



Policy and Resources Committee – 11 March 2013

Public Health Funerals

Purpose of report

This report is to outline the changes in how the Council will deal with Public Health Funerals under the Public Health (Control of Disease) Act 1984.

Attachment(s)

Appendix 1: Draft Public Health Funeral Policy
Appendix 2: Equalities Impact Assessment

1.0 Background

- 1.1 Under section 46 of the Public Health (Control of Disease) Act 1984, a local authority is required to “cause to be buried or cremated the body of any person who has died or been found dead in their area, in any case where it appears to the authority that no suitable arrangements for the disposal of the body have been or are being made otherwise than by the authority.” On average the Council organises 6 funerals a year under this piece of legislation.
- 1.2 This area of work has been completed by Legal Services in the past; however this is unusual with most local authorities undertaking this work within their Environmental Health teams. Due to the changes to legal services it has become necessary to review how this work is completed. In order for this area of work to be dealt with by Environmental Services the Council’s scheme of delegation will require amending to give authorisation under the act to officers.

2.0 Public Health Funerals Policy

- 2.1 The Institute of Cemeteries and Crematorium Management (ICCM) recommends that local authorities provide a policy on how they will deal with Public Health Funerals and what should be expected. In most cases the lack of suitable arrangements for the burial or cremation of the deceased is due to there being no known next of kin. In these cases they are generally referred to the council by the Coroner’s Office. In rare cases family members may choose not to take responsibility for the deceased for a variety of reasons and therefore the funeral must be organised by the council.
- 2.2 In order to organise a public health funeral we have for several years worked with a local undertaker to make the necessary arrangements. Due to the length of time it has been since a formal review of this process has been undertaken, we are currently determining the most appropriate way of commissioning these services in the future. This is necessary to ensure that all Public Health Funerals undertaken by the council provide value for money.
- 2.3 The draft Public Health Funerals Policy can be found in Appendix 1. This document will require further revisions following the outcome of the tendering process to ensure the policy reflects the outcomes of the review. Once the process has been completed the final draft of the policy and results of the procurement review will be brought back to this committee for approval.

3.0 Important issues to consider

- 3.1 Local authorities are the only bodies that are required by law to make funeral arrangements where none are being or are likely to be made. It is generally acknowledged that due to the current economic climate there may be an increase in public health funerals as relatives are unable or unwilling to pay for a funeral. The legislation allows for the recovery from the estate of the costs of the funeral and officer time spent on it. This can sometimes be a lengthy process and in some cases may result in no payment back to the council if there is no money in the estate.

4.0 Equality and Diversity Implications

- 4.1 The act requires that the deceased should be treated in accordance with their wishes and by law any person who has made a clear wish to be cremated or buried must not be treated in any other way. Where it is clear that there is a religious reason or a specific request to be buried, this wish will be honoured; in all other cases the deceased will be cremated. An EIA is attached in Appendix 2.

5.0 Legal Implications

- 5.1 In order for this work to be handed over to Environmental Services it is necessary for Part 3 of the Public Health (Control of Disease) Act 1984 to be adopted and delegated to officers within the service under the council's Scheme of Delegation. The administration of public health funerals requires certain stages to be completed at set times; this includes the registration of death, a search of the deceased's property for information on any next of kin, a will, bank account information etc. and the undertaking of the funeral in accordance with the deceased's wishes.

6.0 Risk Management

- 6.1 There are several key risks with this process that must be managed; it is essential that all attempts to find a next of kin and the wishes of the deceased are made and fully recorded. The council must not go against the wishes of the deceased if they have clearly been identified during property searches or in talking with next of kin and close friends.
- 6.2 A Public Health Funeral should always still treat the deceased with decency and respect and to the outsider it should not look any different to a simple funeral. The council's policy should clearly state that a simple funeral is all that will be provided to ensure the appropriate type of funeral for the deceased. Where there are next of kin they must be made fully aware of this and that their input into the funeral will be very limited. Wherever possible we will always encourage relatives to take over the funeral arrangements and provide advice on where they can seek financial assistance to fund the funeral costs.
- 6.3 Where there are no known next of kin, the process the council has undertaken to try to locate any family and the decisions made regarding the funeral will be fully documented to be provided in the future should a relative come forward. A council officer will always attend the funeral to firstly ensure that it has been carried out as agreed but also to note for the file the arrangements made such as hymns used etc.
- 6.4 Ensuring that the procedures are correctly followed and that full records are kept will protect the council in the future of any allegations that insufficient attempts were made to contact the closest relatives or that the deceased was buried or cremated against their wishes.

7.0 Financial Implications

- 7.1 At present the budget for public health funerals is £9,500 and on average the council will undertake six funerals a year. There is no way of knowing from one year to the

next if this will increase or decrease making budgeting for this work impossible. Wherever possible, attempts will be made to recover the costs incurred by the council for arranging the funeral. As we are able to charge for officer time spent dealing with these funerals, there may be a net contribution towards the Council's costs.

8.0 Corporate Outcomes

8.1 The introduction of the Public Health Funerals Policy and the review of the procuring of services for these funerals links to the following corporate outcomes:

- Good value for money
- High quality service delivery

9.0 Recommendation

The committee is recommended to

- (1) Approve the Equalities Impact Assessment provided in Appendix 1
- (2) Approve the amendment to the Scheme of Delegation to provide authorisation to officers in Environmental Services to undertake Public Health Funerals
- (3) Agree that the final draft and outcome of the tendering process be returned to this committee for approval

Legal	Power: Public Health (Control of Disease) Act 1984				
	Other considerations:				
Background Papers:					
Person Originating Report: Jenny Walker, Environmental Protection Manager					
Date: 14th February 2013					
CFO		MO		CX	

(Committee Report Normal Rev. 22)



East
Northamptonshire
Council

Public Health Funeral Policy

April 2012

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NB: Draft versions 0.1 - final published versions 1.0

Consultees

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Links to other documents

Document	Link

Additional Comments to note

1.0 Introduction

1.1 East Northamptonshire Council is responsible for making funeral arrangements for anybody who dies within their boundary, where no other arrangements are being or are likely to be made, e.g. when the deceased has no family and they haven't left a will. This responsibility is placed on the Council by S46 of the Public Health (Control of Disease) Act 1984. S46 of the Act also states that the Council may recover all their costs incurred in making the funeral arrangements from the estate of the deceased (i.e. their property and possessions).

2.0 Scope

2.1 This policy is intended to provide an outline on how we as a Council will deal with Public Health Funerals under the Public Health (Control of Disease) Act 1984. Due to the potentially complex nature of some cases this document should be viewed as an outline as to the standards that can be expected. Flexibility needs to be maintained in order to respond to unforeseen circumstances.

3.0 Policy outcomes

3.1 The outcomes to be delivered by this policy are:

Public Health Funerals Policy outcomes	Links to corporate outcomes (delete as appropriate)
<ul style="list-style-type: none">• Detail the process for dealing with a public health funeral• Outline what a public health funeral will entail• Detail how the deceased estate will be handled	<ul style="list-style-type: none">• Council services which provide good value for money• High quality service delivery• Effective management• Knowledge of our customers and communities

4.0 Public Health Funerals

4.1 When someone dies it can be a very distressing time for those arranging a funeral, especially if there are concerns about how the funeral is to be paid for. It is normally a partner, executor or other family members who would be responsible for making funeral arrangements for a deceased person, and they would also be responsible for the costs.

4.2 East Northamptonshire Council cannot get involved where funeral arrangements have already been made, or if the funeral has already taken place. The Council cannot provide any funding for funeral arrangements to families, whether the funeral has taken place or not.

4.3 When there is concern about how the funeral costs are to be paid, it is important that relatives organising the funeral discuss this with the chosen Funeral Director at an early stage in the arrangements. Once funeral arrangements have been made under contract with a funeral director the relatives will be responsible for paying their costs, in some cases a deposit may be required.

- 4.4 If a relative organising the funeral are receiving certain benefits, such as Income Support, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Pension Credit, Housing Benefit, Council Tax Benefit, Working Tax Credit or Child Tax Credit, they may be entitled to a funeral payment from the [Social Fund](#).

5.0 Referrals to a local authority

- 5.1 If there is nobody willing or able to make the funeral arrangements, the case may be referred to East Northamptonshire Council, who will then be responsible for making the arrangements under S46 of the Public Health (Control of Disease) Act 1984. Referrals to the Council are usually made by the Coroners Office. However local care homes may also contact us directly where it is known that there are no next of kin.
- 5.1 If the deceased had a family who are unable to make suitable arrangement, the nearest surviving relative will be required to sign a form stating that they are willing for the Council to make the funeral arrangements, and understand that costs will be recovered from the deceased's estate. If the family have already removed any possessions from the deceased last place of residence, these may need to be returned to the Council to help offset the funeral costs.
- 5.2 If the deceased died outside of East Northamptonshire Council's boundary, the funeral arrangements will be the responsibility of the local authority where they died, even if they had lived in East Northamptonshire.
- 5.3 Once the Council has accepted a case, the Environmental Protection team will deal with all aspects of the organisation of a funeral, including registering the death, dealing with the funeral directors to make the arrangements, and paying for the funeral. A cremation service will normally be held at Kettering Crematorium, unless it is established that the deceased would have chosen a burial for religious, cultural or personal reasons, or if a check in the property of the deceased showed a burial plot had been purchased and this is confirmed with the appropriate cemetery and there is room for them to be buried in it. If a burial is required and the deceased did not own a grave, burial will take place in an unmarked public grave in the appropriate cemetery.
- 5.4 The Council's contracted funeral directors will provide everything necessary for a simple but dignified service, including a coffin, transport of the deceased to the Crematorium or Cemetery in a hearse, and sufficient bearers to transfer the coffin to the chapel. However there will be no provision for flowers. The funeral director will also arrange for a minister of religion or a representative of the faith of the deceased to lead the service. If a non-religious service is appropriate, a civil funeral celebrant will be used. Family and friends may attend the funeral service, but they will have no choice as to where and when it is to be held. To the casual observer, the funeral will appear no different to a simple ceremony not arranged by the Council.
- 5.5 Following the cremation, the cremated remains will normally be interred in an unmarked but recorded location in the Gardens of Remembrance at Kettering Crematorium. In exceptional circumstances the cremated remains may be given into the care of a close family member or friend.

6.0 Property Search

- 6.1 Prior to making the funeral arrangements, Environmental Protection officers will search the last known address of the deceased. The search will focus on finding a will, evidence of family or friends, and any items that may be used to offset the funeral costs. This may entail removing personal possessions from the property, including address books, correspondence, legal documents, financial paperwork and possessions such as jewellery that may be sold to raise money.
- 6.2 Any items removed from the property will be retained under secure conditions at East Northamptonshire Council offices for a minimum of 12 months following the funeral. Environmental Protection officers are not responsible for clearing or cleaning the property.
- 6.3 Following the completion of the search the property will be secured and the keys returned to the landlord. If the property was owned by the deceased, the case will be referred to the Treasury Solicitor and their instructions regarding the property will be followed.

7.0 Executors of a Will

- 7.1 The Council will not be able to make funeral arrangements in cases where the deceased left a will and the executor is traced; in these circumstances the executor would be expected to organise the funeral. In some cases the named executor of a will is the solicitor that helped draft the will in the first place. If the executor wishes to revoke their duties, they must make a formal renunciation of the will and declare that they wish to have no further involvement in the funeral arrangements.
- 7.2 The executor must ensure that the person's desires expressed in the will are carried out. Practical responsibilities include gathering up and protecting the assets of the estate, obtaining information in regard to all beneficiaries named in the will and any other potential heirs, collecting and arranging for payment of debts of the estate, approving or disapproving creditor's claims, making sure estate taxes are calculated, forms filed, and tax payments made, and in all ways assist the solicitors for the estate (which the executor can select).

8.0 Estate Administration

- 8.1 East Northamptonshire Council are entitled to recover their costs when making funeral arrangements under Section 46 of the Public Health (Control of Disease) Act 1984. They are not, however, empowered to administer the estate. Where there is a surplus of over £500.00 once all costs incurred in making the funeral arrangements have been reimbursed, the Council will refer the case to the Treasury Solicitor under [Bona Vacantia](#).
- 8.2 Where there are known family, however, the case cannot be referred to the Treasury Solicitor. Under such circumstances, the Council will hold all monies until a legally entitled person demonstrates their suitability to administer the estate through the holding of letters of administration from the courts. Under no circumstances will money or property from the estate be given to any family member without proper lawful authority.

9.0 Death in a Hospital

- 9.1 If the deceased died as an in-patient in a hospital managed by an NHS Trust and there are no relatives, the NHS Trust may assume responsibility for the funeral arrangements and recover their expenses from the deceased's estate.

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10.0 Glossary of terms

Term	Definition
Bona Vacantia	"Bona Vacantia" literally means vacant goods and is the legal name for ownerless property that passes to the Crown. They administer the estates of persons who die intestate without known kin and collect the assets of dissolved companies and failed trusts.
Intestate	Where no will has been made
Treasury Solicitor	The Treasury Solicitor's Department is the largest provider of legal services across government, working with over 180 government departments and agencies. It also collects bona vacantia on behalf of the Crown
Executor	The person appointed to administer the estate of a person who has died leaving a will which nominates that person.

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EIA Initial Screening Form – service or function

1. Name of Service or Function:	
2. Name and Job title / role of person completing Initial Screening:	Jenny Walker, Environmental Protection Manager
3. What is the main purpose of the Service or Function?	Public Health Funerals
4. List the main activities of the Service or Function:	The provision of Public Health Funerals for persons who have died in our district where no arrangements for a funeral are being made as required by the Public Health (Control of Disease) Act 1984
5. Who are the main beneficiaries of the Service or Function?	This service ensures that those who have died in our district without any family or friends able to organise a funeral that they will be appropriately interred.
6. How is the success of the Service or Function measured?	Good reputation of the council
7. Are equality monitoring systems in place?	No <i>(If yes give details)</i>

8. Use the following table to indicate using a ✓:

- a) Where you think that the Service or Function could have a positive impact on any of the groups or contribute to promoting equality of opportunity or improving relations within equality groups.
- b) Where you think that the Service or Function could have a negative impact on any of the equality groups i.e. it could disadvantage them.
- c) Where you think that the Service or Function could have a neutral impact on any of the equality group i.e. no impact

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
Gender:				
Women/Girls			✓	
Men/Boys			✓	
Transgender people			✓	
Sexual Orientation:				
Lesbians, gay men and bisexuals			✓	
Race/Ethnicity:				
White British people			✓	
White non-British people (including Irish people)			✓	
Asian or Asian British people			✓	
Black or Black British people			✓	
People of mixed heritage			✓	
Chinese people			✓	
Travellers (Gypsy/Roma/Irish heritage)			✓	
People from other ethnic groups			✓	
People who do not have English as their first language			✓	
Disability:				

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
Physical impairment, e.g mobility issues which mean using a wheelchair or crutches.			✓	
Sensory impairment, e.g blind/having a serious visual impairment, deaf/having a serious hearing impairment.			✓	
Mental health condition, e.g depression or schizophrenia			✓	
Learning disability/difficulty, e.g. Down's syndrome or dyslexia, or cognitive impairment such as autistic spectrum disorder			✓	
Long-standing illness or health condition, e.g. cancer, HIV. Diabetes, chronic heart disease or epilepsy			✓	
Other health problems or impairments (<i>please specify if appropriate</i>)			✓	
Age:				
Older People (60+)			✓	
Children and Young People (see guidance for definition)			✓	
Religion/Belief:				
Christian	✓			The deceased shall be treated in accordance to their religion/belief or wishes where these are clearly known.
Buddhist	✓			
Hindu	✓			
Jewish	✓			
Muslim	✓			
Sikh	✓			
Other religion (including holding no belief)	✓			
Other Potentially Affected Groups				

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
Rural Isolation - People who live in rural areas e.g isolated geographically, lack of internet access			✓	
Socio-economic Exclusion – e.g. people who are on benefits, have low educational attainment, single parents, people living in poor quality housing, people who have poor access to services, the unemployed or any combination of these and the other protected strands	✓			The local authority is required to make arrangements where none are being made, no deceased who has no financial means to pay for a funeral will be treated with less dignity and respect and will be appropriately interred.
Any other potentially affected groups (<i>please specify</i>)				
9. If you have indicated that there is a negative impact on any group:				
a) Is that impact against legislation?	Yes		No	
b) What is the level of impact?	High		Low	
10. Could you minimise or remove any negative impact that is of low significance?	How? N/A			
11. Could you improve a positive impact of the Service or Function?	How?			
12. If there is no evidence that the Service or Function promotes equality of opportunity or improved relations, could it be adapted so that it does?	How?			
Head of Service signature				
Date of Initial Screening:	15/2/2013			