

Title of meeting:	Resources Portfolio Decision Meeting
Date of meeting:	22 January 2019
Subject:	Provision of Community Funerals
Report by:	Director of Culture, Leisure and Regulatory Services
Wards affected:	All
Key decision:	No
Full Council decision:	No

1 Purpose of the report

1.1 To provide clarity in respect to Portsmouth City Council's (the Council) Community Funeral procedural framework.

2 Recommendations:

2.1 RECOMMENDED that the Cabinet Member for Resources:

- i. Approves the manner in which community funerals are delivered, as outlined in Section 13 of this report.
- ii. Notes the financial pressures placed upon the community funerals service, as set out in Section 17 of this report.

3 What is a community funeral?

3.1 When a person passes away in Portsmouth and there is no one else willing to pay, the Council is required to initially pay for and make the necessary arrangements for a community funeral. Funerals of this type are conducted in a professional manner, with punctuality and the utmost levels of decency, decorum and respect.

3.2 Prior to commencement, the Council will try to locate surviving relatives or friends of the deceased and if possible pass the responsibility on to them. Where this is not possible, the Council under its obligations will deal with all aspects of the funeral.

3.3 The delivery of the Council's responsibilities in respect to community funerals are generally, but not exclusively, delivered by Regulatory Services. Other services, such as Adult Social Care, are at liberty to undertake the

responsibilities for individuals in their care, however, Regulatory Services will, following the completion of a Service Level Agreement, act on behalf of other Council agencies / services as necessary.

4 The Law

4.1 Section 46(1) Public Health (Control of Disease) Act 1984 places a duty on local authority: *“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”*.

4.2 Section 46(2) extends this to any council which is the local authority for the purposes of the Local Authority Social Services Act 1970 with regard to any deceased person who immediately before death was being provided with accommodation under Part III of the National Assistance Act 1948 by, or by arrangement with, the council or was living in a hostel provided by the council under section 29 of that Act.

5 Why doesn't the Government pay?

5.1 The House of Commons Work and Pensions Committee (HofCW&PC) considered Social Fund funeral payments and bereavement benefits in respect to the provision of funerals in its report: *Support for the bereaved, 9th Report of Session 2015-16, HC 551*. The summary explained:

“Social fund funeral payments are means-tested and claimants must meet eligibility criteria in order to receive a payment. The scheme pays for the purchase of: a grave and burial fees; or a crematorium fee and any medical fees necessary for a cremation to take place. The amount awarded to meet these fees is uncapped. The scheme also pays up to £700 towards other costs associated with a funeral, such as a coffin, a hearse, funeral director fees and flowers. The maximum award for other essential funeral costs has been fixed at £700 since 2003. It now does not cover the cost of a simple funeral. In addition, funeral director fees have risen well above the rate of inflation.”

6 What does the Council need to provide?

6.1 The Local Government Association submitted written evidence (January 2016) to the HofCW&PC in respect to the manner in which local authorities discharge their responsibilities. The Committee noted that there is no set standard for community funerals and different local authorities have different practices in place (*Section 63 HCC 551*).

7 What is the recent demand for services in Portsmouth?

7.1 Regulatory Services has seen an increase in the number of referrals for community funerals in recent years - see Table 1.

7.2 The increase is due to a growing number of relatives / family members not being prepared or able to accept responsibility for making the necessary funeral arrangements for their deceased relatives.

7.3 The reason often put forward is that remaining relatives / families cannot afford the cost of the funeral. They frequently explain they are not eligible for the Department of Work and Pensions Social Fund and are happy to allow the Council to make the funeral arrangements. In doing so they expect the Council to cover all the costs. In some such cases family members try to influence the type of funeral, caskets, flowers, grave type and location etc. Where this occurs, officers sensitively explain that whilst the Council is organising and paying for the funeral we will determine the arrangements.

7.4 The number of community funerals in 2018 / 2019 is predicted to exceed the number delivered in 2017 / 2018.

Table 1

Year	Number	Year	Number
2010 / 2011	20	2014 / 2015	29
2011 / 2012	26	2015 / 2016	42
2012 / 2013	19	2016 / 2017	59
2013 / 2014	16	2017 / 2018	56

8 What are the costs of delivering a community funeral?

8.1 The Council is particularly mindful of the costs associated with delivering its obligations, especially in light of the 40 per cent reduction in funding that the Council has received since 2010 and the forecast 24 per cent reduction to 2020.

8.2 The Council can claim back the costs of providing the funeral from the deceased's estate. However, there may not be sufficient assets in the estate to claim back the full costs associated with this work - including officers' time and the cost of the funeral. This process can be time consuming and is a significant burden on this authority. Currently the Council has an assigned staffing resource of 0.6 FTE to this role.

8.3 There are some variables however, the basic current contracted costs of delivering a community funeral is £1182.

9 Is funeral poverty increasing demand for community funerals?

9.1 Data taken from the 'Sunlife Cost of Dying' report 2018 states:
The average funeral in the UK now costs "£4,271 - which marks a 4.7% jump since 2017. This adds up to a 122% increase since we first started tracking funeral pricing back in 2004".

10 In terms of cremation or burial what do other local authorities employ?

10.1 Data in respect to local authorities discharging their responsibilities through burial or cremation are difficult to find, however, in 2010 the research team of the Local Government Association conducted a survey in respect to community funerals undertaken by local authorities in England and Wales.

10.2 Respondents were asked how many of the funerals which their authority had conducted in 2009 / 10 were burials and how many were cremations. The majority of funerals were cremations, accounting for 76% of funerals. 10% of respondents indicated this was an estimate.

10.3 A search of the internet reveals that several of our neighbouring local authorities have taken the view that cremation is a viable option. Such authorities include the Unitary Authority of Southampton which states on their website that *"unless there is evidence that the deceased would have been against cremation, the funeral arrangements will be made for a cremation at Southampton Crematorium"*.

10.4 Portsmouth City Council provides and manages cemeteries under the provisions of the Local Authorities' Cemeteries Order 1977 as amended in 1986. The city council is under no statutory duty to provide a cemetery, but it is required to maintain its existing cemeteries. If current trends and practices in relation to burial in Portsmouth continue, it is projected that there is sufficient burial space to accommodate wishes in the medium term, but space is finite and given the pressures on land space in the city, it will be prudent to consider options as soon as possible. This therefore is being considered within a separate report "Supporting the bereaved in Portsmouth".

11. The use of genealogical researchers

11.1 It is our experience that there is increasing interest by heir hunters in pursuing works associated with community funerals.

11.2 The Law places no statutory duty, obligation or other material reason to seek or locate relatives of a deceased person through a probate researcher, heir hunters or any other agent.

11.3 In circumstances where there is a known relative who cannot be located, the Government Legal Department's (GLD) Bona Vacantia Division will not accept a referral of the estate. In such circumstances, we are aware that a number of other local authorities use genealogical researchers (or similar) to locate relatives. It is our assessment that the use of such is particularly problematic and that such companies should not be instructed. The reasons for this are complex but are formed around the following:

- which researcher is used (procurement of such);
- the application of 'finders fees';
- the authority of the researchers to act on behalf of the local authority;
- ensuring that the entitlements of all relatives are met in respect to the estate;
- the abilities of researchers to evidence and verify claims.

12 Claiming estates

12.1 In respect to claiming an estate the Council take an identical approach to that of the GLD.

12.2 In order to make a claim on an estate individuals or companies (such as probate companies) need to provide prescriptive documentary evidence in respect to the validity of their claim. Evidence must be provided to satisfy the Council, on balance, the claimant is related to the deceased and entitled to a share in the estate.

12.3 The Council will deal with, and admit, the first fully documented claim we receive which is supported by sufficient evidence. In accordance with the GLD, once a claim is accepted we do not accept claims from other relatives, as the first claim is protected by law.

13 How will the Council deliver community funerals in the future?

13.1 The Council is mindful that a community funeral should be a "last resort". As such, reasonable enquiries of remaining relatives and families must be made.

13.2 The Council endorses the fact that any family members which are known of should be written to requesting the following information:

- why they are unwilling / unable to make arrangements for the funeral;
- in respect to their financial situation; income, expenditure, savings etc.;
- as to the religious beliefs of the deceased in order to, where possible, facilitate these.

13.3 Unless it is known that our chosen method would be contrary to the deceased's wishes, the Council will decide upon whether a person is buried or cremated.

13.4 In deciding whether a burial or a cremation will take place the Council will:

- meet any legal requirements;
- consider the verified religious beliefs of the deceased;
- consider the deceased's expressed wishes to be buried or cremated - i.e. verified either within a will or written statement.

13.5 Where a cremation is arranged by the Council the ashes will be scattered in a suitable location at a crematorium / or as appropriate left in the care for a member of the family. Ashes will not be looked after by the Local Authority.

13.6 Other areas which may have a bearing on whether a cremation or burial may be considered are:

- cemetery space and availability;
- the costs incurred.

13.7 The council will not become involved if funeral arrangements have already been made or the funeral has taken place. Anyone giving instructions to a funeral director will be responsible for any costs incurred.

13.8 Where known, in accordance with the faith of the deceased, the Council will make arrangements for a minister of religion or a religious representative to be present to conduct a simple service. If unknown the Council will arrange for appropriate representation to be present during the funeral.

13.9 The Council's appointed funeral director will provide a dignified funeral with a coffin taken to the crematorium or cemetery in a hearse attended by bearers.

13.10 Genealogical researchers (or similar) will not be used to locate relatives and the Council will not engage with such companies.

13.11 Where friends or family wish to place a headstone (or similar) upon a grave following a community funeral such arrangements will not be supported / facilitated until such times as the cost of the funeral has been settled.

13.12 Where appropriate, and where funds are available, a full cost recovery administration charge will be claimed from the estate of the deceased.

14 Procedural compliance

14.1 The Council's last audit review of the community funerals process was conducted as part of the 2016 / 2017 Audit Plan. Limited assurance was given at the time of the review however the report noted that mitigating controls had been implemented before the audit was complete. A follow up audit was conducted in January 2018 and Internal Audit gave reasonable assurance that the community funeral process was of low risk to the Authority.

14.2 Upon approval the recommended changes to policy will be adopted within process documentation.

15 Equality / Community Impact Assessments

15.1 The Equality Impact Assessment appended to the report assesses the impact of the community funeral process. It is concluded that there is potential for a community funeral to offend the religion or beliefs of the deceased. Through process this has partially been addressed. The beliefs of the deceased are not always known but if viable evidence for cremation exists (for example in a will) this will be respected and the community funeral will involve cremation.

15.2 The process does not impact on those who die with next of kin or remaining relatives when the remaining family members make the funeral arrangements.

15.3 The process does not impact on next of kin or family members who are eligible to receive the Department of Work and Pensions Social Fund to assist with the cost of the funeral of relatives. This group will continue to be eligible for the grant.

15.4 The proposed process includes procedural safeguards in relation to aspects of the way the process is managed, including the introduction of writing, in a timely manner, to known relatives who are unable or unwilling to make the arrangements for the funeral. This clarifies the process to the relatives including the intention that costs will be recovered from the deceased's estate.

16 Legal implications

16.1 The Council has a statutory duty to make arrangements for the disposal of bodies when the necessary arrangements are not being made.

16.2 The Council would need to ensure that all costs are recovered as far as possible.

16.3 The cost of the funeral can be met out of the estate of the deceased. The process will be administered by an executor or administrator if the deceased

died with a will. The executor will take steps to establish if the estate can fund the funeral costs.

16.4 Where the deceased has not left a will the person arranging the funeral (normally their next of kin) is liable to meet the funeral costs if they have contracted with a funeral provider. If they have not so contracted there is no legal obligation. The only exception is at common law a parent should if able pay for the cost of a child's funeral (although this area is currently under review by the Government).

16.5 Funeral expenses are the first call on any estate and so the Council can reclaim its expenses if there are any assets in the deceased's estate. Although unusual, assets recovered from a deceased person's property may be sold to assist in the funding of the funeral arrangements.

16.6 Council staff can be given authorisation to enter a property, under the provisions of section 61 (1) (9d) of the Public Health (Control of Disease) Act 1984 to ascertain the extent of the estate; find or ascertain the location of a will and to remove any items or assets which may assist in funding the funeral.

17 Financial comments

17.1 With Regulatory Services facing a mixture of pressures, there is significant concern that the increasing demand for community funerals will further increase the financial pressures placed upon this function.

17.2 The service includes ongoing budgetary provision for a 0.6FTE Band 8.

17.3 The 0.6 FTE has two primary functions - 1. delivery of funerals through our appointed funeral director and 2. the recovery of costs for the funerals from the estates of the deceased (if funds are present).

17.4 The demands upon this resource are obviously increasing through the growing demand for funerals and therefore the ability of the service to recover costs (if present) as a result of the time required to deliver such is in significant doubt.

17.5 The cost of each funeral is approximately £1200. Although the Council has a legitimate claim on any assets within an estate to recover the funeral costs, moving forward, despite full cost recovery mechanisms, it is likely the community funerals will face a deficit in terms of full cost recovery from the estate of clients. Currently, the service is budgeted to cover a deficit based on an estimate of 60 funerals each year and an 80% cost recovery rate. Any additional cost arising from changes in demand or recovery rates will need to be met from within the existing Portfolio budget.

18 Comments from the Director

18.1 There are a number of interrelated factors driving up the demand for and associated costs with recovering the Council's expenditures for community funerals. The increase in demand of 268% in the last 4 years may be as a result of an aging population or possibility that an increasing number of people access community funerals because they have no way of making up the shortfall between the price of a basic funeral and the award they could hope to receive from the Department of Work and Pensions Social Fund or not eligible for it in the first instance. Whatever the reason the current growth trend and the abilities of Regulatory Services to process funerals and recover costs are unsustainable.

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Signed by: Stephen Baily, Director of Culture and City Development

Appendix 1: Equality Impact Assessment

Background list of documents: The following list of documents discloses facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of Document	Location
Support for the bereaved - 23 rd March 2016	https://publications.parliament.uk/pa/cm201516/cmselect/cmworpen/551/551.pdf
Sun Life Cost of Dying Report 2018	https://www.sunlife.co.uk/siteassets/documents/cost-of-dying/cost-of-dying-report-2018.pdf
Public Health Funerals - Southampton City Council	https://www.southampton.gov.uk/people-places/ceremonies/funerals-bereavement/public-health-act-funerals/

The recommendations were approved / approved as amended / deferred / rejected by the Cabinet Member for Resources on 22 January 2019

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Signed by: Jeanette Smith, Cabinet Member for Resources