

**Agreement between the Parochial Church Council of St Mary with St George Hornsey and the London Borough of Haringey for the maintenance of Hornsey Churchyard.**

**6.16.1 The Agreement below is a draft of the final version awaited from LBH. The Appendices have not been reproduced here.**

**CLOSED CHURCHYARD MANAGEMENT PLAN**



**Contents**

- 2. Background
- 3. Risk Management
- 4. Maintenance
  - 4.1. Routine Maintenance
  - 4.2. General Maintenance
  - 4.3. Trees
  - 4.4. Site inspections
- 5. Memorial Safety and Testing
- 6. Communication
- 7. Budgets

Appendix 1 – Closed Churchyard Contact Details

Appendix 2 – Responsible Care for Churchyards; A brief practical guide for parishes

Appendix 3 – Legal Advisory Commission of the General Synod – The Maintenance of Monuments in Closed Churchyards

**1 Introduction**

This management plan, produced by Haringey Council, has been created to assist Haringey in maintaining its stewardship of St Mary's closed churchyard, it outlines the management and maintenance practices carried out within the closed churchyard. The churchyard is a place of peace and tranquility, to be treated with respect and managed to the same high standards as our open spaces.

The principal aim of this operational management plan is to review current arrangements and to develop a robust system of inspection and maintenance. This will be approached in a way that is sensitive to the needs of the community and that recognises the amenity value of this special place.

## 2 Background

A closed churchyard is a Church of England burial ground that no longer has capacity for further planned burials and as such has been termed 'closed'. The closure of a churchyard brings to an end the formal right of burial for parishioners, (apart from individual vaults or graves which have been reserved by faculty). The interment of cremated remains in a closed churchyard must be authorised by faculty. In the case of a churchyard maintained at the expense of the local authority, in addition to a faculty the consent of the local authority to such interment should first be obtained, and no monument may be erected to mark the place of burial without the like consent.

Once a churchyard is closed the PCC concerned may, under Section 215 of the Local Government Act 1972, serve a written request on the Parish Council to take over the maintenance of the churchyard. If the Parish Council rejects the request and gives written notice requiring the District Council to take over the responsibility then the responsibility for maintaining the churchyard then becomes mandatory upon the District Council. There is no Legal Transfer Deed transferring the closed churchyard as the ownership of the closed churchyards does not pass to the local authority. The cost of maintenance has to be met exclusively by the local authority. The Church of England's document; "Responsible Care for Churchyards, A brief practical guide for parishes" provides further information, a copy of which is provided in appendix 2.

Under section 215 of the Local Government Act 1972, the Council must: "maintain (the closed churchyard) by keeping it in decent order and its walls and fences in good repair".

Haringey Council will arrange to cut the grass and keep any areas of vegetation generally tidy and is responsible for most features in the churchyard. Boundary walls and upkeep of footpaths are included under the Council's responsibilities. We also undertake to identify any risks associated with trees within the churchyard and to carry out safety work where necessary. The safety of headstones and monuments is generally accepted to be the responsibility of Haringey Council under these arrangements.

There are some limitations as to what work can be carried out in a closed churchyard. There may be planning restrictions appertaining to buildings and trees. The land remains consecrated and the Council is required to obtain permission from the church authorities for a Faculty Jurisdiction before making any significant changes or works, which will also have to take into consideration conservation areas, historic and listed buildings and tree preservation orders.

## 3 Risk Management

In assuming responsibility for the maintenance of a closed churchyard a Local Authority assumes liability for public safety in accordance with the Public Liability Act 1951. In early 2009, the Ministry for Justice introduced revised guidance for effectively managing the safety of headstones (and other risks) within cemeteries; "Managing the safety of Burial Ground Memorials – Practical advice for dealing with unstable memorials". A copy of this and other useful documents can be found on their website at <https://www.gov.uk/government/publications/burial-grounds-guidance-on-managing-unstable-gravestones> .

The Legal Advisory Commission of the General Synod of the Church of England's publication "The Maintenance of Monuments in Closed Churchyards" provides further legal advice on a local authority's responsibility, a copy of this can be found in appendix 3.

A duty of care arises in the Occupiers Liability Act 1957 (those lawfully on the land – visitors) and 1984 Act (trespassers). Haringey Council also has a duty of care to control risks from memorials to their employees, contractors, volunteers and members of the public. Responsibilities are set out in various legislation covering burial grounds, including the Local Authorities' Cemetery Order 1977. Where the operator is an employer they also have duties under The Health and Safety at Work Act 1974 and associated regulations such as the Management of Health and Safety at Work Regulations 1999.

Contractors employed by Haringey Council to carry out maintenance implement their own site and task specific risk assessments in connection with such operations carried out in the churchyard to ensure the safety of their operatives and the general public.

This plan adopts principles of the guidance prescribed by the government and sets out a risk-based approach for the Council to develop a proportionate regime to managing the risks associated with memorials based on good practice.

## 4 Maintenance

Haringey's Commercial and Operations Business Unit are responsible for the maintenance of the closed churchyard. The maintenance of the closed churchyard is delivered through a number of external and internal arrangements. Grounds maintenance and tree works are provided by the council's internal Parks Service, Litter picking and bin emptying is through the Veolia waste contract. Paths, walls, and street lights will be managed as part of the council's highways contract

### 4.1 Routine Maintenance

Routine operations carried out within the churchyards are listed below: Grass cutting, hedge and shrub maintenance are in line with the specification set out in Haringey's Parks Maintenance specification.

**Grass Cutting** – Generally grass will be maintained to an amenity standard that equates to 16 cuts per year, generally from late March to late October. The grass is maintained carefully to retain the character and to avoid damage to headstones and other structures. Grass cuttings are **not** removed. Parks staff are required to clean all arising's which adhere to memorials and other grave furniture following cutting operations, methods include brushing, blowing, wiping or washing depending on weather conditions. Variations are able to be made depending on the requirements of the PCC to allow for different maintenance regimes.

**Hedges** – Hedges vary in terms of individual purpose, species, height, width and layout. All hedges are cut to a standard guided by good horticultural practice. Hedge cutting does not take place between April to June due to nesting birds and observed in accordance with the Wildlife and Country Side Act 1981. Hedge cutting operations vary on species, ranging from 1 cut to 3 cuts per year.

**Shrub Beds** – Shrub beds vary in terms of their individual location, plant make up and seasonal nature. All shrub beds will be maintained on two occasions each year. Once during the summer and will include a light prune. The other during the autumn winter period when alongside further pruning, leaf litter, self-set trees and suckers will be addressed.

**Weed Control** – As and when required.

**Litter Picking** – Litter picking within the churchyards is carried out by Veolia on a xxx basis. All litter bins are emptied on each visit.

The PCC should contact Haringey's Public Realm Commissioning team for a quote if it wishes to discuss works over and above these routine maintenance operations.

If the PCC or volunteer groups do undertake any works within the churchyard, Haringey should be informed of these prior to them taking place so that we can advise our grounds maintenance staff. Please note, that all works undertaken must follow the correct procedures as detailed under Section 2 'Background' of this document.

## 4.2 General Maintenance

Haringey Council has an obligation to keep infrastructure features such as boundary walls, fences and footpaths in a good and safe state of repair. The arboricultural 'duty of care', rights and responsibilities of the PCC also apply to the local authority after "transfer" of a closed churchyard.

**Walls/fences/paths** – Within Haringey the Highways engineering team take the lead on structural issues of the site including its boundaries and footpaths and work closely with Conservation colleagues to identify hazards and carry out repairs. Whilst Haringey retains responsibility for timely, safe and essential remedial action and given the expensive cost of some repairs and no funds being provided by the government or local taxes, consideration should be given to fund raising by the PCC, Church and Haringey Council, in order to achieve the most desirable solution.

**Site Furniture** – The safety of site furniture (e.g. seating, bins & signage) and its ultimate liability remains with the owner who installed it. If Haringey identify such an item as a hazard or that it requires repairing it will make every reasonable effort to identify the owner, to give them the opportunity to repair or remove the item. If the owner is unidentifiable or fails to repair/remove the item within 3 months of notification, Haringey (who hold the secondary liability as one aspect of their duty to keep the churchyard in decent order) will remove the item. Any new proposed installations have to first seek approval from the PCC and then Haringey. Haringey will not normally agree to new installations that generate a cost to Haringey e.g. through their installation or their future maintenance. A faculty jurisdiction must be obtained before any removal or installation is carried out.

**Biodiversity** – Churchyards are valuable habitats for wildlife and can be managed sensitively to promote important sites for nature. Haringey council partners with The Conservation Volunteers who are able to provide technical input and practical advice to the PCC and Friends groups. Haringey is happy to vary its normal approach to accommodate areas which are managed for nature conservation.

## 4.3 Trees

Trees are managed in accordance with Haringey's current Tree Management Plan. Most tree works will require the obtaining of a Faculty. Urgent and minor tree surgery and felling works does not normally need a Faculty.

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 six weeks' notice to the local planning authority.

The church authorities are still the legal landowners of the trees and may choose to manage their trees in addition to, or in concert with any works carried out by the local authority.

#### **4.4 Site Inspections**

A programme of monthly inspections has been integrated with normal maintenance duties in order to report defects or potential hazards requiring maintenance or repair to Haringey Council. Trees will not be inspected every month; these are managed in accordance with the Tree Management Plan.

If any defects or hazards are noted which are not the responsibility of Haringey the relevant owners and PCC will be informed. Haringey is not responsible for maintaining the church buildings / tower itself or reinstating/securing any memorials laid flat after inspections.

### **5 Memorial Safety and Testing**

The safety of individual memorials and ultimate liability remains with the family of the deceased, who own the memorial. The following programme aims to assess and control the risks posed by memorials within the churchyards, it seeks to identify these and to describe an approach to control them that is reasonable to all involved within the churchyards.

Haringey will appoint suitable 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. A Faculty Jurisdiction will be obtained before works commence.

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 there is a significant risk found on large memorials, arrangements for more detailed inspections by a structural engineer or memorial mason will be made.

#### **Safe Memorials**

Where a headstone is tested and it is deemed safe no action will be taken with that memorial and it will be the subject of a re-inspection as part of a five year rolling program.

#### **Unstable Memorials**

If a memorial is found to be unstable but not imminently dangerous the memorial will be temporarily supported ensuring no damage will occur to the memorial. Haringey will inform 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 6 months the Council will make safe the memorial by laying it flat, inscription side up. Once identified as being unstable a warning sign displaying Haringey and the PCC 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 known, maybe invoiced by Haringey for the cost of making the memorial safe and administration in organising the works. Unstable memorials will be inspected every 12 months.

### **Imminently Dangerous Memorials**

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. Haringey will request the PCC contacts the memorial owner/next of kin 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 headstone will be left lying flat unless the owner chooses to repair it or cannot be traced.

Haringey will only be 'staking' headstones for a maximum of 6 months to support unstable memorials, **not** imminently dangerous memorials, as it is recommended that stakes should not be used routinely to support unsafe headstones. They can be unsightly; the process of staking can present a risk of harm and can also divert attention away from the consideration of the risk presented by a memorial.

The inspections will help all parties build up a profile of memorials within the closed churchyards, prioritise potential risks and provide a focus for the future inspection and assessment processes. Records will be kept digitally.

## **6 Communication**

Good communication regarding the memorial inspection and assessment process is required to maintain the support and understanding of the local community.

Notices informing the public about forthcoming memorial testing will be displayed at least 28 days prior to commencing the inspection works at entrances and other prominent places throughout the site. The PCC will be informed and asked to notify its members/congregations and Haringey will also publish dates on its website.

Haringey's Public Realm Team will engage with the following in regards to the management and maintenance within the churchyards:

<b>Contact</b>	<b>Role/Details</b>
The Diocese of London	Apply for Faculties and inform regarding works
PCC	Inform of works and ownership of memorial records, liaise with regarding maintenance regimes
Haringey Legal	Legal Information

Highways Engineering Team	Works relating to infrastructure features
Haringey Conservation Team	Consent for works undertaken in Conservation Areas and in regards to Listed Buildings consent
Tree Officers	Tree work. Works to protected trees subject to TPO's and conservation area status
Parks Operational Service and Veolia	Works within the churchyards
Cabinet Member/Local Councilors	Inform of works to be carried out

## 7 Budgets

Basic maintenance costs are currently met by Haringey Council. Haringey is committed to working in partnership with the Parochial Church Councils and other groups to take a balanced approach to keeping the churchyards safe and pleasant places to visit. While maintenance responsibilities are passed to Haringey no funding comes from the Department for Communities and Local Government, the Church, or local taxpayers; this means only essential maintenance can be carried out.

Haringey has identified a number of possible external grant funders (see Appendix 3) which it encourages the PCC, Churches and other community groups to apply to in order to support major works within the closed churchyard e.g. repairs to walls, footpaths and other infrastructure.

Where works are carried out on memorials then Haringey will endeavor to recover all costs from the memorial owner.