



# Highways & Direct Works Local Highways Policy

Policy Ref

201320002

Subject: Floral Tributes or memorials placed on the Highways

Purpose: To ensure respectful management of issues whilst maintaining road safety and appropriate Highway Maintenance

Date : 18 February 2013

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## 1 Introduction

1.1 There has been an increasing practice of placing on the highway, tributes to victims of fatal road accidents or other incidents. The majority of these tributes are temporary and are not maintained for long by friends and/ or relatives of the deceased. However, a small number continue to be maintained and in some cases can cause safety and maintenance problems for the highway authority.

There are a number of issues to be considered in developing a policy to manage tributes. These include:

- a) The actions of the public in placing and maintaining tributes present risks to themselves or other highway users.
- b) Tributes can distract the road user or become a road safety hazard in themselves, alongside reminding highway users as to the dangers on the highway.
- c) In maintaining the highway and verges there is a risk of damage to tributes which could be seen as insensitive and create negative publicity

## 2 Procedure

2.1 The aim of this document is to create a policy that allows the placement of tributes on or adjacent to the highway in a safe and appropriate manner.

2.2 Person(s) wishing to place a tribute on the highway shall be advised to make a written application to the Highways Department. The applicant's letter shall state the proposed location within the highway, the type and overall size of the tribute.

- 2.3 Any consent must be by agreement which can take the form of an exchange of letters. No specific licence is required. However, applicants should be made aware of their responsibilities by a suitably worded indemnity, drawing attention to the fact that they will be responsible for any injury or damage to or the loss of any property arising out of or in connection with the tribute. The indemnity could achieve the desired effect, whilst still being delivered in a sensitive way. In this case it is inappropriate that an applicant should provide proof of public liability insurance, but it may be that such liabilities would be covered by the liability extension to standard household policies and some applicants may, therefore, have the benefit of such insurance.
- 2.4 Guidance and conditions for approving tributes:
- a) Tributes of low or zero maintenance are preferred. They should not constitute a nuisance, danger or distraction for the highway user. The planting of trees, shrubs or flower beds will not be permitted unless such planting has been licensed in accordance with the Highway Act 1980 or other appropriate legislation.
  - b) Applicants wishing to carry out planting shall be encouraged to consider planting within parks or open spaces as an alternative to planting in the highway.
  - c) The location of the tribute within the highway shall be at the discretion of the Highways Department. This is to ensure that the tribute or its location does not present a danger to highway users or persons wishing to view the tribute. The Highways Department may reject an application if the site is deemed unsuitable. Tributes will normally be sited as close as possible to the highway boundary.
  - d) Plaques or other such tributes are discouraged, but in any case shall be of a maximum size 450mm x 450mm and mounted flush with the ground or finished surface. The maximum excavation shall be less than 50mm. This is a Borough Council practice which has been used to avoid the requirement to make enquires for undertakers apparatus as required by the New Roads and Street works Act 1991.
  - e) Tributes mounted or fixed to a wall or other permanent structures are permitted provided the horizontal projection is less than 50mm and the applicant has obtained the permission of the wall (or structure) owners. The tribute shall be located and designed in a way which presents no distraction to the highway user.

- f) The Borough Council will undertake all installation work unless the tribute does not involve working on the highway (ie merely placing flowers) when the applicant may undertake this instead of a contractor. Tributes (plaques etc) may be provided by the applicant or manufactured at cost by, or on behalf of, the Borough Council.
- g) A time limit for a tribute can be agreed with the applicant or the agreement can be left open ended but with the condition that the Borough Council reserves the right to remove the tribute at any time at their discretion. This may be due, but not limited to, reasons of public safety and to enable maintenance or improvement works to be carried out. The tribute may also have to be removed or relocated due to Statutory Undertakers works. These points need to be clearly made to the applicant before any tribute is installed.
- h) Another option is to suggest the applicant may prefer to have the tribute on parish/ town council controlled land ie. a memorial park bench on a village green. For benches use could be made of Section 5 of the Parish Councils Act 1957 (that allows the Parish Council for example to install seating with our consent).

### **3 Tributes Installed without an application being made to the Highway Authority**

- 3.1 In the event of an incident, which leads to a tribute being placed on the highway without prior authorisation, the Council will not normally take immediate action. However, if the tributes are causing a serious obstruction of the highway or there is, in the opinion of the Highway Authority or the Police, a danger to public safety, the council in co-ordination with the police will manage the site as appropriate. The priority will be to ensure the safety of highway users and those visiting the site and that the highway is not obstructed. If necessary the tribute shall be moved to a more suitable area while the matter is resolved, through discussion with whoever has placed the tribute if they are known.
- 3.2 Guidance for Highways Officers:
  - 3.2.1 In the event of a recent incident which results in tributes being placed on the highway the following issues in order of priority should be considered:
    - a) That none of the tributes or their location presents a danger to highway users or others wishing to place further tributes.
    - b) That the highway is not obstructed.

- c) That in the event that there are a large number of tributes, discuss with the Police suitable location(s) were tributes could be located and if necessary be re-located.

3.2.2 It is anticipated that most tribute sites will become neglected after a period of time and shall be cleared when it is known that the site is not being maintained. Such works shall be carried out at the discretion of the Highways Department and as appropriate with the promoters of the tribute and the Police.

3.2.3 Under the Environmental Protection Act 1990, the Council is responsible for the collection of litter and refuse. When necessary, the Highways Department shall liaise with the Environmental Services Department to agree a suitable time and practice for the sites to be cleared.

#### **4 Longer Term Procedure**

4.1 Tributes of a temporary nature such as a bunch of flowers will normally be overlooked at the discretion of the Highways Department.

4.2 Tributes maintained over time (in excess of 6 months) should be approved using the same procedure as for a new application. (See section 2)

4.3 When a site is deemed to be permanent the Highways Department shall make efforts to contact the person(s) responsible. They will be asked to make a formal application by letter. If there is no response to such efforts or no person(s) claims responsibility, the Highways Department may seek to clear the site.

#### **5 Charging**

5.1 The Borough Council policy will be to not charge for tributes on the highway other than in exceptional cases.

#### **6 General**

6.1 This is an emotive subject and needs to be handled sensitively. When in doubt officers should refer matters to the Head of Service, Assistant director or Executive Director for further advice.

*Policy Contact Officer: B Hayward*

*Policy Ref:: 201320002*

Previous Policy Ref:: n/a  
 Date of expected review: March 2017  
 Appendices: None

<b>ESC – Delegated Decision Note</b>					
<b>Decision:</b>	<b>Bedford BC – Local Highways policy ref 20132002 – Floral tributes and memorials</b>				
<b>Type of Decision:</b>	<b>Operational</b>	<b>Key</b>		<b>Non-Key</b>	✓
<b>Delegated Function that this decision relates to:</b>		In accordance with section 6(e) of the current scheme of delegation each Director, Assistant Director, Assistant Chief Executive and Head of Service is authorised to determine operational issues concerning the provision of any services including those provided to external bodies/organisations. In this case the decision relates to a general operational policy.			
<b>Portfolio Area that decision relates to:</b>		Highways	✓	Planning	
		Transport		Housing	
		Environment		Regulatory Services	
		Community Safety		Open space	
<b>Background</b> <i>include options considered and rejected, and consultation process: Please refer to policy statement attached</i>					
<b>Decision Date</b>					
<b>Wards Affected:</b>	Local Highways policy affecting all wards and parishes.				
<b>Comments/Observations</b>					
<b>DECISION:</b>					
<b>Signature:</b>					
<b>Decision Made By:</b> Head of Highways					
<b>Contact Details:</b> Environment & Sustainable Communities Directorate, Borough Hall, Cauldwell Street, Bedford					

