

**South Lakeland District Council
Overview and Scrutiny Committee**

Friday, 27 August 2021

Cabinet

Wednesday, 01 September 2021

Management and Safety of Memorials Policy

Portfolio: Customer and Locality Services Portfolio Holder

Report from: Director of Customer and Commercial Services

Report Author: Vicky McDonald – Operational Lead Case Management

Wards: Ambleside & Grasmere; Arnside & Milnthorpe; Bowness & Levens; Broughton & Coniston; Cartmel; Grange; Kendal East; Kendal Town; Sedbergh & Kirkby Lonsdale; Ulverston East; Ulverston West; Windermere;

Forward Plan: Key Decision included in the Forward Plan as published on 31/07/2021

Links to Council Plan Priorities: The actions in this report are relevant to the Council's risk management process. Risk management is both the awareness of risks and the management processes that are directed towards effective reduction or mitigation of risks to enable the council to identify key actions it must take to deliver its objectives.

1.0 Expected Outcome and Measures of Success

1.1 To approve the policy as set out in Section 3 of this report to ensure that South Lakeland's cemeteries are safe places for visitors, officers and all others who may carry out their work within them, and to provide clarity for all stakeholders of the responsibilities and approach of the Council in relation to memorial safety, assessment, monitoring and remedial actions that are required to be taken.

2.0 Recommendation

2.1 It is recommended that Overview and Scrutiny Committee;

(1) Consider and provide comments on the Management and Safety of Memorials Policy; and

(2) Recommend the Management and Safety of Memorials Policy to Cabinet

2.2 It is recommended that Cabinet;

(1) Approve the Management and Safety of Memorials Policy

3.0 Background and Proposals

3.1 Since 1995 there have been several fatal accidents and countless less serious accidents involving memorials within cemeteries across the UK. This highlights the need for a robust inspection process. Many memorials on graves have become unstable and may pose a danger to the visiting public and those who work in the cemeteries.

- 3.2 The Council recognises its duty of care under the Health and Safety at Work Act 1974 with regard to the provision of safe places of work for members of staff and the extension of this duty to include the safety of members of the public and others visiting or working at their cemeteries. It also has a duty of care under the Occupiers Liability Act 1957, to ensure, as far as reasonably practicable, their sites are maintained in a safe condition. The Local Authorities Cemeteries Order 1977 provides Burial Authorities with the powers to take any action necessary for the proper management, regulation and control of a cemetery. The Council also has its own cemetery regulations in place which clearly set out the responsibility and requirements in respect of memorials.
- 3.3 SLDC Bereavement Services manage 8 cemeteries, 15 closed churchyards and one closed burial ground (listed as appendix 1.0 of the attached policy) within the district and all contain potentially dangerous memorials due to their age and size.
- 3.4 To comply with legislation and current guidelines from the HSE the Council is required to survey every headstone/memorial within cemeteries and closed churchyards on a rolling 5 year programme, to ensure that they are in a stable condition and do not pose any threat or danger to visitors and staff. A general risk assessment of the cemetery or closed churchyard will be carried out prior to the inspection regime. This inspection programme comprises of each headstone being carefully assessed via a visual inspection and a hand push test. Each memorial, dependant on the results of the assessment will be categorised into 1 of 3 categories as detailed in Appendix 1, and all findings will be fully documented and any necessary immediate actions taken as detailed in Appendix 1. Non immediate actions will be used to produce a planned schedule of work to eliminate any short term risk whilst the grave owner is informed of their responsibilities with regards to making the memorial safe.
- 3.5 The Council's cemetery regulations clearly state that any memorials erected will be the sole responsibility of the owner and shall be maintained in good repair and condition by the owner, and should the Council, in reserving their right to take down or remove a memorial due that may be dangerous, this will be at the expense of the grave owner.
- 3.6 Communications will be sent via social media, local press and via the council's website to alert cemetery visitors and the wider community of the planned works. Notices will also be placed at entrances to cemeteries where works are planned and on cemetery notice boards where available explaining the planned works and how to find more information if required. Communications will also be sent to Town and Parish Council's and key stakeholders.
- 3.7 All Officers delivering Bereavement Services and several Locality Officers who will be carrying out the inspections have recently undertaken the Institute of Cemetery and Crematorium Management (ICCM) Memorial Management Inspection Workshop and have worked closely with colleagues from the ICCM to ensure that the Council has a robust policy in place.
- 3.8 It is intended to commence the inspections immediately on the adoption of the policy. Inspections are currently undertaken on an ad-hoc basis and actions are taken as and when required in order address any safety risks as appropriate. As the largest cemetery, initial inspections will be undertaken in Parkside Road cemetery, Kendal.
- 3.9 Officers have sought the views of the Overview and Scrutiny Committee on 27.08.2021 prior to taking to Cabinet for approval to adopt the policy.

4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Management and Safety of Memorials Policy

5.0 Consultation

- 5.1 Officers have consulted with the Portfolio Holder for Customer and Commercial Services, Legal Services, Finance Services, the Director for Customer and Commercial Services, The council's Health and Safety Advisor, Funeral Directors, Memorial Masons and other Stakeholders.
- 5.2 All applicants for new grave spaces and memorials will be informed of their responsibilities with regards to the management and safety of new memorials.
- 5.3 All existing grave owners will be able to view the policy on the council's website.

6.0 Alternative Options

- 6.1 The Council could decide not to adopt the policy. This would not be recommended as it would result in increased risk of accident and serious injury if the council fails to recognise its responsibility. As a burial authority, if the policy was not adopted, the council would not be meeting its legal obligations contained within the Health and Safety at Work Act 1974, Occupiers Liability Act 1957, The Local Authorities Cemeteries Order 1977, and South Lakeland District Council's own cemetery regulations.

7.0 Implications

Financial, Resources and Procurement

- 7.1 It is anticipated that immediate remedial work and equipment required can be met from existing Cemetery budgets.
- 7.2 Memorials exceeding 2.5m height require specialist advice by a structural engineer which would have financial implications and, dependent upon the potential scope of work required which will become evident when the inspections commence, a revenue growth bid may be required to support the procurement of the services required.
- 7.3 The procurement of structural engineering services will be added to the procurement schedule if and when appropriate.

Human Resources

- 7.4 There are no human resource implications with this report

Legal

- 7.5 The Council has a responsibility under the Health and Safety at Work Act and under the tort of Occupiers Liability to ensure that the memorials in its cemeteries are safe and that injury is not caused to persons in the cemetery.
- 7.6 The Local Authorities Cemeteries Order 1977 contains details of the Councils powers to carry out works to make memorials safe.

Health and Sustainability Impact Assessment

- 7.7 Have you completed a Health and Sustainability Impact Assessment? No
- 7.8 If you have not completed an Impact Assessment, please explain your reasons: N/A

7.9 Summary of Health and Sustainability Impacts: It is expected that that the proposed policy will have a positive impact on Officers, visitors and contractors in ensuring that the cemeteries pose minimal risk to personal health and safety.

Equality and Diversity

7.10 Have you completed an Equality Impact Analysis? No

7.11 If you have not completed an Impact Analysis, please explain your reasons: N/A

Risk Management	Consequence	Controls required
Failure to meet Burial Authority statutory requirements and non-compliance with associated legislation	Legal challenge	Approval of the Management and safety of memorials policy to allow inspections to be carried out and be compliant with statutory obligations
Unsafe memorials which may cause hazard, injury or death	Reputational damage, financial implications resulting from personal injury, death and neglect claims	Following approval of Management and Safety of Memorials policy, inspections to commence immediately
Negative publicity and increased complaints	Reputational damage and distress to visitors	Sensitive publicity campaigns, appropriate signage, working with residents and visitors closely to manage expectations and programme of work. Bereavement Services team to work closely with affected individuals

Contact Officers

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Background Documents Available

Name of Background document	Where it is available
South Lakeland District Council Cemetery Regulations	https://www.southlakeland.gov.uk/media/3766/sldc-cemetery-regulations.pdf

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	09/08/2021	09/08/2021
Monitoring Officer	10/08/2021	10/08/2021
CMT	29/07/2021	29/07/2021

Circulated to	Date sent
Lead Specialist	N/A
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	02/08/2021
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A