



East Suffolk Council's Health and Safety Policy for Cemeteries and Closed Churchyards

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1. Objectives of the Policy

- 1.1. Health and Safety is a primary concern to the Council and through its procedures and risk assessments it minimises the risk to staff and visitors as far as reasonably practicable.

2. Objectives of the Policy

- 2.1. The Council is seeking to ensure it is adopting a clear, measurable and sympathetic approach to the management of its assets in open spaces, which will take account of the sometimes-contrasting needs of a variety of facility users.
- 2.2. The policy will establish responsibility for health and safety within cemeteries and closed churchyards.
- 2.3. The Council through the policy will endeavour to always offer the highest standard of service in undertaking its management and regulatory responsibility.
- 2.4. It is the intention that the policy only covers broad common issues and is not meant to be exhaustive. The policy will be reviewed at least every three years.
- 2.5. This policy supersedes all previous arrangements, policies and agreements on this matter.
- 2.6. This policy will be made available to the public.

3. Obligations

- 3.1. There is an obligation on a local authority whose workforce is engaged in churchyard maintenance. The churchyard thereby becomes a 'workplace' for the purposes of the Workplace (Health, Safety and Welfare) Regulations 1992. Under Regulation 4 of those Regulations the employer has duties in relation to the safety of any workplace under his control, while parallel duties are imposed upon any other person having control of a workplace.



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- 3.2. Ongoing risk assessments are undertaken to identify hazards encountered in excavation of graves by both manual and mechanical means, and risks that may be encountered by other maintenance operations and by the visiting public.
- 3.3. Cemeteries staff are trained in safety awareness, with specific staff being trained and certificated in the safe use of mini excavators, grave shoring techniques and other mechanical means which may be used.
- 3.4. Responsibility for safe conditions in the cemeteries and closed churchyards rests upon four main parties:
 - 3.4.1. *The Council* has a responsibility to ensure the cemeteries are safe for all users and Council employees. This includes the inspection of memorials to ensure they are safe.
 - 3.4.2. *Funeral Directors* have a duty of care for their employees and bereaved families attending funerals.
 - 3.4.3. *Monumental Masons* have a duty to ensure all work on memorials is carried out in a safe manner and that memorials are left secure and safe at the time of and after installation.
 - 3.4.4. *Owners of Memorials* – In the case of memorials the primary responsibility for ensuring they are safe rests upon the owner of the grave or memorial. It is their responsibility to ensure the memorials are maintained to a safe standard.

4. Testing of Memorials and Headstones:

- 4.1. The Council seeks to strike a balance between public safety and the need to remain sensitive and minimise public concerns when headstones are laid down flat.
- 4.2. In the light of this, East Suffolk Council intends to make sure that any remedial work to reduce the risk of serious injury to those visiting and working in the immediate vicinity of defective memorials, will be via a testing programme which takes an appropriate approach to managing the risks. This will be based on good

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practice and undertake a proportionate response to the problem at hand so that no unnecessary distress is caused to bereaved families and health and safety guidance is adhered to.

- 4.3. The following procedure aims to assess and control the risks posed by memorials within cemeteries and closed churchyards, it seeks to identify these and to describe an approach to control them that is reasonable to all involved within the churchyards.
- 4.4. East Suffolk Council will appoint suitable officers / contractors to perform site risk assessments and test memorials using visual inspections, looking for signs of damage and also test them by hand to identify instability. Consideration will be given to the location and type of memorial as part of the assessment to determine action; this will include memorials alongside or close to footpaths as these present a higher risk to visitors.
- 4.5. The Local Authorities Cemetery Order 1977 places duties on burial authorities to notify grave owners and religious organisations of the intention to undertake work to memorials. Whilst this does not necessarily apply to the making safe of dangerous memorials the spirit of the legislation will be followed wherever possible, as follows:
 - 4.5.1. Notices within the Churchyard – Where possible, notices will be placed advising churchyard visitors of those headstones identified for testing. Notices will be of good quality and will be visually obvious for visitors.
 - 4.5.2. Communication Via the Media – Information will be issued in advance of any work commencing with the aim of ensuring that the public are aware of the work that will be taking place and why it is necessary. Media enquiries will be dealt with by the Communications Team, which will be briefed about the issue.
 - 4.5.3. Consultation with faith communities – the Parochial Church Council (PCC) and relevant Diocese will be notified that we intend to carry out essential



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memorial safety work in closed churchyards. If any specific permissions or faculties are required, these will be obtained.

4.5.4. Communication with other parties – Parish Councils will be contacted if the relevant churchyard resides within their parish. This will enable the parish Council to advertise the inspections / works on parish notice boards or magazines.

4.6. All Memorials in the burial ground will be visually assessed as part of the overall risk assessment process. War graves memorials identified for testing will be referred to the War Graves Commission for their inspection and action.

4.7. Testing will include checks for damaged or eroding bonding, movement of parts of a memorial from its original position, kerb stones breaking apart, undermined or unstable foundations, leaning memorials (particularly if there is evidence of recent movement), evidence of structural damage or disturbance (e.g. cracks) and the presence of vegetation, which may cause cracks. Where a visual check suggests stability defects, a hand test can confirm that assessment and identify stability problem. The stone should be physically handled to check for loose mountings, disintegrating mortar or undue spalling caused by age or frost, thus rendering the stonework unsafe. However, persons carrying out the inspection should take care to push the stone away rather than pull it towards them. The stone must be sufficiently secure so that it would not topple over if someone held onto it to help themselves up if they had knelt down to read the inscription.

4.8. Where a headstone is covered in vegetation, this is not automatically cleared by the grounds operator. If vegetation is present and considered to be causing a health and safety risk – as identified in the condition survey of a headstone, or the vegetation is preventing a risk assessment to take place, then the grounds operator will be notified to clear the headstone from vegetation.

4.9. The risk assessment for testing will follow the general principle for risk assessments as set out below:

1. Identify the hazard - e.g. a potentially unstable memorial



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2. Identify who might be harmed – employees, contractors, visitors, public.
 3. Evaluate the risk of a memorial falling and harming someone and decide on precautions needed to control this.
 4. Record the significant findings of the risk assessment and take steps to implement the precautions needed.
 5. Review the risk assessment periodically. Persons undertaking the condition surveys will need to submit suitable and sufficient risk assessment and method statements (RAMS) to ESC prior to work commencing.
- 4.10. It is not expected that every memorial stone will be vertical - if one is leaning but meets the above tests no remedial action is necessary. Where there is a significant risk found on large memorials, arrangements for more detailed inspections by a structural engineer or memorial mason will be made.
- 4.11. The routine use of mechanical test instruments as inspection tools is not recommended.
- 4.12. If a headstone is found to be unstable but not imminently dangerous, the memorial will be temporarily supported ensuring no damage will occur to the memorial. The Council will notify the memorial owner/next of kin, (if they can be identified) to rectify the situation. Within a closed churchyard, the Council will notify the PCC who in turn shall notify the memorial owner/next of kin, (if they can be identified) to rectify the situation. If no owner/next of kin can be traced or no action has been taken after 12 months the Council will make safe the memorial by laying it flat, inscription side up. Once identified as being unstable a warning sign displaying ESC's and the PCC's (if relevant) contact details will be placed next to the memorial on the stake alerting visitors to the potential danger until repair or laying down has been completed. If circumstances make this impractical the memorial will be cordoned off until it is made safe, which will be done in a manner to minimise negative visual effect. The owner/next of kin of the memorial, if



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known, may be invoiced by ESC for the cost of making the memorial safe and administration in organising the works.

- 4.13. Only when a memorial poses a significant risk, such as collapsing, will immediate action be taken by the Council. It will be laid flat immediately, inscription side up, for the safety of the general public and Council operatives. If this is not possible, access will be restricted by whatever means are possible to reduce the risk. ESC will contact the memorial owner/next of kin (or ask the PCC to if within a closed churchyard) and signage will be installed next to the memorial on a stake informing why the memorial has been laid flat. The owner/next of kin of the memorial maybe invoiced for the cost of making the memorial safe and administration to arrange works, (if they can be traced). It is then up to the memorial owner/next of kin to decide on whether to leave it laying flat or repair it at their cost. The Local Authority has the authority under Health and Safety Legislation, which over-rides everything else, to make safe a memorial stone by laying it flat if they consider it to be imminently dangerous.
- 4.14. In each instance a warning note will be fixed to the memorial with a Council and PCC contact number. Suggested wording is as follows:

IMPORTANT SAFETY NOTICE: THIS MEMORIAL HAS BEEN INSPECTED BY TRAINED STAFF AND WAS FOUND TO BE UNSAFE. PLEASE DO NOT ATTEMPT TO RE-ERECT THE MEMORIAL WITHOUT THE USE OF AN APPROVED MEMORIAL MASON. THIS IS FOR YOUR OWN SAFETY. FOR FURTHER INFORMATION PLEASE CONTACT EAST SUFFOLK COUNCIL ON (TELEPHONE NUMBER) DURING OFFICE HOURS

- 4.15. Records of the inspection, including photos and results will be maintained. The operatives will record the following information if a memorial is considered unsafe, if immediately available, into the Asset Management Risk Assessment Template and entered into the system. Details captured will include:

- Plot/section number



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- Grave number
- Name of first interment
- Date of last interment
- Height
- Details of visual inspection
- Image reference
- Priority of hazard
- Action Required
- Date and Signature of person carrying out the inspection

4.16. A photographic record of each unsafe memorial will be taken, before and after making safe and again after any remedial works have taken place and the memorial is re-tested. A record will also be kept of which remedial action was taken and why this was considered the best action to take.

4.17. PCCs that wish to carry out memorial testing themselves in their own churchyards must provide the Assets Team at East Suffolk Council with written confirmation that their insurers agree with their proposal as well as notify the Council if any memorials are deemed unstable or imminently dangerous after each test.

4.18. The safety of individual headstones and ultimate liability remains with the grave owner, efforts will be made to contact family members directly so they have an opportunity to repair the headstone if necessary. If the memorial was laid flat for safety reasons, the grave owner can decide to leave the memorial laying flat, repair at their cost or request that the Council bury the headstone up to one third of its height to secure, which the Council will do at their cost, if it is feasible to do so, keeping the inscription visible where possible.

4.19. If a Parish or families of the deceased are concerned about the action taken by East Suffolk Council, they must contact the Council through Customer Services.



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- 4.20. If families of the deceased cannot be located or are unwilling to carry out the reinstatement of unsafe memorials then the Council will note this.
- 4.21. Some memorials may be listed in their own right and, if so, an individual faculty from the relevant Diocese will be required for any action taken to make safe or for remedial work.
- 4.22. Where a headstone is manually tested and it is deemed safe no action will be taken with that memorial. Safety tests for memorials will be carried out on a rolling programme every five years. The principle will be applied that the assessment of risk is an ongoing process and action may be required on an ad-hoc basis to resolve individual issues if a headstone becomes unstable outside of the programmed risk assessment.
- 4.23. The Council is not responsible for repairs to any monument or memorial due to storm damage or vandalism; this is the responsibility of the owner. Insurance can be obtained to cover the event of these occurrences.

5. Trees

- 5.1. If a tree has grown so that a path is obstructed by a branch, or it is threatening to displace a boundary wall, some treatment may be necessary. If the roots are penetrating into a neighbour's land and likely to cause damage by heave or subsidence remedial action may be demanded. This should be viewed on a case by case basis. Checking for displacement is undertaken by Asset Management; any issues with the tree itself should be conveyed to the grounds maintenance service providers for action.
- 5.2. There are powers in the Highways Act 1980 as amended to, cut back trees or branches that obstruct roads, visibility at junctions or the illumination from street lamps.
- 5.3. Trees within Conservation Areas with stem diameters of 75mm or greater when measured at a height of 1.5m above ground level are legally protected. Anyone

wishing to work on such trees must normally give notice to the local planning authority.

- 5.4. If a tree has fallen by act of nature in a closed churchyard for which a local authority is responsible, the authority should remove it unless the owner of the tree (normally the incumbent or the lay rector, if there is one) wishes to do so.

6. Boundary Walls (in relation to Closed Churchyards)

- 6.1. The Council's statutory duty in terms of closed churchyards expressly refers to keeping walls and fences in good repair, assumed to extend to gateposts, gates and lychgates.
- 6.2. It is therefore important to check walls etc. regularly so that any want or repair does not become serious. The wall itself may be listed, or within the setting of a listed building. Listed structures must be properly maintained. That may impose a greater duty on the Council than the simple duty under LGA 72 s. 215. It will also prevent the removal of the wall, should that otherwise be perceived as an option within s. 215. A Faculty may be necessary before repairs are carried out.
- 6.3. Identifying ownership of features, such as walls, on churchyard boundaries is not easy. One reason is that there are no deeds to show exactly where the boundary lies. Other clues may be sought to determine whether a boundary wall may belong to the adjoining property. The Council need not maintain any boundary wall or fence that does not belong to the churchyard.

7. Drains (in relation to Closed Churchyards)

- 7.1. The Legal Advisory Commission of the General Synod of the Church of England notes that it views drains which run under the churchyard and whose sole function is to carry off water from the downspouts and guttering of the church itself, is the responsibility of the PCC and not the local authority. Therefore, if



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these become obstructed, the removal of the obstruction is not part of the duty of maintaining the churchyard in decent order.