

**ESSEX COUNTY COUNCIL**  
**TRANSPORTATION AND OPERATIONAL SERVICES**  
**TOPS PRACTICE NOTE**

**TPN 54**

**DATE** July 2000

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**SUBJECT: FLORAL TRIBUTES OR MEMORIALS PLACED ON THE  
HIGHWAY FOLLOWING A FATAL HIGHWAY INCIDENT**

This TPN covers only memorials to victims of fatal highway incidents. All other memorials i.e. war memorials are not covered by this document.

All manner of floral tributes or memorials will for the purposes of this practice note be known as 'tributes'.

**1.0 BACKGROUND**

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 by friends and/ or relatives of the deceased. However, a small number continue to be maintained and in some cases cause problems to the highway authority.

It is expected that the number of official requests for tributes on the highway will increase.

**2.0 ISSUES**

There are a number of issues: -

1. The actions of the public in placing and maintaining tributes present risks to themselves or other highway users.
2. It should be noted that the tributes can distract the road user but tributes can also remind highway users as to the dangers on the highway.
3. In maintaining the highway there is a risk of damage to tributes which could create negative publicity.

**3.0 AIM**

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

## 4.0 APPLICATIONS

Person(s) wishing to place a tribute on the highway shall make an application by letter to the District Manager or Agency District Engineer. The applicant's letter shall state the proposed location within the highway, the type and overall size of the tribute.

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.

Guidance and conditions for approving tributes:

1. 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.
2. Applicants wishing to carry out planting shall be encouraged to contact Country Parks as an alternative to planting in the highway.
3. The location of the tribute within the highway shall be at the District Managers/Agency District Engineers discretion. 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 District Manager/Agency District Engineer may reject an application if the site is deemed unsuitable. Tributes will normally be sited as close as possible to the highway boundary.
4. Plaques or other such tributes 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 County 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.
5. 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.

6. The term contractors will undertake the 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.
7. 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 District Manager/Agency District Engineer reserves the right to remove the tribute at any time at his 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.
8. 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.

## **5.0 TRIBUTES INSTALLED WITHOUT AN APPLICATION BEING MADE TO THE HIGHWAY AUTHORITY**

In the event of an incident, which leads to a tribute being placed on the highway, the Council will not normally take immediate action. However, if the tributes are causing a serious obstruction of the highway or there is 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 sensitively resolved.

Guidance for local engineers:

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 covered:
  - a) None of the tributes or their location presents a danger to highway users or others wishing to place further tributes.
  - b) The highway is not obstructed.
  - c) In the event that there are a large number of tributes, discuss with the Police suitable location(s) where tributes could be located and if necessary be re-located.
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 local engineers discretion following discussions with the Police and as appropriate with the promoters of the tribute.
3. Under the Environmental Protection Act 1990, District Councils are responsible for the collection of litter and refuse. When necessary, the local engineer shall liaise with the District/ Borough Council to agree a suitable time and practice for the sites to be cleared.

## **6.0 LONGER TERM PROCEDURE**

Tributes of a temporary nature such as a bunch of flowers will normally be overlooked at the discretion of the District Manager/Agency District Engineer.

Tributes maintained over time (in excess of 6 months) should be approved using the same procedure as for a new application. (See 4.0)

When a site is deemed to be permanent the local engineer shall make efforts to contact the person(s) responsible. They will be asked to make a formal application by letter to the District Manager/Agency District Engineer. If there is no response to the local engineers efforts or no person(s) claims responsibility the local engineer may seek the District Managers/Agency District Engineers permission to clear the site.

## **7.0 CHARGING**

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

## **8.0 GENERAL**

This is an emotive subject and needs to be handled sensitively. When in doubt – consult with others.

COMPILED BY ..... DATE .....

APPROVED BY ..... DATE .....

AUTHORISED BY ..... DATE .....