Steyning Parish Council
Tree Risk Management Strategy

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1. Introduction

Steyning Parish Council (the Parish Council) has a responsibility to ensure, so far as reasonably practicable, that members of the public are safe when using or driving past their grounds.

Trees hold a place in many people's hearts; they link us to the nature, provide shade during spells of hot weather, slow rainfall during summer storms, clean the air of pollutants and create carbon sinks, and as such, maintaining our nations tree stocks is of paramount importance.

In terms of trees that the Parish Council has responsibility for, it is important that their approach to management is prudent and proportional to ensure that those persons using the Parish Council grounds, who drive past the Parish Council grounds or use the Parish Council areas as a place of work, are safe when doing so A Tree Risk Management Strategy allows the Parish Council to manage their tree stock in such a prudent and proportional way.

1.1 Aims and Objectives

The aim and objectives of the Tree Risk Management Strategy are as follows:

Aims

- To provide a system by which the Parish Council can manage their responsibilities in terms of being a prudent landowner in such a way to produce a proportional, rational and objective methodology in assessing their tree stock
- To provide a system that is not governed by one person and one that is navigable by broader personnel
- To produce a system that once initiated, will reduce the incidences of tree failure outside of extreme weather circumstances

Objectives

- Address how to prioritise areas to survey
- Suggest the type (proactive or reactive) and frequency of the survey period in different areas
- Provide the facility to record the surveys carried out and recommend actions
- Provide details on the competency of the inspector required
- Provide the system for sourcing specialist advice where the survey reveals defects that require a more detailed assessment, or where a second opinion is needed
- Provide a format for the reporting of damaged, failed/failing trees from such events as strong winds, natural decline or vehicular collisions
- Provide a method for its implementation including provisions for arboricultural works, auditing the system, and
- Identify indicators for recognising changing circumstances that will require the amendment of the priority of inspection and its frequency

2. What is a Tree Risk Management Strategy?

Trees, by their very nature, will decay, die and present potential danger to persons and property and are an important element of the Parish Council's overall risk management program. The risk can be managed and reduced via the implementation of a proactive inspection regime to aid the identification of possible dangerous trees.

A Tree Risk Management Strategy (TRMS) is a proactive tree survey system that identifies the issues relating to the management of trees, the way in which trees are assessed and managed and goes on to produce a realistic response to the issues relating to tree risk and management and provide a solution; this is supported by the H&SWA Sec. 3(1) that states "*It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety*."

The TRMS is a tool that can be used as a method for creating an audit trail for actions that have occurred in response to a potential risk. It analysis's what was discovered and what actions were taken. It is essentially a method in which the Parish Council can demonstrate that they have dispensed their duty with 'reasonable care' and have taken appropriate action to protect the general public.

Where little to no previous inspection has occurred, a TRMS will have the effect of bringing the risk of owning and being responsible for trees on the Parish Council land/management into the category of 'broadly acceptable' rather than an 'unacceptable' risk.

Whilst a risk may be categorised as low, the law states that "*Where reasonably practicable measures are available, they should be taken*". This has the effect of bringing the Parish Council in line with the HSE acknowledgment that a broadly acceptable risk is 1 in 10'000. It is impossible to create an environment devoid of all risks; this would require the removal of all trees which would be a disproportionate reaction to the risk and would leave the landscape treeless which in turn would have detrimental effects on wildlife habitat, noise, air quality, visual amenity and many more other attributes that trees provide.

Trees by their very nature will decay, die and present potential danger to persons and property over a relatively short period of time, regardless of having a TRMS in place. In some instances, the decline and cause of failure are not always apparent at the time of assessment, even with a proactive inspection regime in place. Therefore, the TRMS will not provide a zero-risk environment but will indicate how the Parish Council will manage the risk.

2.1 What a Tree Risk Management Strategy is not

The TRMS does not address the policy on how the trees are managed by the Parish Council. For instance it will not detail how trees are managed in relation to light where Parish Council owned trees conflict with neighbouring properties, it will not address the issues associated with fruit fall around the paved footpaths, nor will it address the issues of leaves falling into neighbouring properties.

Similarly, the TRMS will not discuss issues pertaining to trees in relation to construction; an important point to consider if any of the Parish Council intends on carrying out building work close to trees.

2.2 Steyning Parish Council

The TRMS will help the Parish Council in achieving arboricultural best practice, the risk management of their tree stock and should give value for money. It will also set out the method in which the Parish Council will systematically survey its trees on a cyclical basis in relation to its duty under the Occupiers Liability Act 1957 & 1984 and the Health & Safety at Work etc Act 1974.

The TRMS will:

- Formalise and record the method in which trees are currently surveyed and managed - this is crucial if an accident occurs and the Parish Council is taken to court
- Provide a defensible system where inspections and subsequent actions are recorded with appropriate responses based on professional judgement

The TRMS is not designed to avoid liability, but to prove that when issues have arisen, they have been considered and that a reasonable and proportionate action has occurred in relation to the Parish Council's duty to manage their trees.

Appendix 1 goes further into the Statute Legislation that will affect how the Parish Council manage their tree stock.

3. Why does Steyning Parish Council need a Tree Risk management Strategy?

Through the legal processes, the courts have demonstrated that where the failure of a tree was foreseeable it considers it unacceptable for the failure of the tree to occur unless in exceptional circumstances or where reasonable or remedial measures are being implemented. It is also unacceptable for landowners and organisations not to take responsibility for features on their land that may cause harm to a person or property.

This can be identified in the case of *Poll v Bartholomew* [2006] which highlights the need for a program of systematic hazard tree inspections. The case involved a motorcyclist colliding with a fallen tree where the motorcyclist subsequently made a claim against the tree owners for damages and judgement was awarded in favour of the claimant.

The tree was multi-stemmed, had included bark within its fork and also had a fungal bracket growing below it. An experienced arboriculturist would have identified the hazardous nature of the tree and ordered its removal, however, the inspection regime employed by the defendants – using a contractor to do an ad hoc and "drive by" inspection failed to identify the hazard.

It was judged that the inspection regime in place was insufficient to detect structural defects and that a more detailed and systematic method of inspection should have been used.

Similarly the landmark case of *Chapman v London Borough of Barking &Dagenham* [1998], where a falling limb resulted in a van driver being rendered a paraplegic, set a precedent when the judge remarked that *'Foreseeability of danger can only be assessed, allowing timely remediation, if the hazardous thing (tree) is assessed'* i.e. without inspecting a tree, one is not in a position to know whether or not it poses a foreseeable danger. This case resulted in the first £1million fine for damages being awarded in relation to the failure of a tree against the Local Authority.

Appendix 1 goes into further detail regarding precedents that affect the management of trees

3.1 Benefits to Steyning Parish Council

By engaging in this TRMS, the Parish Council will be providing itself with the basis for a robust defence against claims of negligence should a claim ever giving rise against it. In addition, a healthy tree population improves air quality and helps mitigate against climate change issues; trees provide wildlife habitats and improve the stabilisation of the rooting zone and surrounding ground.

The TRMS can also prevent the development of hazards in trees caused by poor nursery practice, at the time of planting. A proactive regime of inspection can help identify these poor growth patterns and take appropriate action to minimise the effects; the same can be said for the trees that have grown naturally from seed or via root suckers.

Identifying where the trees are located during the proactive inspection process will help the Parish Council plan their budget in relation to the areas that require a more rigid management process such as trees growing around the field edges of the Memorial Playing Field.

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4. Deciding what trees to proactively inspect

As well as minimising liability should anything go wrong, the aim of the TRMS is to minimise the incidences of trees causing harm or damage as a result of failure. It is therefore important to decide which trees require inspecting on a more regular basis and those which can be inspected on a less regular basis. One method of deciding which trees to inspect is based on risk and hazard; risk is location based whilst hazard relates to the individual tree.

4.1 Frequency and timings of inspections

Where there is a risk of harm due to the failure of a tree, the tree should be routinely inspected regardless of their 'zoning' area'. This frequency depends on the availability of suitably qualified and experienced staff and the financial resources of the Parish Council. Through providing justifications for the frequency of inspections, the Parish Council is less likely to be held accountable in the case of a tree failing e.g. *Tomlinson v Congleton Borough Council* [2003][1]. However, these timescales between inspections must be reviewed by the Parish Council in line with recent case law and reassessed if deemed necessary to ensure that the Parish Council have acted in a reasonable and practicable manner.

Table 1: Risk Zones	Description	Examples
Priority Inspected annually as part of the Proactive Inspection Regime and Reactively post storm conditions	Where the probability of a tree failing and would cause harm or damage	Trees adjacent to busy A roads Trees adjacent to busy B roads Trees adjacent to well used open spaces
Moderate Inspected every three years and Reactively post storm conditions	Where the probability of a tree failing and causing harm or damage is unlikely	Trees adjacent to B roads Trees adjacent to well used footpaths, bridleways, car parks and other access roads Trees adjacent to lesser used open spaces Trees adjacent to properties and businesses
Low Inspected every five years and Reactively post storm conditions	Where the probability of a tree failing and causing harm or damage is highly unlikely	Trees adjacent to rarely visited areas

By creating a site plan highlighting the Risk Zones (see Sec. 5 Risk Zoning) the Parish Council is prioritising areas of work.

[1] In the case of *Tomlinson v Congleton Borough Council* [2003], the defendant owned Brereton Heath Country Park where they had created a lake on the park which was surrounded by sandy banks. Swimming was not permitted in the lake and notices were posted at the entrance saying "Dangerous water. No swimming". The claimant was injured when he dived into shallow water and broke his neck

The House of Lords held the Council were not liable as no risk arose from the state of the premises as required under s.1(1)(a) Occupiers Liability Act 1984; the risk arose from the claimant's own action. Even if there was a risk form the state of the premises, the risk was not one against which the council would reasonably be expected to offer the claimant some protection under s.1(3)(C)

The two principles for determining the risk zone map are:

- **Target** People or property that may be harmed or damaged due to the tree failure
- **Frequency of use** The likelihood of harm occurring if a tree were to fail

Therefore, a tree located adjacent to a busy 'A' road and/or an area of high usage has a higher probability to cause harm or damage should the tree fail rather than that of a tree failing within an area of low usage such as a woodland footpath.

However, it is important to remember that there cannot always be a clear distinction between areas where inspections are essential. A healthy tree exhibiting good growth and vitality located within a high usage area may produce a low risk of harm or injury due to its condition.

Due to buildings affording a measure of protection (even though people can be within a building), people are deemed more important; therefore, where people are exposed i.e. not afforded protection by a building, they must be afforded greater protection.

Where old trees are located within high usage areas, hazards can develop rapidly and as such would require a more regular inspection regime, possibly twice a year. Trees in high risk areas should be assessed after exceptional weather conditions, such as winds in excess of Force 10 on the Beaufort Scale, which can affect tree/branch structure or stability.

4.2 Reactive tree inspections

The Parish Council operates a proactive approach to tree management, however, there will always be a degree of reactive tree management for when failures occur due to extreme weather events.

These failures, when they occur, should be logged using the Failure Log Record Form in Appendix 4 and cross referenced to the existing recommendations and their relevant priority ratings for appraisal.

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5. Risk Zoning

Risk Zone mapping or Risk Zoning allows the Parish Council to prioritise areas of high, medium and low usage and by doing so contributes to a cost-effective approach to tree inspections and encourages resources to be focused accordingly. The practice of Risk Zoning contributes to sensible risk management and leads to a position that is defendable should an accident occur.

The process of the Risk Zone mapping should fall upon the Parish Council Manager as they have first-hand experience of the land and trees under the management or ownership of the Parish Council.

Please see Appendix 2 for the Risk Zones and Appendix 3 for an example of Risk Zone mapping for Steyning Parish Council

5.1 Hazard or Risk Management?

The hazard or risk rating can be determined through the consideration of three issues:

1. Target considers how well used an area is and what the probability would be for someone being injured as a result of a failure. It goes without saying, the higher the usage, the greater the likelihood of someone being injured

2. Potential for failure takes into account, at the time of inspection, characteristics of the tree most likely to fail based on physiological and structural defects. This will inform the reader of the time scales involved regarding remedial works

3. Size of failure considers the size of the part of the likely to fail, which in turn affects the severity of the potential failure. The larger the piece, the greater the potential for it to cause harm or damage

Combined with the risk zone mapping, this system is also 'target' led to ascertain the likelihood of harm or damage occurring from a specific tree. This assessment informs the management of the tree.

Table 2: Risk Assessment		Examples
Target	High	Trees adjacent to and within falling distance of busy A roads Trees adjacent to and within falling distance of busy B roads Trees adjacent to well used open spaces
	Medium	Trees adjacent to busy and moderately used footpaths, bridleways and other access roads to tenanted properties Trees adjacent to lesser used open spaces Trees adjacent to properties and businesses
	Low	Trees adjacent to rarely visited areas
Potential for Failure	High	High likelihood of failure
	Medium	Moderate likelihood of failure
	Low	Low likelihood of failure
Size [Ø indicates diameter]	Large	Death or serious injury, structural damage e.g. trees with a Ø greater than 300mm or major a branch over 100mm in Ø
	Medium	Serious to superficial injury, moderate to minor structural damage e.g. entire small trees with a Ø between 300mm and 100mm, or moderate branch Ø between 100mm and 50mm
	Small/low	Superficial injury, fragile objects damaged e.g. entire small tree less than 300mm in Ø or small branch less than 50mm in Ø

5.2 Failure log

A failure log will act as the TRMS's performance indicator in the recording of where tree failures occur, the reason why they failed (if known) and the result of the failure. This information will help to inform the evaluation of real risk levels over a period of time and will aid the production of a pattern failure data base allowing for possible preventative actions to take place.

The failures will be plotted on the site plan to allow for an assessment and feed back into the Risk Zoning mapping and the management of trees. Therefore, any failures should always be reported to the Parish Council and the risk evaluated accordingly.

Data to record within the failure log:

1. Date of failure
2. Location of failure
3. Risk Zone designation within the Parish Council
4. Species
5. Age class i.e.

    a. **Young** up to EM
    b. **Early Mature** less than 1/3 of expected life span
    c. **Mature** 1/3 to 2/3 of expected life span
    d. **Late Mature** more than 2/3 of expected life span and 'in natural decline'
    e. **Over Mature** older than LM but younger than V, and
    f. **Veteran** old or aged in comparison with other trees of the same species

6. Weather conditions at the time of failure
7. Size of failed section
8. Cause of failure if known
9. Consequence of failure
10. Actions to be taken
11. Works complete date
12. Has the tree been part of an inspection?
13. If yes, when
14. By whom
15. When was the next inspection due?
16. Was the cause of the failure noted in the previous inspection?
17. Did any remedial works take place?
18. Comments

For the system to succeed, all the relevant information must be provided if the benefits are to be gained from the experience of failure. A template form can be found in Appendix 4.

5.3 Changes in conditions

Trees are dynamic, living structures and changes and alterations in their immediate environment or growing conditions will have an impact on their health and vitality. These changes can have a dramatic effect upon their condition, structural stability and therefore the integrity of the tree.

Where failures do occur as a result of changes in conditions, a Failure Log must be completed (see Appendix 4). This will be completed by the Parish Council Surveying Team, consisting of the Parish Council Tree Warden or other nominated individual.

As part of the TRMS, the Parish Council will need to be proactive in liaising with their neighbouring properties and businesses to encourage them to inform the Parish Council Office of any failures spotted. This will then be forwarded to the Parish Council Surveying Team with the closest person being assigned the task of inspecting the failed/failing tree. Where further clarification is needed, the Parish Council Manager will utilise the services of the external arboricultural consultant.

After the incident has been processed, the Parish Council Manager can appraise the Risk Zoning and act accordingly; this may take the form of re-designating that particular area to be included into a more regular inspection regime.

6. Proactive Tree Inspections

This section aims to set out the elements found within a proactive TRMS and how the Parish Council will implement it and the important issues to consider when doing so. It will look at such issues as responsibility, training and procedures.

6.1 Objectives

The objective of the TRMS is to assess the Parish Councils tree stock around areas of usage to ascertain the condition of the trees within their specific Risk Zones. All trees within the specified Risk Zones will be assessed, tagged and trees requiring arboricultural works will be commented on.

By using this process, the Parish Council will build up an inventory of their tree stock allowing direct action to take place when works are specified. It will also highlight areas that require restocking due to the failure of trees or where the tree's age may prompt its removal.

6.2 How will it be managed?

The Parish Council manager will be in overall charge of the TRMS and will direct the in-house surveyors to the areas to be inspected and will be responsible for the auditing of the data recorded by the in-house surveying team.

Where trees require further or a more detailed inspection, the Parish Council Manager will liaise with the external arboricultural consultant and direct them towards the areas that require further inspections.

6.3 Who will carry out the survey?

It is reasonable to request that the person who carries out the inspection should be qualified in Arboriculture and to a minimum of Level 3 National Qualification Framework (NQF) or higher as stated in *Poll v Bartholomew* [2006]. Higher levels of training would be ideal along with evidence of carrying out such work should be demonstrated; sections of the proactive tree survey, identified by the Parish Council Manager, will be carried out by an external arboricultural consultant appointed as and when required.

Training needs to be appropriate and proportionate for the task and for the individual; the TRMS will utilise two levels of surveyor.

Table 3 Qualifications and experience

Level of Surveyor	Qualifications Required to Perform the Task	Risk Zone Area
1	Designated Parish Council Survey Team	Essential: LANTRA Basic Tree Inspection
2	External arboricultural consultancy	Essential: ABC Level 6 Diploma in Arboriculture LANTRA Professional Tree Inspection RFS Professional Diploma in Arboriculture Desirable: Arboricultural Association Registered Consultant Institute of Chartered Foresters

It is vital that the training received in tree hazard awareness is revisited every 3 - 5 years, or that a record of continual professional development (CPD) is maintained and that a record of seminar attendance is logged to keep abreast of ever changing tree related issues. This applies to the Parish Council Survey Team and the external arboricultural consultant.

When an external assessment is required for reasons such as detailed decay detection, the level of competency should escalate according to the task. As before, experience and evidence off, should be demonstrated. This can take the form of written evidence from previous clients or by reviewing the consultant's previous surveys and qualifications.

6.4 How the survey will be carried out

For all inspections within the Risk Zone areas, the method of inspection will consist of a walk over survey where only those trees requiring further action are recorded. The assessment will be based on the methodology specified in the Visual Tree Assessment (VTA) for ground level surveys. The VTA method, as described in The Body Language of Trees, pg. 179, consists of three stages:

1. Visual inspection of physiological and structural condition of the tree. If there is no sign of a problem, the investigation is concluded. No tree data is recorded

2. If a defect is suspected on the basis of symptoms, its presence must be confirmed by a thorough examination. Tree data is recorded

3. If the defect is confirmed and appears to be a cause for concern, it must be assessed and the appropriate recommendations made.

Individual trees with a stem diameter (Ø) of 150mm or greater (when measured at 1.5m and from the highest side of the tree) will be assessed, however only those requiring further action shall be commented on. In areas where trees border fence lines or boundary walls, trees within falling distance of the boundary will be assessed. This will require the surveyor to remain vigilant for those trees that may not be directly adjacent to the boundary line yet are within falling distance should they fail as a whole or as a part.

The trees within the medium and low Risk Areas will be plotted on a site plan by using the surrounding features. Trees within the High Risk Area category will be plotted using a GPS (Global Positioning System) to allow for more accurate plotting. However, should the Parish Council wish to invest in a GPS data collection tool, the Medium and Low Risk Zones can also be plotted via this method. Training would obviously be required for those members of the Parish Council Survey Team who will be responsible for using the device.

Tree tags will be used to identify the trees and should be placed around 2.0m on the least viewed section of the tree. A strip of red and white barrier tape may be attached beneath the tree tag to aid identification which should be removed after the scheduled works have been completed, leaving the tag behind.

Where trees require immediate remedial works, the Parish Council manager should be informed as soon as reasonably practicable.

6.5 How will the data be stored?

The survey will be collected by using a survey data capturing software package such as Pear Technology's PT-Mapper and by using a handheld data input systems such as the Magellan Professional rugged PDA.

Where data has been collated manually, this will be inserted by hand and by a trained member of the administration staff or a member of the Parish Council Survey Team. The level of aftercare package will be critical and should influence the software package purchased.

6.6 Data to be recorded

The following information will be recorded for each tree inspected:

1. Site location
2. Date of inspection
3. Surveyors name
4. Tag number (if appropriate)
5. Species (common)
6. Height of tree - grouped into categories of 5-10m, 10-15m, 15-20m, 20-25m, 25m+
7. Crown spread - grouped into categories of 5-10m, 10-15m, 15-20m 20m+
8. Stem Diameter - grouped into categories of 150-250mm, 250-350mm, 350-450mm, 450-550mm, 550-650mm, 650-750mm, 750-1000mm & 1000mm+; stem diameter to be measured at 1.5m from the highest side
9. Age class i.e.

    a. **Young** up to EM
    b. **Early Mature** less than 1/3 of expected life span
    c. **Mature** 1/3 to 2/3 of expected life span
    d. **Late Mature** more than 2/3 of expected life span and 'in natural decline'
    e. **Over Mature** older than LM but younger than V, and
    f. **Veteran** old or aged in comparison with other trees of the same species

10. Condition of the tree - see Table 4 for more detail
11. Comments regarding physiological and structural condition
12. Recommended remedial arboricultural works, and
13. Priority rating for completion of the works
14. Resurvey period (usually the risk zone will denote this)

Other factors that may be relevant should be annotated within the 'notes section' of the template form; these could be adjacent buildings, roads, land usage etc.

If a GPS data collection system is being used, the template for information required can be pre-loaded, as can the site plan and Risk Zones

Table 4: Tree condition descriptions

	Description
GOOD	Full healthy canopy; possibly including some suppressed branches or physical damage. A tree that requires little or no tree works and it is anticipated to be retained for over 10 years
FAIR	Slightly reduced leaf cover, minor dead wood, or isolated major deadwood. A tree that requires tree works to remove defects and/or improve the form so that it may be anticipated to be retained for over 5 years
POOR	Overall sparse leafing or extensive dead wood or crown die back A tree that has a significant proportion of defects and/or requires considerable tree works to aid its retention and / or where the retention of the tree is not anticipated beyond 5 years
DEAD	The tree is dead

The recommendations recorded for remedial arboricultural works will be assigned a priority; the Parish Council management will then instruct works accordingly either by the in-house forester or via an external resource.

6.7 Priorities for works

Table 5: Tree work timescales descriptions

	Description
Immediate	These works should be carried out immediately. The surveyor should contact the Parish Council and inform them of their concerns so that the Parish Council can arrange for the works to be carried out without delay. Works in this category relate to trees that are imminently about to fail and that the failure of the tree/part is more likely than not to cause significant harm or damage.
High within 1 month	These works should be carried out within 1 month from the identification of the works. The surveyor should contact the Parish Council and inform them of their concerns so that the Parish Council can arrange for the works to be carried out within the month. Works in this category relate to trees that are imminently about to fail and that the failure of the tree / part is likely to cause significant harm or damage.
Medium within 6 months	These works should be carried out within 6 months from the identification of the works. There is no need to contact the Parish Council in relation to these works other than through the normal downloading of the data collected. Works in this category should include works that are necessary for the safe use

	of the site or adjacent properties and land, for instance crown lifting to clear for access. These works may also relate to good arboricultural practice, for instance formative pruning or clearance of a property.
Low within 1 year	These works should be carried out within 1 year from the identification of the works There is no need to contact the Parish Council in relation to these works other than through the normal downloading of the data collected. Works in this category should include works that are necessary for the safe use of the site or adjacent properties and land, for instance where it is anticipated that the tree growth will become an issue before the next cycle of inspections. These works may also relate to good arboricultural practice, for instance formative pruning or preventative clearance of a property. It is anticipated that these works may not always be possible to complete within the year, potential due to financial constraints.

The initial phase of data collection and assessment of the Parish Councils trees stock throughout the allocated Risk Zones to produce a Parish Council Tree Stock Inventory should be carried out within one year of the implementation of the TRMS; the High Risk Areas should take precedence, descending down to the Low Risk Areas.

6.8 Reviewing the Tree Risk Management Strategy

The TRMS should be reviewed every three years by the Parish Council Manager (also a member of the Parish Council Survey Team), the Trustees of the Parish Council and the external arboricultural consultant, after the publication of updated or new guidance or post recent changes to statute and case law. The purpose of reviewing the TRMS is to give the Parish Council the opportunity to not only ensure it is current and accurate with its management regime but also to adapt and change the processes in which data is collected and how this is then dispensed.

6.9 External auditing

The process of external auditing is an important part of any TRMS as it gives the Parish Council the opportunity to check on the quality of the data that is being collected by the Parish Council Survey Team and external consultant. This is especially important during the early stages of the TRMS. This process will help to ensure that the details recorded are accurate, retrievable, meaningful and fit for purpose; failure to implement an external audit may reduce the credibility and validity of the system employed. It is therefore of great importance to show that not only is the proactive survey regime being implemented, but that someone separate, suitably qualified and experienced is carrying out the audit.

The external audit should be carried out by the external consultant, someone with similar qualifications or the author of the TRMS, if that is a separate person; and should take place every three years. This should precede the TRMS Review and be incorporated within the review process.

7. Implementing a Tree Risk Management Strategy

Whilst the implementation of a TRMS is beneficial to the Parish Council in terms of a cost effective and proactive tree inspection regime and approach to managing risk, its implementation needs to be considered in terms of resources.

7.1 Finance

It is not expected that the implementation of the TRMS will identify significant numbers of trees requiring remedial arboricultural work above that which a normal country Parish Council budget would cover as the Parish Council already has a proactive tree survey regime in place. The TRMS will formalise and record the way in which the current process is implemented and provide the basis for improvements.

A proactive tree survey regime is to identify appropriate works necessary for the safe retention of the trees in advance of any failings and to maintain the trees in accordance with good arboricultural practice. By using priority ratings, the Parish Council can set their tree management budget accordingly.

The proactive approach may identify trees that have yet to be assessed and recorded. As the cycles of prioritised surveys and completed remedial arboricultural works take effect, the amount of work generated by the surveys will lessen in terms of volume, priority and frequency.

It will be important to review and manage the monetary resources available given that additional funding may only be necessary in the event of extreme weather such as winds in excess of Force 10 on the Beaufort Scale.

7.2 Sourcing of tree work contractors

The complexity of the prescribed remedial arboricultural works will dictate the level of competency of the contractor used to implement the works. The removal of small, self-seeded trees less than 150mm in diameter will take less skill and experience than the removal of a large, mature declining tree hanging over a busy road using Mobile Elevated Work Platforms (MEWPs), traffic lights and large plant.

The former could be achieved by a local contractor or suitably trained volunteer whilst the latter would require the use of a suitably qualified and insured arboricultural contracting company. I would recommend using an Arboricultural Association Approved Contractor (AAAC) as they would have met a high standard set out by the AA. These companies should ideally be local as this will benefit the Parish Council in two ways:

1. The Parish Council will be seen to use a local company with local staff

2. The ability for the local company to respond quicker to emergency work as it appears

7.3 Internal management of the Tree Risk Management Strategy

For a proactive survey regime to be managed properly, adequate staff time must be put aside. It is not enough to simply say that such a survey is in place, it must be managed and resourced appropriately with regular reviews.

The Parish Council Manager is responsible for the implementation of the TRMS. Where there is a lack of suitably qualified staff to carry out the surveys, it may be necessary to obtain the services of a professional tree surveyor.

The Parish Council must complete the Action Sheet in Appendix 5 to ensure the TRMS is implemented and maintained to a defensible level of tree risk management.

Please see Appendix 6 for the Contact Details required for the implementation of the TRMS.

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Appendices

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Appendix 1 Statute Law & Case Law

Statute Law

Occupiers Liability Act (1957 and 1984) - Under the 1957 Act a common duty of care is owed to all lawful visitors. The duty is to take such care as, in all the circumstances of the case, is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he/she is invited or permitted to be there.

This means that any visitor to public open space, countryside land or any other site has the right to expect that no harm will come to them. Whilst it is not currently possible to be prosecuted under these acts, there is the possibility of being sued in the civil court if an incident were to occur.

The **Occupiers Liability Act 1984** imposes a duty of care to those who are not visitors (i.e. trespassers). The Act imposes a limited duty of care on occupiers to take 'reasonable' steps to offer protection to trespassers from dangers which should be known to exist on the property.

The duty under the 1984 Act is more restricted than the 1957 Act, in that it only applies where a danger that the occupier knows of or ought to know of exists and if the occupier knows or ought to know that trespassers are likely to come on the land. The scope of the duty under the 1984 Act is limited to personal injury and does not cover property damage.

The **Town and Country Planning Act (1990)** and **Town and Country Planning (Trees) Regulations (1999)** contains provisions for protecting trees that provide public amenity. This can be in the form of a tree preservation order (TPO) or by virtue of the tree or trees being within the Steyning Conservation Area.

The **Highways Act (1980)** and the **Local Government (Miscellaneous Provisions) Act (1976)** give Local Authorities the powers to deal with trees in private ownership that endanger the highway, persons or property. The Highways Act empowers the Highways Authority (West Sussex County Council) to require that trees adjacent to the highway are managed to prevent them becoming a hazard to the safe use of the Highway.

Sections 23 and 24 of the 1976 Act allow Local Authorities to deal with trees on private land when asked to do so by the landowner, although these powers are discretionary and usually a last resort. Expenses then need to be recovered from the landowner.

The **Wildlife and Countryside Act (1981) (as amended)** the **Countryside Rights of Way Act (2000)** and the **Conservation of Habitat and Species Regulations (2017)** all place legal obligations on the protection of wildlife species and habitats. The 2000 Act's duty of care is extended to cover those who might be described as ramblers or persons exercising their right of access over land or the 'right to roam'.

The **Conservation of Habitats and Species Regulations (2017)** was enabled to consolidate all the various amendments made to the Conservation (Natural Habitats, &c.) Regulations (1994) in respect of England and Wales.

The **Health and Safety at Work etc Act (1974)** places a duty on all employers to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees, as well as those not in his employment who may be affected if exposed to risks to their health or safety. This means ensuring that all places of work are, so far as is reasonably practicable, safe and without risks to health to both employees and visitors to the site.

Cases have been brought by the Health and Safety Executive under:

Section 2 General duties of employers to their employees
Section 3 General duties of employers and self employed to persons other than their employees, and
Section 4 General duties of persons concerned with premises to persons other than their employees of the Act

The implications of the **Corporate Manslaughter and Corporate Homicide Act (2007)** means that landowners, companies or organisations whose gross negligence causes the death of an individual now could face prosecution for manslaughter; the fines are unlimited. The continued implementation of this TRMS will help form the reasonable 'defence' against such a potential prosecution for the Parish Council.

As an aside, immunity from prosecution for the Crown has been removed; crown bodies, such as Government departments, will now be liable for prosecution.

Case Law

There are other cases that are applicable, but these are the main and current ones.

Chapman v Barking and Dagenham London Borough Council [1998]

Barking and Dagenham London Borough Council were taken court in 1998 by the plaintiff, Mr Chapman who had sustained serious physical injury when the cab of the van he was driving was crushed by a falling limb from a Council owned Horse Chestnut tree.

Whilst the tree had been pruned some years before it should have been inspected at regular intervals, especially given the recent strong wind warnings that were issued by local meteorological stations. The Council had no formal system in place to inspect trees in their ownership.

The judge found for the plaintiff on the basis that:

"*A person is liable for a nuisance constituted by the state of his property*.

1. *If by neglect of some duty he allowed it to arise; and*
2. *If, when it has arisen without his own act or default, he omits to remedy it within a reasonable time after he did or ought to have become aware of it*."

Birmingham City Council

Birmingham City Council were successfully prosecuted under section 3 of the Health and Safety at Work etc Act 1974 in July 2002 following the failure of an ash tree adjacent to a road which led to the death of three people.

Poll v Bartholomew [2006]

This case involved a motorcyclist colliding with a fallen tree. The motorcyclist made a claim against the tree owners for damages. Judgement was awarded in favour of the claimant. Whilst the owner of the tree had an inspection regime in place, it was judged that it was insufficient to detect structural defects and that a different (more detailed) method of inspection would have detected the warning signs. The Judge determined that an experienced Arboriculturist would have identified the hazardous nature of the tree and ordered its removal.

This case is particularly important as it suggests the different levels of inspection and competence are required to fulfil a tree owner's duty of care.

Essex County Council [2003]

Essex County Council were found guilty under Section 2 of the Act following the death of a Senior Ranger as the result of insufficient inspection regimes and staff competence. The Council were found to have inadequate systems in place to ensure that tree work was properly assessed and allocated to appropriately trained individuals.

Atkins v Scott [2008]

In this case the Judge criticised the defendant for not having a formal written system for tree inspections.

Witley Parish Council v Cavanagh [2018]

The case concerned a large, mature lime tree which was leaning over a busy A road. The tree fell following a storm causing serious injury to the driver of a bus passing by. It subsequently emerged that the tree had some structural decay which was alleged could have been discovered if the tree had been inspected more frequently.

This case has given rise to concerns that landowners with responsibility for trees may have to undertake more extensive inspections. It does, however, highlight that zoning is material in safeguarding against risk to the public, and that some trees in locations with high levels of use may warrant more frequent and thorough inspection than trees in other locations.

Steyning Parish Council
Tree Risk Management Strategy

Appendix 2 Risk Zones

High Priority Zone – RED

1. To be agreed

Medium Priority Zone – AMBER

1. To be agreed

Low Priority Zone – GREEN

1. To be agreed

Steyning Parish Council
Tree Risk Management Strategy

Appendix 3 Site Plan showing Risk Zones

Steyning Parish Council
Tree Risk Management Strategy

Appendix 4 Failure Log Record Form

Failure Log Record Form													
Date of failure													
Location of failed tree													
Risk Zone designation	High			Medium			Low						
Species				Tag number if known									
Age Class	Young		Early mature	Mature		Late mature	Over mature		Veteran				
Weather conditions at time of failure if known	Wind Speed*	1	2	3	4	5	6	7	8	9	10	11	12
	Rain:	None		Light		Moderate	Heavy						
Size of failed part	Tree:	<200mmØ		200-500mmØ		>500mmØ							
	Branch:	<50mmØ		50-300mmØ		>300mmØ							
Cause of failure if known													
Consequence of failure													
Actions to be taken													
Works complete date													

*Wind Speed should be measured on the Beaufort Scale

History of Previous Inspections						
Has the tree been part of an inspection?	Yes	No	If Yes, when was it last inspected?		By whom was it inspected?	
When was the next inspection due?						
Was the cause of this failure noted in the previous inspection	Yes	No	Did any remedial work take place as a result of the last inspection	Yes	No	

Please use the space below to make any comments

Steyning Parish Council
Tree Risk Management Strategy

Appendix 5 Action Sheet/Steyning Parish Council Plan

No.	Action	Responsibility	Target date for completion
1.	Outsource the production of a TRMS	Parish Council manager	
2.	Review TRMS prior to forwarding to the Trustees of Parham House	External resource Parish Council manager General manager Insurance company	
3.	Make amendments as appropriate	External resource Parish Council manager	
4.	Consideration for formal adoption by Trustees	Trustees	
5.	Make amendments as appropriate	External resource Parish Council manager	
6.	Formal adoption of the TRMS by the Trustees	Trustees	
7.	Implementation 20??: survey of all high risk sites 20??: survey of risk zone 1 moderate risk sites 20??: prioritisation of tree works and their implementation within the limitations of the tree budget 20??: survey of all high risk sites 20??: survey of risk zone 2 moderate risk sites 20??: prioritisation of tree works and their implementation within the limitations of the tree budget 20??: survey of all high risk sites 20??: survey of risk zone 3 moderate risk sites 20??: prioritisation of tree works and their implementation within the limitations of the tree budget	External resource Nominated member of staff	
8.	Review TRMS prior to forwarding to the Councillors of Steyning Parish Council	External resource Parish Council manager General manager Insurance company	
9.	Implement a three year audit from first phase of inspections	External resource Parish Council manager General manager	

Steyning Parish Council
Tree Risk Management Strategy

Appendix 6 Contact Detail for the TRMS

Name of Contact	Description of Works Undertaken	Contact Number
	Parish Council Manager & member of the Parish Council Survey Team	
	External Arboriculturist	
	Tree Work Contractor	
	Parish Council Survey Team	
	Parish Council Survey Team	
	Administration Department & data input contact	