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Subject: LCAS Risk Topic Update - October 2018 - Tree Liabilities and Cemetery/Memorial Management
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To:



Dear LCAS Members,

We're providing this update on a couple of topics that have seen some developments in recent months.

Tree Liabilities

The recent Court of Appeal decision in the case of Cavanagh v Witley Parish Council serves as a reminder that any landowner has to have a risk based, planned and managed approach to the risks that trees on its land bring.

In this case the Judge in the lower courts found that the parish council's approach to inspection of trees on a blanket three yearly cycle was inadequate and failed to take into account trees in higher risk locations, asserting that a more frequent and rigorous inspection on the particular tree in question would have identified the decay that subsequently led to the tree falling into the path of a bus. The parish council appealed, but the appeal was rejected and the original finding upheld by the Court of Appeal.

What does this mean for you?

As we have previously outlined to the LCAS membership, a tree management strategy and framework needs to be established and implemented. The approach cannot be a blanket, in terms of timetables, and inspection frequencies will need to be flexed to reflect risk. Councils should seek the advice and support of suitably qualified arboricultural experts. Your local unitary authority, county or city council may also be a useful point of reference in how they risk manage their tree stock.

Cemetery & Memorial Safety

In July 2018 a revised version of the British Standard – BS8415 – was published, following a significant period of consultation. Amendments to the standard include updates on the recommended methodology for testing the design, construction and fixing of memorials, taking into account ground and soil conditions.

It is established law that ownership of memorials remains with the family of the deceased. However, in discharging their duty of care to employees, visitors and other members of the public, burial ground operators need to have in place management and monitoring systems to control the risks from memorials. These systems should start with ensuring that any new memorials being erected are designed and installed in a manner that is compliant with, as a minimum, the best practice outlined in BS8415 or to at least equivalent standards.

The risk of injury or death caused by a failed or collapsing memorial remains extremely low. However, as is often the case with tree accidents where statistical risk is extremely low also, the public reaction to an incident of this nature is often quite challenging and calls into question the associated levels of risk.

Those with responsibility for the operation of burial grounds and cemeteries should refresh their understanding of their responsibilities and ensure that the right questions are being asked of installers and permission to install only being granted when satisfied that the appropriate best practice standards are being met.

Regards

LCAS
LCAS helpline [0800 302 9052](tel:08003029052) (option 3) or e-mail us at lcashelpline@uk.zurich.com

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