



Closed Churchyards Protocol

Background

Section 215 of the Local Government Act 1972, a Parochial Church Council (PCC) can require the local authority, upon three months notice, to assume responsibility for the maintenance of a closed churchyard, or specific parts of a churchyard which are deemed to be closed. A churchyard is closed if one of the following conditions is met:

- The churchyard is full
- The continuing use of the churchyard for burials may constitute either a risk to public health or be contrary to decency
- The discontinuance of burials may prevent or mitigate nuisance

If an incumbent and Parochial Church Council (PCC) wish a churchyard to be closed, an Order in Council under the Burial Act 1853 (Section 1) has to be sought from the Home Office.

Initially the obligation for a closed churchyard would then be passed to the Parish or Town Council, who may decide to accept the obligation or decline. In the instance of a parish or Town council declining to maintain the churchyard, the obligation is then passed to Hart District Council. (Whilst the legal requirement is a three month notice period it is customary to give informal notice 12 months prior to the application for an order being made to enable local authorities to make adequate budgetary provision.)

Section 215 of the Local Government Act 1972 also requires that where 'a churchyard has been closed by an Order in Council the parochial church council shall maintain it by keeping it in decent order and its wall and fences in good repair.' This obligation is also placed on to parish or district councils.

Purpose

This document clarifies the approach that Hart District Council will take to the maintenance of newly-acquired closed churchyards. Any churchyards where the maintenance responsibility is transferred to Hart will be maintained at this minimum standard unless additional funding to cover any enhancements to this level of service is provided by the PCC, Parish Council or other body to cover the additional costs incurred.

Churchyards which are to be transferred to the District Council must be in good order and repair and have been maintained to the satisfaction of the District Council at the point of transfer.

Hart District Council will maintain all adopted churchyards to a greater standard where resources are available, the additional expenditure is justified, and determined to be the most appropriate use of resources by the appointed officer. Where the PCC or Parish Council wish for a higher level of maintenance or wish to seek an alternative scheme of

maintenance, this can be negotiated at the point of transfer or at any later stage. Any additional cost will be borne by the PCC or Parish. Any unforeseen emergency maintenance or repairs such as those caused by acts of god or vandalism will be addressed by the District Council as additional works.

Individual management plans will be developed where they are appropriate due to the specific nature or character of a churchyard and will be agreed in conjunction with the council's appointed officer and a member of the PCC. The appointed officer will actively seek community engagement in development of the management plan. Where additional cost is incurred due to an enhancement in the maintenance specified by the management plan, this cost will not be incurred by the District Council. Wherever possible the District Council will seek to utilise organisations and methods of maintenance that are cost effective such as the use of the probation service and voluntary groups.

Any management plan will be designed to meet the council's commitment to biodiversity. The biodiversity of a closed churchyard will actively be encouraged by utilising the knowledge and expertise of the Countryside Team to ensure that where practicable, adopted churchyards are managed as an urban environment in accordance with [Hart's Biodiversity Action Plan](#).

Any deviation from the maintenance schedule below will be at the discretion of the District Council.

Area of maintenance	Standard
1. Grass Cutting	Grass cutting will be carried out on the basis of 10 cuts per annum. Where there is a specific reason to reduce the number of cuts per year such as where areas set aside for the growth of wild flowers to encourage biodiversity, this will be incorporated into the management plan.
2. Hedgerows	Hedgerows will be clipped annually unless there is a legitimate need to undertake further maintenance such as the intrusion of the hedgerow onto a footpath or highway which introduces an unacceptable risk on public safety.
3. Trees	The council's tree officer will be responsible for the supervision of all work relating to trees. Only emergency tree work to take place during the nesting season. Trees will be maintained to a minimum standard to prevent further decay through disease and/or personal injury to the general public.
4. Boundary maintenance	Boundary walls and fences will only undergo repair and maintenance where it is perceived by an appointed officer of the district council that failing to do so may cause a significant risk to public safety or failing to do so will result in a disproportionately higher cost being incurred at a later stage.

Area of maintenance	Standard
5. Headstones and monuments	Memorial Safety tests will be carried out as part of a five year rolling programme of memorial testing. Any found to be dangerous will be cordoned off, secured or laid down depending on the severity and nature of the damage. All memorial testing will be carried out by competent persons in accordance with recognised national guidance from the Ministry of Justice.
6. Pathways, roads and hardstandings	Pathways and other hard standings will be maintained and repaired only where there is determined by the District Council to be a risk to personal safety. Paths and walkways will undergo 2 glyphosate sprays per annum.
7. Buildings and other structures	Buildings and other structures will not typically be transferred as part of the closure of a churchyard, however where such a transfer takes place, the District Council will maintain the structure to a standard to ensure public safety is not placed at risk. The future use of the building will be at the sole discretion of the District Council.