

# Public Document Pack

**Southend-on-Sea Borough Council**

**Legal & Democratic Services**

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08 January 2021

## **CABINET - THURSDAY, 14TH JANUARY, 2021 SUPPLEMENTARY REPORT PACK: PUBLIC HEALTH BURIALS**

Please find enclosed, for consideration at the next meeting of the Cabinet taking place on Thursday, 14th January, 2021, the following report that was unavailable when the agenda was printed.

### **Agenda No    Item**

**21.    Public Health Burials (Pages 1 - 14)**

Report of Executive Director (Neighbourhoods and Environment) attached

Robert Harris  
Principal Democratic Services Officer

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**Southend-on-Sea Borough Council**

**Report of Executive Director Neighbourhoods and  
Environment**

**To**

**Cabinet**

**On**

**14<sup>th</sup> January 2021**

Report prepared by: Elizabeth Georgeou - Head of  
Regulatory Services

**Agenda  
Item No.**

**Public Health Act Funerals Policy**

**Cabinet Member: Councillor Terry**

**A Part 1 Public Agenda item.**

**1. Purpose of Report**

To request that Cabinet consider the adoption of the Public Health Act Funeral Policy and for Regulatory Services to review the Policy on an annual basis.

**2. Recommendation**

- 2.1 That Cabinet agrees to adopt the Public Health Act Funeral Policy, November 2020.
- 2.2 The Cabinet agrees that Regulatory Services review the Policy on an annual basis and present any proposed changes to the Policy to Committee for adoption.

**3. Background**

Southend-on-Sea Borough Council has a statutory duty under Section 46(1) of the Public Health (Control of Disease) Act 1984 ("the Act") to bury or cremate the body of any person who has died or found dead within the Borough boundaries, where it appears to the Council that no suitable arrangements for the disposal of the body have been or are being made. This includes those that die as in-patients in Hospital.

The responsibility for making arrangements for those that have died in Southend Hospital transferred to the Council in April 2019. This has resulted in an additional demand on the service.

The statutory duty is in place as a public health protection rather than a social care or welfare issue.

In addition to those who do not have anyone to make funeral arrangements it is recognised that funeral poverty may mean that family members cannot afford to make their own arrangements. There are also circumstances where families choose not to take on this responsibility. In all these cases the responsibility falls to the Council.

Where there are families who are receiving benefits the Council is able to direct individuals to the funeral payments which are available from the Social Fund, and can then make their own arrangements should they wish to do so .

The Council is able to recover the costs, where they have made the funeral arrangements, where the deceased had assets available to do so.

There are no regulations which set out what the Council should provide as part of a public health funeral, it is for each Council to decide. A recent report produced by the Royal London '*Public Health funerals the UK Time to end the postcode lottery*' details the Councils who do not return ashes to bereaved families, makes a charge for returning ashes and / or does not allow family members to attend a public health funeral.

In 2019-20 the Council were asked to assist with 41 public health burials, of which the Council organised 22 funerals and either found a next of kin or established other arrangements were in place for the other 19 funerals. Since April 2020 the Council has already been asked to assist with 53 public health burials. The Council has arranged for 16 funerals, and either found the next of kin or established other arrangements were in place.

It is proposed that to provide dignity to those who may be suffering from funeral poverty that in addition to the statutory requirement to arrange for the cremation or burial, that a short service is arranged, and paid for by the Council. It is also proposed that the ashes are returned to bereaved families without charge. The anticipated cost of the short service is detailed in Section 6.2.

#### **4. Other Options**

4.1 This is a statutory duty and if not properly resourced may result in:

- the Council taking a longer time to discharge this duty;
- a reduced ability to recover assets to help in covering the cost where assets are available; and
- reduction in the number of family members identified who will then make their own arrangements.

#### **5. Reasons for Recommendation**

5.1 The arrangements for public health burials /cremations are a statutory responsibility and in order to provide transparency to the process it proposed that the Council detail its policy and publish this on the Council's website.

#### **6. Corporate Implications**

##### **6.1 Contribution to the Southend 2050 Road Map**

This service contributes to the Safe and Well outcome assisting vulnerable families that may experience funeral poverty to provide dignity to those families using this service.

##### **6.2 Financial Implications**

The resource allocated to Regulatory Services in April 2019 to discharge this duty was one officer for one day per week. Recording of officer time during the first

year has demonstrated that additional officer time, over that originally estimated, is required. The cost of the Council providing a short service at the funeral is estimated to cost £4,000 in total per year.

### **6.3 Legal Implications**

Under section 46(1) of The Public Health (Control of Disease) Act 1984 (“the Act”) the Council are under a duty to “cause to be buried or cremated the body of any person who has died or 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”.

### **6.4 People Implications**

The demand on Regulatory Services is an additional one day per week 0.2FTE. The duty for public health burials was passed to Regulatory Services on 1 April 2019 and it was estimated at that time by the department that previously dealt with public health burials, that the resource required would be one officer for one day per week. The estimate was not based on any time monitoring and was before the transfer of the duty from the Hospital to the local authority to make arrangements for when in-patients die in Hospital. Time monitoring was undertaken for the first year and has demonstrated the additional resource required. There is currently no additional funding available to meet this shortfall and the team will review current arrangements to continue to absorb this additional work.

### **6.5 Property Implications**

None

### **6.6 Consultation**

The consultation took place between 23 September to 23 October 2020. The consultation was promoted across social media, through the interactive consultation portal, the local hospital, coroners and funerals directors. Responses to the consultation suggestions is contained in **Appendix 2**.

### **6.7 Equalities and Diversity Implications**

Completed.

### **6.8 Risk Assessment**

The Council has a statutory duty on public health grounds in order to ensure that suitable arrangements are made where there is no next of kin, or no-one willing to undertake these arrangements. Failure to deliver this service may result in distress to families where additional time is taken to make arrangements, and the Authority’s ability to reconnect family and friends who may wish to make their own arrangements. It may also result in a failure to recover costs, where there are assets available, and additional costs for mortuary services.

The policy to fund a short service, and allow the ashes to be given to the bereaved provides dignity, which otherwise may impact on the wellbeing of the more vulnerable.

### **6.9 Value for Money**

In line with the provisions of “the Act” the Council will try to trace next of kin to enable relatives to take responsibility for making arrangements where they are willing and able to do so. Where this is not the case the Council will seek assets, as permitted in “the Act” to cover the cost of the funeral arrangements, where

there are assets to do so. The Funeral Directors undertaking the arrangements on behalf of the Council will be procured through the Council's procurement process.

## **7. Background Papers**

Royal London '*Public Health funerals the UK Time to end the postcode lottery*'.

## **8. Appendices**

Appendix 1 - Public Health Act Funeral Policy;  
Appendix 2 – Consultation Responses.

## **Southend-on-Sea-Borough Council Public Health Act Funeral Policy**

### Public Health Funerals - The Law

Section 46 of the Public Health (Control of Disease) Act 1984 obliges Southend-on-Sea Borough Council to cause to be buried or cremated the body of a person who died or was found dead in the Borough, where no other arrangements have been or are being made. This legislation allows the Council to recover all their costs incurred in making the funeral arrangements from the estate of the deceased (i.e. their property and possessions).

The legislation does not require the local authority to make funeral arrangements but rather to dispose of a dead body by burial or cremation to protect public health.

### How the Council undertakes this role

Where the deceased, has died within the boundary of Southend-on-Sea Borough Council, and there is no one willing or able to arrange the funeral, the Council will make the necessary arrangements. Referrals are received from a number of sources, including the Coroner, hospitals and directly from members of the public. The Council will seek to recover their expenses from the deceased's estate.

Those receiving certain benefits may be entitled to a funeral payment from the Social Fund. If a claim for assistance is rejected by the Social Fund, an application for a public health funeral can be made to the local authority. Evidence of their application for assistance may be required and the Council will then make the necessary arrangements and fund the funeral.

Southend-on-Sea Borough Council will not take on this responsibility if funeral arrangements have already been made, or if the funeral has already taken place.

The Council will try to find a will so that the wishes of the deceased can be respected. The Council will make reasonable efforts to contact the executor of a will, and to find family members. It is expected that if there is an executor or a family member, they would make their own arrangements for the funeral. If the executor wishes to revoke their duties and /or the family members are unable or unwilling to arrange the funeral the Council will make the funeral arrangements. A formal declaration will be required from the relevant parties that they wish the Council to make the funeral arrangements, and that they understand that costs, where available, will be recovered from the deceased's estate.

The Council is able to use assets, belonging to the deceased, to reimburse themselves for all incurred costs and expenses. The costs include the time spent trying to contact family members, dealing with the person's effects and arranging the funeral.

Where the deceased had any ownership of a property the Council will put a charge on the property so that costs can be reclaimed when the property is eventually sold. Where there are any remaining funds from the estate, in excess of £500 after the funeral has been arranged and paid, these funds must be sent to the Government's Legal Department as 'bona vacantia' assets for the Crown.

### Organisation of the funeral

The Council will register the death if the next of kin is unable to do so, make arrangements with a funeral director, and pay for the funeral. A cremation service will normally be held at Southend Crematorium, unless it is established that the deceased would have chosen burial for religious, cultural or personal reasons. A check of the Council's burial records is made to see if the deceased owned a grave in the Sutton Road 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 Sutton Road Cemetery.

The Council's funeral directors will arrange for a coffin, transport of the deceased to the Crematorium or Cemetery and transfer of the coffin to the chapel. The time of the funeral is decided by the local authority. The funeral director will arrange for a minister of religion, representative of the faith of the deceased or a civil funeral celebrant to lead a short simple service, where people are able to be involved with and attend the service. The next of kin, as advised by the family members or as determined by a genealogist, can take the ashes if they wish to. No flowers are included within the cost for the funeral.

Following the cremation, the cremated remains will be interred in the Gardens of Remembrance at Sutton Road Crematorium, two weeks after the service. Family members are able to attend this if they wish to do so. In exceptional circumstances, cremated remains may be given into the care of a close family member or friend with permission of the next of kin.

During emergencies, epidemics or pandemics the Council will follow guidance and principles directed by Government and Public Health organisations, and may deviate from this policy.

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**Appendix 2**

**Public Health Burials Consultation Report**

A total of 56 people accessed the campaign which ran from 23<sup>rd</sup> September to 23<sup>rd</sup> October 2020 of that 2 responded online, and a further 54 people who accessed it chose not to comment. The consultation included a survey with questions and a free text box for further comments and the Public Health Burials Policy Document was available to download or view online., which 16 used the download option.

The consultation was promoted across social media and was available on the Councils interactive consultation portal <https://yoursay.southend.gov.uk/> it was also made available in a hardcopy format if requested. Information about the consultation and the reason we are seeking views was sent directly to the local hospital, coroners offices and all funeral directors within the Borough.

The results to the survey and response to questions and suggestions made:

<b>1. Do you understand the policy and process</b>	
Of the two people responding one said they did the other said they didn't, this was a single response question.	There is no explanation as to what part or parts of the policy or process was not understood. Clarification is sought in question 2
<b>2. If you answered no, please explain why</b>	
It is unclear how someone can access a public health funeral (PHF) if the coroner is not involved or the body is not at a hospital, as 2.1 states this is where referrals are received from. For example, if the death is uncomplicated and the person dies at home, in a care/nursing home or hospice. How can the relevant family member/friend refer themselves? It is unclear from 2.2 whether it is a requirement in all cases, where someone is on a qualifying benefit, to apply for the Social Fund Funeral Expenses Payment (FEP) and be rejected before they can access a public health funeral. 3.2 and 3.3 reference the next of kin – The term next of kin holds no position in law so please could it be clarified how the next of kin is determined? Especially if the deceased did not leave a will or any nomination of next of kin.	<p>The sentence has been reworded to clarify that members of the public can make referrals for public health burials. More detailed information will be included in the guidance that will accompany the policy will include more detailed information.</p> <p>The issue for applying for the social fund has been clarified in the Policy.</p> <p>The next of kin is determined either through family members or by a search undertaken by a genealogist. This will be further expanded in the accompanying guidance.</p>
<b>Do you think the policy disadvantages anybody</b>	

<p>This was a single response question and out of the two people responding one said yes, the other no.</p>	<p>Clarification is sought in the next question.</p>
<p><b>If you answered yes please explain why</b></p>	
<p>As the policy doesn't currently indicate how someone can refer themselves in order to access a public health funeral for a family member/friend, it appears to disadvantage people where the body is not with the coroner or held in a hospital mortuary. We strongly believe people should be able to contact the Council directly. As well as members of the public being able to refer themselves it would also be very helpful if referrals could be accepted from third parties like ourselves, advice workers, social workers and so on. In connection with the above, we feel it is also important to include a section about what happens if someone dies at home, in a care/nursing home or a hospice and the body is collected by a funeral director. We are aware that some Councils will say that this means they won't take responsibility because a funeral director is already involved. We do not believe this should be the case as people often don't have any choice but to have the body collected, especially if it is out of hours or if the care/nursing home or hospice insists on the body being removed due to storage issues. We trust that Southend would not respond as others do by denying access to a PHF just because the body has been collected, but it would be reassuring for the policy to include a paragraph about this to explain what the procedure would be in these circumstances. Also to advise whether, even if a PHF was offered, the initial collection costs would still be payable by the relevant family member/friend. It would also be very beneficial if advice could be included for people who are anticipating a death and think a PHF will be required, in terms of what they should do if that person dies in the</p>	<p>The Policy does now indicate that the public can access public health burials. The detail of how will be included in the guidance.</p> <p>Care homes usually have their own policy and arrangements with funeral directors for individuals who have died in their care. It is not always clear at the outset whether there is going to be a public health burial. The guidance will expand on how this operates in practice.</p> <p>Family members and friends are able to attend the funeral, and are notified if we have their details. They are also invited to contribute to the service by the celebrant or minister appointed to deliver the service.</p> <p>The section of the policy which details access to the funeral expense payment has been clarified. The Council is a public body, responsible for public funds and must satisfy itself that if the funeral expense payment has been awarded that it is used to contribute to the public health burials. The Council is aware that the funeral expense payment would not cover the cost of the public health burial.</p> <p>There is a suggestion that the Council offers a municipal funeral service. This suggestion will be brought to the attention of the section of the Council that manages this area.</p>

above scenarios. 2.2 currently reads as though people may only be able to access a PHF if they have been rejected for the FEP. If this was the case this would hugely disadvantage people who are eligible for the FEP, but who are unable to pay the shortfall. According to Royal London's 2020 Funeral Cost Index Report, the average cost of a simple burial in Southend is £3,937 and for a simple cremation it is £3,296. Meanwhile the average FEP award in 2017-18 (the DWP has not published any more recent figures) was only £1,461. The average award will have increased slightly due to increases in cremation and burial fees, and this year's small increase in the 'other funeral expenses' part of the award of up to £300. However, even taking this into account it is still clear that the FEP covers only a portion of the average cost of a simple funeral. Therefore, if people were only able to access a PHF if they were rejected for the FEP this would completely ignore the fact that they may not be able to afford the shortfall. In which case, not only would this disadvantage them, pushing them into debt, but would also go against the Council's legal duty if they were still be unable to afford the funeral arrangements. In addition, some people are clearly ineligible, even if they are themselves receiving a qualifying benefit. This can be because another family member, who the DWP considers to be significant, is not on one of those benefits. Requiring these people to apply would put them through a complex, intrusive and often lengthy process unnecessarily, adding to their stress at an already difficult time and delaying the funeral, which can be very distressing. If however, there was a viable option locally, as we have seen in some Council areas, where they would definitely be able to access an attended funeral that was covered by the FEP

then this approach would be understandable. Another way of offering this as an option could be for the Council to set up their own municipal funeral service within the Council, to offer a simple funeral at a lesser rate that could be covered by the FEP. Or to tender for a couple of funeral directors to offer this for residents of Southend. It could also be helpful if the Council were able to offer support to residents who wanted to carry out the funeral themselves. Some people actively want to be more involved and it can also be a lot more cost effective. However, it can be very hard emotionally and is not suitable for most people, so it certainly shouldn't be pressed on people instead of offering a PHF. 3.1 We recognise it is not unusual to use an unmarked public grave for a PHF, but we would like to observe nonetheless that this will particularly disadvantage children/young people of the deceased. It can be difficult for children to process death and it can be made more real for them by having somewhere that they can associate with the person having died. If a grave marker is not possible, could there perhaps be a complementary entry in a book of remembrance? 3.1 We appreciate that for some hospitals and Councils it can be easier for them if the family/friend registers the death. However, if the person registering the death was not present at the time of death they may have to register as the person responsible for the funeral. If they are in fact not taking responsibility because the Council is this could technically be classed as a false declaration. We have also seen Councils use the fact that someone has registered the death to stop people getting a PHF, by claiming it shows them taking responsibility for the funeral. However, clearly this does not mean someone is actually making

<p>arrangements or that they can afford the costs. We trust that this is not the case in Southend, but believe it would be best to have this made clear in the policy to ensure this practice is not followed and that no one is disadvantaged. 3.2 references that the Council will “arrange for a minister of religion, representative of the faith of the deceased or a civil funeral celebrant to lead a short simple service where relatives and / or friends are attending the service”. This seems to imply that if no relatives or friends are attending that there would not be anyone to lead a service. This could be disadvantageous where someone died without any family or friends, but where a professional might want to attend, such as a care/nursing/hospice/social worker. It could also disadvantage the deceased if it was known by such a professional that the deceased followed a particular faith and would have wanted a religious service.</p>	
<p><b>3. The policy proposes that to provide dignity to those who maybe suffering from funeral poverty that in addition to the statutory requirement to arrange for the cremation or burial, that a short service is arranged, which can be attended by family and friends, which is paid for by the Council. It is also proposed that the ashes are returned to bereaved families without charge. Do you have a view on this? The options were</b></p> <ul style="list-style-type: none"> <li>• Agree with proposal</li> <li>• Disagree with proposal</li> <li>• No View</li> </ul>	
<p>Of the two responding, they both agree with the proposal.</p>	
<p><b>Do you have any recommendations/ suggestions to make about the policy</b></p>	
<p>Two people left another comment for the Council to consider.</p> <p>It would be nice if the simpler service were able to be personalised by friends and family of the deceased as it is important to be able to say goodbye in a manner appropriate to the deceased. However while wanting to assist people in genuine need the council must beware of the possibility of the service</p>	<p>The Council does contact friends and family, if they are known to them, to advise when the funeral is being held. The funeral directors, celebrants and ministers so that the service is personalised. More detail will be contained in the guidance.</p> <p>The policy will clarify that family members can attend the internment.</p>

being claimed by those able to pay. I hope the application will be rigorously investigated before ratepayers money is handed over. A substantial link to the Borough should also be proven.

Firstly, we would just like to say that we are delighted to see that Southend Council are not only creating a policy around public health funerals, but that they are also consulting on it. Thank you very much for contacting us for our input. We would also like to commend the Council for committing to providing a service that people can attend and to returning ashes without charge. The consultation information says that the policy will be used “to help guide our officers and those involved”. We trust that this means it will be easily available to the public on the website. 2.2 refers to an application for a ‘public health burial’, which is confusing when the default is actually to hold a cremation unless someone’s wishes are known. We suggest this be amended to ‘public health funeral’. 3.1 We recommend that it is explained what a ‘public grave’ is as many people won’t know and it can be very difficult for people to reconcile themselves with the idea of their loved one being buried in a grave with strangers. Therefore it would be best that they are aware of this aspect at the earliest opportunity. We also believe it would be best practice to state how many other people could be buried in it. The details about the ashes seem to be split between 3.2 and 3.3, which is a bit confusing. Someone could easily miss the sentence in 3.2 that says, “The next of kin can take the ashes if they wish to”. If they did and were to then read 3.3 it would initially seem that the ashes couldn’t be returned, with the introduction of the bit about ‘exceptional circumstances’ injecting more confusion. We suggest the sentence in 3.2 is built into 3.3 so that it

The webpages will be reviewed once the policy has been adopted and the guidance written to take into account comments raised in the consultation.

The Council does take steps to investigate whether there is funding available to pay for public health burials, and this is detailed in the policy.

is all in one place. We feel that the sentence in 3.3 about the interment of the ashes could be more respectfully described. By simply saying that they will be interred “without witness” feels rather cold. We are aware that it is a requirement for the location of the ashes to be recorded and suggest that this be explained, maybe by simply adding “but the location will be recorded and family/friends will be able to access this information”. As a side note, it is also brilliant to see that the Council has a page about PHFs that is easy to find and that provides contact details. It is also refreshing to see that it accurately explains the Council’s legal duty. We are just slightly concerned that the prominence of the bullet points suggesting the deceased may have been “cared for by the local authority / homeless / lived alone” could indirectly communicate to people that if the person who died did not fall into one of these categories that a PHF is not an option. It also might have the potential to contribute to the stigma that already exists around PHFs and that leads to the use of ‘pauper’s funeral’, as they are all categories that carry with them their own stigma, particularly the first two. About us - Down to Earth is the only UK-wide service working to address funeral poverty by providing direct support to those affected, and sharing our clients’ experiences with government and the funeral industry to effect change. Since 2010 we have supported more than 4,000 people to plan an affordable and meaningful funeral. We are part of the charity Quaker Social Action.

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