owners, inspection, making safe and re-inspection of memorials in our open and closed cemeteries has been a lengthy and thorough undertaking. Due to the diligence of the entire team involved in the work, the considered communication with memorial owners and the co-operation of those owners in undertaking the work required, this has been a very successful project. As we continue to ensure public safety, this policy revision reflects the risk based approach to the undertaking, with the maximum efficiency, whilst ensuring the needs of the memorial owners are respected. Consequently, I wholeheartedly support this revision.

Contact and Email

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**Ashford Borough Council
Policy and Procedures for the Management of Memorials 2020**

Key Aims

1. Ashford Borough Council (The Council) recognises that the management of memorials in burial grounds needs to be undertaken in a sensitive and sympathetic manner. In operating this policy and associated procedures it will seek to achieve the best balance possible between the interests of grave and memorial owners, legitimate safety concerns and amenity or aesthetic considerations.
2. The Council will carry out an inspection of all memorials which prioritises those assessed as higher risk over a period not exceeding 5 years.
3. The Council will do all that is reasonably practicable to minimise the risks to people associated with memorials in burial grounds (cemeteries and any closed churchyards) where it has a direct or other management responsibility.

In applying these policies and procedures the Council will draw upon recognised good practice published by the Health and Safety Executive and The Ministry of Justice.

Publicity and Communication

1. The Council undertakes to keep all interested parties and the general public informed of any inspections or works programmed for memorials in burial grounds (cemeteries and any closed churchyards) where it has a direct or other management responsibility.
2. The Council will make clear in its relevant agreements the primary responsibility of owners of memorials and the terms and conditions it requires to be entered into when granting a right to erect a memorial.
3. Before undertaking any memorials inspection programme the Council will:
 - a) Place prominent notices on the site to be inspected for up to 6 weeks prior to commencement which will include the sections and plot numbers covered by the inspection
 - b) Place advertisements in local newspapers accompanied by press releases
 - c) Provide detailed information and guidance on the Councils website, signposted as appropriate, to include an explanation of any elements to be operated forming part of this policy and procedure
 - d) Write to the last known address, where held, of owners of graves / memorials especially where it is considered that removal, re-positioning or other disturbance of memorials may occur:

- i. For a period going back 30 years from the date of the planned inspection;
 - ii. To advise or remind owners or families of their responsibilities and invite direct discussion of any concerns; and
 - iii. To advise that the Council will write again following the inspection of the memorial.
4. Following the completion of any set of inspections the Council will write again to grave / memorial owners advising:
 - a) The assessed condition of the memorial and if satisfactory when it will be scheduled for inspection again;
 - b) What, if any, temporary actions the Council has considered necessary after the inspection of their memorial and in accordance with its published policy and procedures;
 - c) What action, if any, they are required to take to make the memorial safe arising from the inspection and period of time for them to undertake it to the required standards with evidence to be supplied the Council; and
 - d) What the Council may do should works for which the owner is responsible not be completed and in accordance with its published policy and procedures.
5. Information relating to the general findings of any inspection undertaken will also be placed in prominent places around the relevant site and on the Councils website.
6. General information, to include guidance and frequently asked questions, will be placed on the Council's website along with a copy of the Council's policy and procedures for the management of memorials.

Inspection Process

7. The inspection of memorials will be undertaken in line with the risk assessment for this activity. The risk assessment was recently reviewed following an initial benchmarking inspection exercise and will be subject to further review if there is a significant change or a reason to suspect that it is no longer valid.
8. The inspection process has been informed and guided by an initial assessment of relevant sites to determine:
 - a) potential hazards- site geology and topography, general age of memorials, site layout (roads, access) and proximity of memorials to them;
 - b) who may be harmed and how – visitors, cemetery workers or other; and

- c) what the risk might be – of a memorial falling or with the potential to fall or otherwise part collapse accounting for known site or other factors.
9. Findings will be recorded and immediate action taken arising from any risks classified as Category 1 (see 13) below.
10. The risk assessment and any material changes that may affect it will be reviewed at a date consistent with the findings.
11. Competent personnel will undertake inspections.
12. Memorials will be inspected in accordance with the following categories:
 - a) Memorials up to 500mm: full visual inspection and hand stress test;
 - b) Memorials 500mm – 1500mm: full visual inspection, hand stress test
 - c) Memorials 1500mm – 2500mm: full visual inspection, primary hand stress test (non complex structures), review for more complex structures in line with (d) below; and
 - d) Memorials over 2500mm and complex structures: full visual inspection, note potential problems and consider cordon off, follow up full inspection supported by a structural engineer and/or qualified stonemason.
 - e) Where deemed necessary by inconclusive hand stress test, a mechanical force test will be carried out by a competent individual.
13. Memorials inspected will be classified into one of three categories:
 - a) Category 1 - Immediate action is required to make the memorial safe or to stop the public accessing the memorial; or
 - b) Category 2 – The memorial is not an immediate danger but is not fully stable and will, therefore, need to be monitored every 12 months to assess any further deterioration of the memorial; or
 - c) Category 3 – The memorial is perfectly stable and will only need to be inspected in 5 years time.
14. Memorials that are classified as Category 1 will be made temporarily safe by:
 - a) The installation of a temporary barrier to the perimeter of the memorial or sections of a cemetery where there is more than one Category 1 assessed memorial.
 - b) In circumstances where the memorial poses a significant risk, such as an imminent collapse in a way which could cause death or serious injury, the memorial will be made safe by removal and will be laid flat as soon as is reasonably practicable.

15. Any barrier will remain in place for a minimum period of 3 months to enable any communication with grave/memorial owners to take place or further actions to be considered by the Council.
16. Any memorial which is the subject of a barrier will have appropriate and clear warning signs, Council contact information and a brief explanation of the Council's policy attached to or around it.

Records and Information

17. Appropriate records relating to defective memorials will be kept for a period of five years. After this time they will be archived. Following initial inspection, Category three memorials will not be recorded as part of the inspection process. All memorials will be inspected once at least every five years. However, a detailed record will only be made of the inspection where a memorial is found to be defective.
18. Ashford Borough Council will keep and place information relating to the following on it's website and in writing upon request:
 - a) Memorial inspection programme(s)
 - i. Current programme details
 - ii. Forward plan (future years and/or re-inspection)
 - b) Inspection results: by site: generic information (section and plot numbers)
 - c) Information relating to:
 - i. It's general memorial management policy and procedures
 - ii. Guidance on the responsibilities of memorial owners to include the standards required for new memorial installations
 - iii. Agreements that the Council requires to be entered into when seeking to erect a memorial in the Councils burial grounds
 - iv. Contact information for the Borough (or local Diocese for enquiries relating to closed churchyards).

All records will be held and stored in line with the associated regulatory, legislation or the Council's adopted information or financial policies.