

## Appendix 1

**Background information**

Broxtowe Borough Council is responsible for five cemeteries and 11 closed church yards, containing in excess of 9,000 headstones and memorials.

Due to many factors memorials deteriorate over time and can potentially become a risk to those who visit the cemetery.

The following parties have responsibility for memorial safety in Broxtowe Borough Council cemeteries:

- The Council has health and safety responsibilities to its employees, contractors and visitors to cemeteries (Section 2 and 3: Health and Safety at Work Act 1974). It also has a legal duty to assess the risks from cemetery structures and work activities and ensure that the risks are controlled (The Management of Health and Safety at Work Regulations 1999).
- A monument mason has the responsibility to work in accordance with the Council's conditions and specifications for memorials as laid down in the Cemeteries' Rules and Regulations.
- An owner, the Deed Holder or successor in title of a memorial, has the responsibility to maintain the memorial so as not to present a hazard.

Historically, health and safety concerns in cemeteries have focused on the risks arising from grave digging. More recently there has been increasing attention on the stability of memorials and the risks they present to cemetery employees and visitors.

In July 2000, a six-year old child died as a result of a collapsed headstone in a UK cemetery. This highlighted the risk and liability burial authorities including the Council face in cemetery management.

Whilst the Council has overall responsibility for the safety of the cemetery, including risks from unstable memorials it does not own the memorials. The owner of the memorial is the grave owner. In some cases, there is no identifiable owner.

Below is an extract from the Management of Memorials document section 3.2 produced by The Institute of Cemetery and Crematorium Management (ICCM).

**Inspection and Making Safe**

*“The Authority will need to consider how the necessary work will be undertaken. The legislation requires that the inspection work must be coordinated with the making safe of memorials. Once a memorial is identified as unsafe, immediate action must be taken to significantly reduce or eliminate the risk, whether that be to make the memorial permanently safe by laying it down, or whether it is temporarily made safe*

*with some sort of support system, or whether access is restricted by the use of a cordon or barrier.*

*The means of making safe a memorial can also have a significant impact on the progress of the work. .... [a memorial] cannot be made temporarily safe for a period exceeding 18 months. .... Repair of memorials will result in a considerable amount of time and money being spent on the repairs rather than being invested in the making safe of other potentially dangerous memorials. It is recommended that burial authorities concentrate on the initial inspection and making safe of memorials in such a way that they will be able to demonstrate a coordinated inspection and 'make-safe' programme that is not unduly delayed by re-inspection or repair works. Whilst repair might be considered appropriate in areas where the appearance of the cemetery requires consideration e.g. main driveway, an authority is not obliged to spend excessive amounts of public money on private property and is only obliged to make memorials safe. The authority is empowered to make safe dangerous memorials."*

Note: square bracket added for clarification

### **Frequency**

In accordance with the legislation an inspection programme has been drawn up and is in place at Broxtowe Borough cemeteries. This is a 'five-year rolling programme approach' which the Health and Safety Executive (HSE) describe as 'reasonable'.

### **Notification and Signage**

The Council endeavours to help families understand when the testing will take place and how it will happen. This is done in various ways including:

- Signage is on display within the cemetery. The signage provides details of what is happening and, closer to the time, will detail when the testing will occur and provide the opportunity to observe if families wish.
- Social media coverage.
- Bramcote Bereavement Service's website provides information about how testing is carried out.

### **Testing Process**

The Council applies a proportionate approach to risk when carrying out testing in each cemetery. Any book, rest or footstone less than 18 inches in height, will not be tested as the risk of injury should the memorial fail, is considered low.

Memorial inspections are recorded to identify surname of first burial and date. The memorial is measured for height, width and thickness; type of material; joints and cracks; lean per metre; foundations and physical test.

A visual test will be carried out first to consider if there are signs that the memorial is showing evidence of damage or if the joints are giving way (cracks). It will also consider if the foundations are undermined/unstable or have signs of recent movement. It may also assess the presence of vegetation that may cause structural damage to worsen.

After the visual inspection, a gentle hand push test is used to identify any movement between components. A pressure up to 25kg may be applied; however, it is unlikely that the hand test will achieve this pressure. This test pressure of 25kg is advised in the latest version of the British Standard: BS8415.

The process adopted is a two stage approach utilising specialist memorial safety management contractors. The first stage is to “test” the memorials in the nominated cemetery to identify any that fail and are therefore considered unsafe. All memorials installed prior to 2005 are tested, after this date the headstones have to comply with new regulations and the method of fixing undertaken by the memorial masons is subject to specific safety guidelines. One contractor employee is the ‘Inspector’ who will be inspecting the memorial: pointing out any shortfalls and feeding this information to the second contractor employee. The second employee will then input the received data into the hand held computer.

The testing will result in one of two outcome categories:

1. Category 1 ‘UNSAFE’ Action required.
2. Category 2 ‘SAFE’ No action required (revisit in five-years).

### **Headstone Failures**

#### **Action:**

Memorials found to be ‘in immediate danger of falling’ action will be taken and the memorial will be laid flat. All other memorials deemed as ‘unsafe’ will be clearly marked with a warning notice and contact details of whom to contact at Bramcote Bereavement Services for further information.

#### **Notification:**

Contact with the last known grave owner will be made, if the information held is less than 30-years old. The Council will follow the guidance by the Institute of Cemetery Management (ICCM) and will not write to anyone where the information is older than 30-years, as there is no way of knowing whether the owner has since died.

Central signage will be erected in the cemetery and social media coverage will warn of ‘unsafe’ memorials. Notification will give owners of ‘unsafe’ memorials three months, in which to carry out repairs. Should no repairs be made, the Council will consider the final action in respect of those memorials.

The table below details the number of memorials inspected, number of fails, number of memorial owners carrying out repairs (at time of writing), cost to lay flat and cost to repair and planned inspections.

**Broxtowe cemeteries and closed church yards for inspection – Five-year programme:**

Cemetery and year to be inspected	No. of memorials for testing	No. of fails	Repairs by Owner	£ Lay flat	£ Repair
Kimberley 2024/25	1,467	60	8	£1,800	£6,385
Stapleford 2024/25	1,913	86	6	£2,580	£7,844
Beeston 2025/26	2,331				
Chilwell 2026/27	694				
Eastwood 2026/27	1,083				
<b>TOTAL</b>	<b>7,488</b>	<b>144</b>	<b>5</b>	<b>£4,380</b>	<b>£14,229</b>

Closed Churchyard and year to be inspected	No. of memorials for testing	No. of fails	Repairs by Owner	£ Lay flat	£ Repair
Greasley 2023/24	1,408	345	0	£10,350	£45,200
All Saints Strelley 2024/25	45	0			
Holy Trinity Kimberley 2024/25	64	0			
St Catherines Cossall 2024/25	211	24	0	£720	£2,419
St Helens Trowell 2024/25	55	4	0	£120	£620
St James Brinsley 2024/25	376	58	0	£1,740	£6,742
St John Beeston 2024/25	133	0			
St Marys Eastwood 2024/25	0	Memorials already laid flat			
St Michaels Bramcote 2024/25	354	60	0	£1,800	£6,704
St Patricks Nuthall 2024/25	132	6	0	£180	£572
St Helens Stapleford 2024/25	0	Memorials already laid flat			
<b>TOTAL</b>	<b>2,778</b>	<b>497</b>		<b>£16,530</b>	<b>£62,257</b>

**Option 1**

Should Members wish to repair grave memorials as detailed in the above tables an approximate budget of £77,000 would be required. Members will note, as explained earlier in this report, that this will entail using tax payer's resources on something the Council does not have an obligation to undertake.

## Option 2

The Council has an obligation to make permanently safe any failed memorials within 18 months of the memorial being tested. In accordance with the ICCM guidelines and quotes received to carry out the necessary work, a budget of £21,000 is required.

The inspection of Greasley closed church yard in 2024 resulted in 345 memorials failing the inspection. Work with the Parish Council to identify grave owners has had no success, the Parish Council stating “they do not keep detailed records of memorial owners”. When legislation was introduced, the laying flat of large numbers of failed memorials met with some adverse reaction. However, in more recent years and following the ICCM issuing guidance on this issue the primary approach by Burial Authorities is to lay flat. Local Authorities who were contacted to inform this report have all adopted the ICCM guidance on this matter and laid flat.

Many memorial owners visit graves on anniversaries throughout the year, for example Christmas, anniversary of death, Mother’s Day, Father’s Day. Should it not be possible to contact memorial owners, for example, the memorial owner no longer lives at the address on file, it is hoped that at some point they may visit the grave. If the option has been taken to lay flat unsafe memorials the family may contact Bramcote Bereavement Services and be informed of the fail and how to reinstate the memorial.

### Further items of note

The Council has an example of where it did undertake the repair as a result of being unable to contact the memorial owner, only to find that the memorial owner was unhappy with the repair and sought compensation from the Council which the Council had to pay. As a result of this, Members will need to decide whether it is appropriate to use tax payer’s resources to undertake memorial repairs on privately owned memorials, or whether it follows the ICCM guidance which states that should it prove impossible to make contact with a memorial owner that the memorial be laid flat.

At the beginning of the process of inspection approximately 25% of memorials in cemeteries were failing the inspection arrangements. As time has progressed failures have reduced to approximately 7%. However, it should be noted that these results are in respect of the current legislative inspection requirements. As all things generally deteriorate over time it is not unreasonable to expect that the legislative requirements will need to be updated for memorials installed post 2005. Should this occur, Members may consider it better for the Council to have already established an approach in line with the ICCM guidance to ensure a sustainable position moving forward.

Should the Members decide to repair all failing memorials it is likely that fewer and fewer memorial owners will come forward to maintain their own memorials; and

should the legislation change the Council may find that there exists an expectation within the Borough that is unaffordable for the Council in future years.

In addition, Members may find it difficult to argue against an application for reimbursement from memorial owners that have carried out their own repairs directly with a stone mason.