

Title of meeting:	Resources Portfolio Decision Meeting
Date of meeting:	5 th October 2023
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 and provide information regarding the demands for this function and the consequential impacts of such.

1.2 To update the previous report presented to the relevant Portfolio Holder in January 2019.

2 Recommendations:

2.1 RECOMMENDED that the Cabinet Member for Resources:

- i. Recognises that the primary function of this service is to provide community funerals in a professional manner, with punctuality and the utmost levels of decency, decorum, and respect.

- ii. Acknowledges the stresses being placed upon the wider regulatory functions as a result of continuing high demand for community funerals - as set out within Section 7 and 8 of this report.
- iii. Approves the manner in which community funerals are delivered - as outlined in Section 11 of this report.
- iv. Notes the financial pressures incurred from delivering this function - as set out in Section 14 of this report.

3 Introduction - What is a community funeral?

3.1 If a deceased person left a will and appointed executors, they have the primary responsibility for arranging the funeral. Where there is no will, the person who would be entitled to administer the estate (usually the closest relative) would generally have this responsibility. In practice, it is often family members or friends who arrange the funeral, sometimes on behalf of, and with the specific authority of, the executors.

3.2 However, when a person passes away in Portsmouth and there is no one else willing to take responsibility, the Council is legally required to initially pay for and make the necessary arrangements for a community funeral.

3.3 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 legal obligations will deal with all aspects of the funeral.

3.4 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.

3.5 Having arranged a funeral, the Regulatory Services will claim the costs of the funeral from the deceased's estate if there are sufficient funds. The Council do not have powers to reimburse funeral costs where a third party has already arranged a funeral. Anyone, including the Council, who makes arrangements with a funeral director are considered to have a binding contract and are therefore personally liable to pay the costs. This is of particular importance where there is insufficient property in the deceased's estate to pay for the funeral and the reason why Regulatory Services have consistent policies and procedures in respect to such arrangements.

4 Can the Government help?

4.1 Yes, the Government can help. For example, payments from the Social Fund (part of the social security system) can be made to claimants of means-tested benefits and tax credits to help meet the costs of a funeral. Payments are made from the regulated Social Fund and, as such, are not limited by budgetary constraints. The rules of the scheme in Great Britain are contained in the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 as amended. Under the scheme, full help may be given with certain funeral expenses including burial or cremation. Other expenses, such as funeral directors' fees, the cost of a coffin, church fees and flowers, may be covered up to a maximum of £1,000.

4.2 The Government acknowledge that the payment, if available, will not usually cover all of the costs of the funeral. How much is received depends on individual circumstances. This includes any other money that's available to cover the costs, for example from an insurance policy or the deceased person's estate. These payments will not be usually paid to claimants directly they are usually sent to the funeral directors on provision of an invoice.

5 The Law

5.1 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”.

5.2 Local authorities have a legal duty not to cremate a body where they have reason to believe that cremation would be contrary to the wishes of the deceased.

5.3 Beyond the method of committal, local authorities are not legally required to accommodate any requirements the deceased may have had in relation to their religion or belief, although if these are known and documented attempts will be made to reflect such in our arrangements. If local authorities cannot ascertain the wishes of the deceased and there is no known preference, the Council will carry out our duties in line with our standard documented practices.

5.4 There is no formal requirement to provide a funeral service, although Regulatory Services will ensure that all funerals are attended by clergy and witnesses to ensure that appropriate respect and recognition of the deceased is provided.

6 What does the Council need to provide?

6.1 Local authorities have varying approaches in meeting the legal requirements set out above and certain practices carried out in one authority may not be suitable for another as policies will be influenced by local circumstances. However, the following guiding principles are used to support our good practices in Portsmouth:

- **Ensuring the deceased are treated with dignity and respect** - Ensuring dignity and respect of the deceased, regardless of their circumstances, is of the utmost importance.
- **Minimising public health risks** - Public health funerals play a critical public health role, and therefore it is important to maintain public health considerations when creating our policies.
- **Being considerate of the bereaved; make efforts to find the next of kin and keep them informed of arrangements** - Wherever possible, we will take steps to locate the next of kin although we have no legal obligation to do so. Engaging with

them sensitively and keeping them informed of arrangements is both important for them and for ensuring dignity and respect for the deceased.

- **Recouping costs as far as possible** - Wherever possible it is important to we attempt to recover expenses to minimise costs to the taxpayer. Besides secured debts (e.g., mortgages), funeral costs are the first charge on an estate and the 1984 Act enables cost recovery.
- **Being transparent** - It is important that we make our processes publicly available and accessible, and to provide information on local arrangements for anyone requesting our assistance.

7 What is the recent demand for services in Portsmouth?

7.1 On the 14 October 2014, the former Portsmouth Hospital (NHS) Trust (now Portsmouth Hospitals University NHS Trust) formally confirmed that they would suspend a number of the discretionary services they currently provided and would thereafter no longer be burying patients that pass away in their facilities. As from 1st April 2015 the Council became responsible for fulfilling its full legal obligations under the 1984 Public Health (Control of Disease).

7.2 The impact of having a regional hospital which provides a regional cancer centre and tertiary services to a catchment area of more than 2 million people means that the number of persons requiring assistance with community funerals is proportionately significantly larger than local authorities which do not benefit from such facilities.

7.3 While the Council fulfils its duties under no circumstances will it deal with any disposal of any person who dies outside of Portsmouth's boundaries. This includes the Council properties in Leigh Park and Wecock Farm estates within Havant. This however does not preclude the visiting of deceased properties where they have passed away in Portsmouth but reside outside our boundaries.

7.4 Regulatory Services has seen a continued high demand in referral numbers for community funerals in recent years - **see Table 1.**

7.5 The number of funerals delivered is also recorded, which highlights where we have been able to contact next of kin / or similar and they have agreed to take on the responsibility for the funeral - **see Table 2.**

7.6 The demand is due to relatives / family members not being prepared or able to accept responsibility for making the necessary funeral arrangements for their deceased relatives. Or, extremely sadly, as a result of the deceased not having relatives / friends who can help.

7.7 By opting for a community funeral control of the funeral falls completely on the Council and we must determine the scope of the arrangements to be made.

Table 1 - Number of referrals received.

	Total	Male	Female	Under 18	18-59	60+
2012/13	22	16	6	0	4	18
2013/14	19	14	5	0	7	12
2014/15	36	32	4	0	6	30
2015/16	46	38	8	0	11	35
2016/17	73	54	19	0	16	57
2017/18	76	49	27	0	14	62
2018/19	76	64	12	0	17	59
2019/20	59	49	10	0	9	50
2020/21	89	65	24	0	17	72
2021/22	50	43	7	0	10	40
2022/23	59	44	15	0	8	51
2023/24	26	20	6	0	6	20

Table 2 - Number of funerals carried out.

	Total	Male	Female	Under 18	18-59	60+
2012/13	17	12	5	0	2	15



2013/14	17	12	5	0	7	10
2014/15	30	27	3	0	6	24
2015/16	42	35	7	0	11	31
2016/17	59	45	14	0	13	46
2017/18	57	39	18	0	13	44
2018/19	55	46	9	0	11	44
2019/20	38	29	9	0	7	31
2020/21	73	55	18	0	15	58
2021/22	37	31	6	0	9	28
2022/23	43	32	11	0	5	38
2023/24	19	15	4	0	5	14

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 in respect to community funerals.

8.2 As previously mentioned, the Council can claim back the costs of providing the funeral from the deceased's estate. Cost recovery is an extremely time consuming and complex process which is far more resource intensive than the process of making the necessary funeral arrangements. Cost recovery involves property searches to acquire useful financial paperwork and significant correspondence with banks and other monetary institutions in order to recover our costs.

8.3 Frequently, however, there are insufficient assets in the estate to claim back the full costs associated with this work - including officers' time and the cost of the funeral. This therefore places a significant burden on this function.

8.4 Currently the Council has an assigned staffing resource of 0.6 FTE to this role which is insufficient and therefore resources are routinely transferred from other functions within Regulatory Services. Doing so places additional burdens upon their own responsibilities and demands for service in those areas.

8.3 Whilst there are some variables, the basic current contracted costs of delivering a community funeral is £1,814. These have increased significantly following the recent procurement process for a contracted funeral director. Previously costs through the term of the previous 7-year contract remained unchanged at approximately £1,300.

9 The use of genealogical researchers

9.1 It is our experience that there continues to be interest from heir hunters in pursuing works associated with community funerals.

9.2 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.

9.3 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.

10 Claiming estates

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

10.2 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.

10.3 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.

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

11.1 The Council's processes are similar as those details in the 2019 report. However, in line with good practice these have been assessed, amended as necessary and are summarised below.

11.2 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.

11.3 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
- as to the religious beliefs of the deceased in order to, where possible, facilitate these.

11.4 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 and where such is undertaken.

11.5 The Council will make appropriate decisions in respect to meeting the needs of friends and family who are located outside the boundary of Portsmouth and may organise the final resting place in accordance with such.

11.6 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, signed and dated.

11.7 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.

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

- cemetery space and availability
- the costs incurred.

11.9 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.

11.10 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.

11.11 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.

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

11.13 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.

11.14 Where appropriate, and where funds are available, a full cost recovery administration charge will be claimed from the estate of the deceased or other services on behalf of which Regulatory Services is acting.

12 Integrated impact assessment

12.1 The IIA is attached as Appendix 1

12.2 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.

12.3 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.

12.4 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.

12.5 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.

13 Legal implications

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

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

13.3 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.

13.4 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.

13.5 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.

13.6 Council staff can be given authorisation to enter a property, under the provisions of section 61 (1) (d) 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.

14 Financial comments

14.1 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.

14.2 The service includes ongoing budgetary provision for a 0.6FTE Band 11.

14.3 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).

14.4 The demands upon this resource are consistently high and therefore the ability of the service to recover costs (if present) as a result of the time required to deliver such is facing significant challenge.

14.5 At present the cost of each funeral is approximately £1,814. This is a significant increase from the previous contract fee and should the number of community funerals carried out return to pre-covid levels then the service is likely to face substantial financial pressure. 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.

14.6 Currently, the service is budgeted to cover a deficit based on an estimate of 56 funerals each year and an 83% 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.

15 Comments from the Director

15.1 As in 2019 there are a number of interrelated factors maintaining the high demand for and associated costs with recovering the Council's expenditures for community funerals.

15.2 The continuing high demand and the abilities of Regulatory Services to process funerals and recover costs remain unsustainable and are consequently now significantly impacting upon the work and resources of the wider functions administered by Regulatory Services.

Signed by: Stephen Baily, Director of Culture, Leisure and Regulatory Services

Appendix 1: Integrated 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
Formal legislation.	Public Health (Control of Disease) Act 1984 (legislation.gov.uk)
Get help with funeral costs.	Get help with funeral costs (Funeral Expenses Payment): How it works - GOV.UK (www.gov.uk)
Public Health Funerals - Good Practice Guidance.	Public health funerals: good practice guidance - GOV.UK (www.gov.uk)

The recommendations were approved / approved as amended / deferred / rejected by the Cabinet Member for Resources on the 5th October 2023.

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Signed by: Councillor Lee Hunt, Cabinet Member for Resources