

Memorial Inspections and Actions – ICCM Member Information

COURT JUDGEMENT

A grave owner recently took legal action against an authority questioning the Council's authority to carry out inspections of memorials and to take immediate action (by laying flat) in order to eliminate risks to public safety. The claimant further argued that the test procedure caused the foundation of the headstone to fail and that the Council had neglected its duty by not controlling the installation of memorials over the past decades. The claimant acknowledged that he had seen the public notices put in the local press and the cemetery, but insisted that he should have been contacted in advance and been given the opportunity to witness the test. The validity of the force measuring device used by the authority was also challenged. The claim against the Council was for the cost of having the headstone re-installed to current standards, including a NAMM approved ground anchor.

The Council, in defence, produced its Working Procedure for Memorial Inspections and associated documents that indicate and include:

- A Hand test as the primary test
- Use of a force measuring device on memorials that pass the hand test so as to ensure the application of 35kg (and no more)
- Use of a force measuring device on memorials that fail the hand test with the fail pressure being recorded
- Evidence of calibration of force measuring device
- Risk assessments
- Safe system of work
- Evidence of staff training and competence
- Copies of various notices
- Copies of inspection records
- The ICCM Code of Practice for the Management of Memorials

The case was heard before Deputy District Judge Kenny sitting at Staines County Court on 19th February 2004.

The Judge accepted that:

- 1. The testing had been carried out properly***
- 2. The reading had to be accepted***
- 3. The Council had the power to remove a danger and therefore had the power to take the action it did as a result of the test reading. The Council had done no more than it was statutorily obliged to do.***

The General Form of Judgement or Order States:

**'Upon hearing claimant in person and representative for defendant IT IS ORDERED THAT the claimant's claim be and is hereby dismissed'.
(Claim Number SM303425)**

From the above it is evident that the Council Officer responsible for the memorial inspection programme had acted in a diligent, proper and reasonable manner in accordance with national guidance and health and safety law.

<p align="center">Issued by The Institute of Cemetery & Crematorium Management and The Confederation of Burial Authorities</p>
