

Bodmin Town Council Memorial Policy

1 Introduction

Bodmin Town Council acknowledges the importance of a memorial as a means of commemorating the life of a loved one, acting as a focus for grief initially, and in years to come as an historical record. Bodmin Town Council as the Burial Authority has in pursuance of the General Powers of Management contained in Article 3 (1) of the Local Authorities' Cemeteries Order 1977 made the following Rules and Regulations to be observed in the cemeteries under their management. For the purposes of these regulations, 'The Council' means Bodmin Town Council and 'Memorial' means any headstone, monument, cross, flat stone, kerbing or any other erection placed for the purpose of a memorial over a grave.

1.1 Notice of Intent

Good communication is an essential part of the process of memorial testing. To avoid unnecessary distress to Deed owners and the general public, an effective support and information directive must be in place and accessible to all involved including being open to the wider public domain. Prior to any memorials being inspected, reasonable steps must be taken by the council to inform grave owners, Deed Holders or successors in title, and members of the public, of the intention to inspect memorials and reducing the risk posed by unsafe memorials.

- Giving advance formal notice in a local newspaper of any inspection regime commencing.
- Publishing details of the assessment and methodology on the council's website.
- Giving a public demonstration on at least one occasion per year at one of the cemeteries or churchyards involved in the assessment process. This will usually be at a designated publicised open day.
- Placing public notices on the cemetery gates and in prominent locations elsewhere in the cemetery affected by the assessment regime.
- Where practicable, to notify the owner, Deed Holder or successor in title

1.2 The Local Authority and Cemetery Order 1977

Burial Authority may do all such things that they consider necessary or desirable for the proper management, regulation and control of a cemetery.

Any action in relation to any vault, or any tombstone or other memorial other than action which is necessary to remove a danger which arises by reason of the condition of the vault, or the tombstone, or other memorial itself. In accordance with the above regulation and schedule 3 (1) to (1v) a local Authority may remove any flowers, railings or obstacles from the Cemetery placed without permission. However, for the purpose of maintaining good relations a communication policy would be appropriate for effective management of this problem and a notice of intent in all cases is good practice, especially where it involves the burial of an infant.

1.3 The criteria for memorial installation as set out in BS8415

Where a new memorial is installed it is required that the responsible stone mason is qualified to meet the requirements of the above quality standards code of practice and they are expected to provide copies of the relevant qualification prior to starting work. It is imperative that mistakes from the past are not repeated and all works to new and repaired memorials are carried out to the industry standard from December 2007. In order that the industry standards are met it is necessary to regulate both the memorial masons and the methodology of memorial works. The council understands that the memorial masons are an important partner to the cemetery service, therefore a more formal partnership and safer system of work will be implemented in the form of the memorial mason's registration scheme.

Companies or individuals that are not registered on this scheme will not be permitted to carry out any memorial works in any of the council's-controlled cemeteries.

- These registered masons will use the latest national standards laid down by the National Association of Memorial Masons irrespective of whether works are being carried out on new or existing memorials.

1.4 Memorial inspection

If the memorial passes the visual inspection, a gradual simple hand test will then be applied. If the memorial fails at any point during the simple hand test, the test will immediately stop; the electronic calibrated test will therefore not be carried out. The inspector will note the point of failure and take a photograph. This information will be put on the database and sent to the cemeteries officer who will telephone the memorial mason and ask for the memorial to be repaired within 10 working days. The memorial mason will be required to inform the cemetery office as soon as the repair has been completed: the memorial will then be programmed for another inspection no less than 28 days after the date of the repair.

If a memorial completely fails a simple hand test and falls or is likely to fall, this will be regarded as a serious failure. The inspector will log it as a fail, take a photograph, and then relay this information to the Cemeteries Officer.

All memorials that fail the inspection test and are deemed to be a danger to public safety will be either cordoned off or laid flat until such time as repairs can be made. In the case of a serious failure, the cemeteries officer will inform BRAMM. The memorial mason will be asked to attend a meeting on site and asked to dismantle the memorial in the presence of an independent A1 BRAMM Assessor who will determine if there was a serious breach of the installation standards.

If there is evidence of a breach of the installation standards, the memorial mason will be asked to provide an explanation which will be considered, and a decision made on the appropriate sanctions if necessary. If the installation is a serious breach of the standards, this could result in the removal of the memorial mason from the Councils list of BRAMM registered memorial masons. The incident will also be reported to BRAMM which could result in the fixer's licence being revoked. Calibrated electronic test, if a memorial passes both the visual and hand test, a calibrated electronic test may or may not be required.

Memorials up to 24 inches/610mm in height will first be visually inspected and then will be physically checked to ensure that all joints are sound and that the memorial is stable on its plinth. Memorials in this category are not to be used to lean against or act as leverage when standing up from a kneeling position.

Memorials above 24 inches/610mm but not exceeding 78 inches/1980mm in height will first be inspected visually and then hand tested as per the training received by the I.C.C.M. A forced measuring device (topple tester) will only be used when a memorial fails the hand test to confirm the fail force threshold.

Memorials above 78 inches/1980mm in height will be first visually checked and if no problems are noted then no further action is required; however, if a memorial is deemed unsafe then a further check will be carried out by a suitably qualified person such as a structural surveyor. The cost of this will be the responsibility of the grave deed holder.

Memorials which have been erected onto one of the concrete rafts constructed in the cemetery will undoubtedly be more secure and will only undergo 'hand testing on a five-year basis.

Memorials which fail the test and are temporarily made safe, will be inspected again one year from the make safe date to ascertain whether they have been repaired a stonemason instructed by the by the grave deed owner. Informal visual inspections will also be carried out by council staff during their normal working days i.e. locally to where graves are being dug and grass cutting operations are taking place; should any memorials fail these random visual tests the employee will report their findings to the cemetery office.

A risk assessment provides for a focus on those risks with the potential to cause real harm. In most cases a suitable and sufficient assessment can be completed by an officer of the burial ground operator using experience of burial ground management and the associated risks, and a working knowledge of memorials. Operators may need to provide training to officers or volunteers so they can develop the necessary skills to complete these assessments – including ensuring they have an understanding of the need for a proportionate approach to the assessment.

1.5. The Health and Safety - Five Step approach in developing risk assessment:

Step 1: Identify the hazard – e.g. a potentially unstable memorial.

Step 2: Identify who might be harmed and how – these might be employees, contractors, volunteers or visiting members of the public who may be struck by a falling memorial.

Step 3: Evaluate the risk of a memorial falling and harming someone and decide on the precautions needed to control this risk.

Step 4: Record the significant findings of the risk assessment and take steps to implement the precautions needed.

Step 5: Review the risk assessment periodically to see if anything has changed and update it if necessary.

Risk assessment is an on-going management process. Operators will need to decide for themselves, knowing their circumstances, when to review their risk assessment. A method statement provides a clear directive for initiating the process of installation and inspection. Any repairs would be directed to a stone mason.

1.6. Exclusive Right and Memorial Bodmin Cemetery

A particularly important aspect of the law in local authority cemeteries relates to the grant of burial rights in a grave or grave space. There is no obligation to grant rights of burial, but where they are granted, they may be granted either exclusively or otherwise. Similar rights may be granted in relation to tombstones etc. Rights may not, however, exceed 100 years, except for those granted to the Commonwealth War Graves Commission which may be granted in perpetuity. The procedures and constraints are set out in detail in LACO. 2.28 where an exclusive right of burial may be transferred on the death of the registered owner to the person or persons entitled to it. A burial authority should satisfy itself that the person or persons wishing to take up the ownership are entitled to do so by the production of a grant of probate or letters of administration. If these legal documents have not been applied for or issued, the authority may accept a statutory declaration from the nearest surviving relative(s) (Department for Constitutional Affairs 2005 p 11)

a) Memorials can only be placed on a grave space for which the Exclusive Right of burial has been purchased.

b) Wooden crosses are permitted as a temporary grave marker in the new Cemetery, prior to the installation of a permanent memorial.

c) Only one memorial per grave space is permitted, unless written permission has been obtained from the Town Council.

d) New footstones, kerbstones or other forms of surround are not permitted in the New Cemetery.

e) An application for all proposed memorials and inscriptions must be submitted to Bodmin Town Council for approval and all appropriate fees paid prior to any works being undertaken on site.

f) All permanent memorials are to be constructed and installed by a competent stonemason in accordance with the current National Association of Memorial Mason's Code of Practice (copy available on request), and to the satisfaction of the Supervising Officer.

g) No work is to take place in the cemetery before 8.30 a.m. and after 5.00 p.m. or sunset (whichever is sooner). No work will take place on Saturdays, Sundays or any bank or public holidays, except by agreement with the Council. Monumental Masons will be required to suspend work for the duration of a funeral.

h) Any damage done in connection with the erection of a memorial must be made good by the person erecting the memorial and the site left in a safe and tidy condition.

i) All memorials must be installed with stainless steel ground anchors or a concrete flag set below ground level, which complies with the NAMM Code of Practice, except by agreement with the Council.

j) The responsibility for the safety and upkeep, including repairs to any gravestone or memorial remains solely with the owner(s) of the grave or their successor(s) in title.
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k) The Council will make regular checks of memorials. Any memorial found to be unstable will be laid flat. The Council reserves the right to lay flat unsafe memorials at its discretion if the owner or successor cannot be found or refuses to arrange repairs.

Shrubs, plants, bulbs and trees may not be planted without permission of the Council. The Council reserves the right to prune or remove, without notice, any tree or plant which becomes a hazard or a nuisance or interferes with the routine grass cutting and grounds maintenance of the site.

l) Wind chimes, wind mills, solar lights, soft toys, ornamental stone chippings, picket fences etc are not permitted and the Council reserves the right to remove, without notice, any of these items in order that the routine grass cutting and grounds maintenance work can be carried out and should such tributes restrict access to and encroach onto neighbouring graves or interferes with the routine grass cutting and grounds maintenance of the site.

1.7. Erection of a Headstone

An application form for all proposed memorials and inscriptions must be submitted to Bodmin Town Council for approval and all appropriate fees paid, prior to any works being undertaken on site. This form is usually submitted by a Memorial mason.

The responsibility for the safety and upkeep, including repairs to any gravestone or memorial remains solely with the owner(s) of the grave or successor(s) in title and the Council recommends that grave owners obtain a guarantee from the Memorial Mason for all work they carry out and arrange for the Memorial Mason to check the memorial for defects every 5 Years.

The Council carries out regular inspections of memorials and reserves the right under Health and Safety legislation to 'make safe' any defective memorials found.

All memorials are to be constructed and erected with ground anchors or concrete flags in accordance with the current code of practice as prepared by the National Association of Memorial Masons.

No headstone may be more than 4 ft (1.22m) in height and 2 ft 6" (0.79m) in width. Grave edge kerbs are not allowed in the New Cemetery.

If an additional inscription involves the supply and fixing of a new plinth or further section of stone, then a sketch of the proposed stonework showing details is to be supplied and approved by the Council.

Additional 'free-standing' / unattached plinths or non-fixed stonework etc will not be permitted. Vandalism, The Council does not accept any liability in the event of the memorial being vandalised.

Under the provisions of the Health and Safety at Work Etc Act 1974 and associated legislation and in accordance with the Local Authorities' Cemeteries Order, 1977, the Council is obliged to assure safety within the Cemetery and to have a documented memorial inspection programme in place. The inspection programme will identify unsafe memorials and ensure that they are made safe by whichever method is appropriate. There is also a requirement for the Authority to ensure that new memorials are properly and securely erected to ensure long-term safety of visitors to the cemetery.

The Council will carry out a programme of regular checks of memorials. When a memorial has been identified as very unsafe and laid flat, every effort will be made to contact the Exclusive Right holder, requesting them to carry out the necessary repair. Further information on this programme of memorial safety testing is available from the Council Offices.

The Council reserves the right to lay flat or remove unsafe memorials at its discretion if the owner or successor cannot be found or refuses to arrange repairs.

1.8. Review and Amendment of Regulations

The Council reserves the right to amend any of the foregoing regulations and to deal with any circumstances or contingency not provided for in the regulations as necessary.

Disability Discrimination Act 1995 – copies of this document in large print (A3 Format) or larger font size, or recorded onto tape as a 'talking book' can be made available for those with sight impairment on request from the Council Office or by telephoning 01208 76616 or e-mailing policy@bodmin.gov.uk

The Council can also arrange to provide versions in other languages. 8 Freedom of Information 8.1 In accordance with the Freedom of Information Act 2000, this Document will be posted on the Council's Website.

1.9. Observance of regulations and offences

(a) All persons admitted to the Cemeteries are required to comply in all respects to the Regulations and Orders appertaining to the Cemeteries and shall be subject to the control and direction of the Cemeteries Manager.

(b) No vehicle shall be allowed to travel at a speed of more than ten miles per hour and shall use the main carriageway only. No vehicle will be permitted at any time to use any side or intersecting pathway except stone masons carrying out work at the Cemeteries and then only with the prior consent of the Cemeteries Manager.

No person shall:

- Create any noise nuisance annoyance disturbance in the Cemeteries
- Interfere with any burial taking place in any Cemeteries. Damage destroy injure deface daub or interfere with any erection, structure (whether static) apparatus wall or fence belonging to the Council or any grave vault Memorial monument tablet inscription or grave stone or any shrubs plant or flowers or any other things within the Cemeteries or any grave, walled grave or vault any tombstone or other Memorial.
- Play at any game or sport or unauthorised activity in the Cemeteries.
- Pursue or take any vermin game or other animal in the Cemeteries except for dogs on a lead.
- Interrupt Cemetery employees in the course of their duties or without proper cause seek or attempt to obtain from any employee either directly or indirectly information relating to grave owners or pay or attempt to pay any gratuity to any employee.
- Distribute any business card or advertisement, seek or solicit orders for sale or offer for sale any articles or service of any kind, or carry on any other business in any Cemeteries which has not been authorised in writing by the Cemeteries Manager Make for profit gain or any other purpose (unless authorised so, to do in writing by the Cemeteries Manager) by drawing or sketch or taking any photographs of any grave Memorial building or funeral procession within the Cemeteries.
- Deposit or leave in the Cemeteries dead flowers wreaths weeds and other matter removed from a grave other than in the refuse baskets provided.
- Other than an authorised Officer or invitee of the Council no person or persons are permitted to remain in the Cemeteries after they are closed.
- All persons visiting and/or working within the Cemeteries must comply in all aspects to the Rules and Regulations in force at that time and be subject to the control of the Cemeteries Manager.
- Companies carrying out work in the Cemeteries will be required to make good any damage or meet any claim for such damage which may be caused by them in the process of their work.
- No member of the Council's staff may demand or receive any gratuity or unauthorised fee. Printed receipts signed by the Cemeteries Manager shall be given in all cases where money is received, and no other receipt will be acknowledged by the Council.
- Fly-tipping and/or the dumping of any refuse is prohibited in the Cemeteries.

- Any member of the public having any complaints to make should report it in the first instance to the Cemeteries manager or supervisor in his absence. If, however, dissatisfaction is still felt after that course of action has been taken, the matter should then be referred to the Executive Support Officer and thereafter (if the matter remains (unresolved) to the Town Clerk. Should this procedure fail to satisfy the complainant a written application may be made to the Council. The Cemeteries Manager shall have power to eject from the Cemeteries any person found to be in breach of any part of the regulations those in respect of memorials.

2.0. Policy for dealing with unauthorised memorials

Where BTC find a memorial to be unauthorised, or that is it has been erected without permission or where no fees have been paid, Bodmin Town Council reserve the right to;

- Send a letter to the grave owner at their last known address within 10 days of the unauthorised memorial being discovered.
- Ask the grave owner to apply for retrospective permission and we will charge an administration fee for this process. If BTC doesn't receive a response, it will send another letter three months later. After a further three months have passed, if we still haven't received a response from the grave owner, BTC cemetery staff will remove the memorial. If the removed memorial is not claimed within six months, BTC will dispose of it. If an unauthorised memorial is found to be unsafe, we will deal with it through the process outlined in this policy document.
- If BTC has not been able to contact the owner of a grave with an unauthorised memorial on it and someone wants to open the grave for a burial or to bury cremated remains, any outstanding fees owed to BTC must be paid before a burial can take place. It will then be up the grave owner or applicant to arrange to have the memorial put on the grave in accordance with memorial safe working practice.
- The wording of inscriptions and the use of emblems on memorials is subject to strict conditions, in line with our legal duties of equality and promoting good relations. We will not permit any inscriptions that contain any racist or inappropriate wording or imagery. If an inscription is made on a memorial and the grave owner or applicant has not asked for permission to do this, or has been refused permission to do this, we will remove the memorial and charge the grave owner or applicant a fee.

2.1. Memorial subsidence after burials

BTC has the right to contact the grave owner and request urgent attention to subsiding memorials. If this request is not actioned by the owner, BTC has the right to remove or lay down the memorial for which all costs will be sent to the owner. Work will be carried out in accordance with memorial NAMM codes of practice.