



**04/17**

Purpose: For Decision

## Committee report

### **DECISION UNDER DELEGATED POWERS**

Date	<b>DECISION CANNOT BE TAKEN BEFORE TUESDAY, 17 OCTOBER 2017</b>
Title	<b>ROADSIDE MEMORIALS POLICY</b>
Report to	<b>CABINET MEMBER FOR INFRASTRUCTURE AND TRANSPORT</b>

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### EXECUTIVE SUMMARY

1. This report seeks the adoption of the Roadside Memorials Policy (the “policy”), a copy of which is attached at Appendix 1 to this report.
2. The outcome will be that the council will have in place a published policy which reflects the council’s approach to managing roadside memorials.

### BACKGROUND

3. Often families and friends will place memorials on the highway in memory of loved ones who have died in road accidents. The council recognises and respects the wish of the bereaved to mark road deaths in this way but also has a duty to keep the public highway safe for all road users. The council has to balance the wishes of the bereaved with those of public safety. The distraction of motorists and the safety of those placing or maintaining memorials are the overriding safety issues in the consideration of roadside memorials.
4. The council has not had any formal written policy in place in recent years with respect to roadside memorials. Currently the council has taken a case by case approach to the management of such memorials. The introduction of formal written policy will clarify the council’s position with regard to roadside memorials and will make it easier for the council to manage this area and will also provide information to the public as to what is permitted and not permitted and what action the council may take in respect of memorials.
5. Much of the council’s work with regard to the identification and removal of roadside memorials is undertaken by Island Roads under the terms of the Highways PFI contract. Island Roads then liaises with the council with regard to decisions to remove such memorials.

## STRATEGIC CONTEXT

6. The presence of roadside memorials can be a distraction for motorists and the placing of such memorials on the highway can also present safety concerns for those placing such memorials and others using the highway. The council, as the highway authority, has various duties and powers with regard to the management of the public highway and the implementation of this policy is designed to support those duties and powers.
7. The implementation of the policy in respect of the management of roadside memorials supports priority one of the Corporate Plan 2015-17 – Supporting growth in the economy making the Island a better place and keeping it safe.

## CONSULTATION

8. Consultation on the policy has been undertaken. A copy of the policy was provided to a number of key persons within the council whose work is affected by the area of this policy.
9. External consultation has also taken place with the police and the council's highway contractor, Island Roads.

## FINANCIAL / BUDGET IMPLICATIONS

10. There are not anticipated to be any additional costs associated with the implementation of this policy. Island Roads provides services to the council under the terms of the Highways PFI contract which include provisions relating to the reporting and any removal of attachments which would include roadside memorials. The implementation of the policy will be of benefit to both the council and Island Roads in terms of providing clarity on how these roadside memorials are dealt with.

## LEGAL IMPLICATIONS

11. Under section 41 of the Highways Act 1980 the council has a duty to maintain highways maintainable at the public expense. The council, as highways authority, must take such care in all the circumstances as is reasonably required to ensure the Highway is not dangerous for traffic.
12. Under the provisions of section 132 of the Highways Act 1980 the Council has the power to remove any picture, letter, sign or other mark which has, without either the consent of the authority or an authorisation given by or under any enactment, been painted or otherwise inscribed or affixed upon the surface of the highway or upon any tree, structure or works on or in the highway.

## EQUALITY AND DIVERSITY

13. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and those who not share it. The protected

characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

14. Under the Equality Act 2010 the council is required to have due regard to its equality duties when making decisions, reviewing services, undertaking projects, developing and reviewing policies.
15. In drafting the policy due regard has been given to the applicability of the nine protected characteristics. It is not considered that the policy has any particular effects either positive or negative on any of the nine protected characteristics. Traditionally the council has had no formal roadside memorial policy in place and the implementation of the policy is designed to clarify and make clear the council's approach to roadside memorials.
16. An equality impact assessment has been undertaken in respect of the policy and is contained at Appendix 2 to this report.

## OPTIONS

17. Options have been considered in respect of this report as follows:
  - Option 1 - To adopt the Roadside Memorials Policy attached in Appendix 1 to this report.
  - Option 2 - Not to adopt the Roadside Memorials Policy attached in Appendix 1 to this report.

## RISK MANAGEMENT

18. The presence of some roadside memorials on the highway can be a distraction for motorists and can be a potential safety issue for those placing or maintaining such memorials.
19. It is considered that the implementation of the roadside policy will clarify what types of memorial are permissible, where such memorials can be located and the duration that such memorials can remain in place. The policy also gives references that there must be no significant risk of driver distraction or undue risk to the individual visiting the location from such memorials.

## EVALUATION

20. Option 1 will provide information and clarity to the general public as to the council's position with regard to the management of roadside memorials. The policy provides further information to assist the general public in understanding what types of roadside memorials may be permitted and what is not permitted. The policy also gives guidance to the council's Highways PFI service provider, Island Roads in assisting it in managing such memorials.
21. Option 2 would maintain the current position of taking a case by case approach to roadside memorials but without the benefit of a written reference policy that would make the council's position clear as to how it deals with this area. The lack of a policy could increase the potential for an inconsistency in approach going forward.

RECOMMENDATION

22. Option 1. To adopt the Roadside Memorials Policy attached in Appendix 1 to this report.

APPENDICES ATTACHED

23. [Appendix 1](#) – Roadside Memorials Policy.
24. [Appendix 2](#) – Equality impact assessment.

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WENDY PERERA  
*Head of Place*

COUNCILLOR IAN WARD  
*Cabinet Member for Infrastructure and Transport*

Decision

Signed

Date

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