



WEST OXFORDSHIRE  
DISTRICT COUNCIL

# Public Health Funerals Policy

<u>Contents</u>	<u>Page(s)</u>
Introduction	3
Referrals	3
Death in Hospital	4
Persons not able to make arrangements	4
Search of Deceased's Home	4-5
Rented Accommodation	5
Owner Occupier	5
Registering a Death	5-6
The Funeral Service	6
Estate Administration	6-7
Glossary	8

## 1. Introduction

- 1.1 This document sets out the council's public health funeral policy and how West Oxfordshire District Council (the Council) will exercise its statutory duty under Section 46(1) of the Public Health (Control of Disease) Act 1984 (the Act) which states:

*“It shall be the duty of a 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”.*

- 1.2 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.
- 1.3 The 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.

## 2. Referrals

- 2.1 If no individual is willing or able to make the funeral arrangements for the deceased, the case will be referred to the council, who will then be responsible for making the arrangements under the Act.
- 2.2 Referrals to the council are only accepted in the following ways:
- A section 46 of the Public Health (Control of Disease) Act 1984 notice from the coroner detailing time of death and place of death
  - Social Services or similar provider
  - Nursing or residential care homes
- 2.3 The council will deal with the organisation of a funeral, including registering the death, liaising with the funeral directors, and paying for the funeral.
- 2.4 The council has no duty in the following situations and therefore will not take responsibility for funeral arrangements:
- The death occurred in a National Health Service (NHS) premises
  - Funeral arrangements have already been made
  - The funeral has taken place
  - The death occurred outside of the district but where the person's main residence is in the district

### **3. Death in Hospital**

- 3.1 If a person dies in hospital it is traditionally the responsibility of the hospital to make the funeral arrangements, but in further guidance produced in 2005 by the Department of Health Document, removes the requirement contained in the earlier documents for hospitals to become responsible for funeral arrangements. Instead it states:

*“It will be particularly important for Trusts to consider having a formal policy that takes account of the interests and/or responsibilities of other partners. For example, the local authority in whose area the body lies may arrange for burial or cremation under Section 46(1) of the Public Health (Control of Disease) Act 1984. However, practice will vary widely depending on local circumstances and Trusts may wish to liaise closely and develop protocols with local authorities and others to establish responsibilities and help ensure the most respectful burial or cremation takes places as quickly as possible.”*

- 3.2 Although the 2005 document essentially relieves NHS Trusts of the responsibility for making funeral arrangements, many still chose to do so. It is commonly the case that the hospital will make the arrangements for those that die without any relatives, or where relatives cannot afford the costs but do not qualify for Social Fund payments.

### **4. Persons not able to make arrangements**

- 4.1 If the deceased has a family, but they are unable or unwilling to pay for the funeral the nearest surviving relative will be asked to inform the coroner who may supply a section 46 form to the council. The council will not accept direct referrals from relatives.
- 4.2 The nearest surviving relative will be asked to complete a Next of Kin form relinquishing their responsibility to organise a funeral and agreeing to the recovery of any costs from the deceased's estate. Where there is no estate or surviving relatives, the council will arrange and cover the costs of the funeral.

### **5. Search of the Deceased's Home**

- 5.1 The council will conduct an inspection of the property in which the deceased passed away and/or in the case of a nursing home death, the main residence of the deceased.
- 5.2 The search will focus on finding a will, evidence of family and friends, and any items that may be used to pay for the funeral costs. The council has a power of entry under Section 61 of the Act. Unless access has been supplied by the coroner or a keyholder, a warrant is required to force entry.
- 5.3 Any shared accommodation will require the consent of any other occupier.
- 5.4 If the relevant property is in another district/borough council officers will inform that authority and will still inspect that property.

- 5.5 Any items removed by council officers from the property will be logged and retained under secure conditions at the council office for a minimum of 6 months following the funeral.
- 5.6 The inspection, carried out by two officers, is to ascertain whether there is a will, any relatives, personal information to be able to register the death and assess the financial status of the deceased in order to fund the funeral.
- 5.7 No other persons such as friends, neighbours or relatives are able to access the property with the officers.
- 5.8 In cases where the deceased's will is found and the executor is traced, the executor would be expected to organise the funeral. If the executor wishes to revoke their duties, council officers will request that the executor make a formal renunciation of the will and declare that they wish to have no further involvement in the funeral arrangements.

## **6. Rented Accommodation**

- 6.1 Landlords should be advised not to enter or remove any items from the deceased's accommodation until after the house search has taken place.
- 6.2 The council is not responsible for clearing or cleaning the property and cannot deal with services or property matters. However, public health matters such as pest infestations and statutory nuisance can be addressed if appropriate.
- 6.3 Following the completion of the search, the property will be secured, and the keys returned to the landlord.

## **7 Owner Occupier**

- 7.1 If the property was owned by the deceased, the case will be referred to the Treasury Solicitor after the funeral and their instructions regarding the property will be followed, unless there is a living relative, an executor or a will.

## **8. Registering a Death**

- 8.1 Subject to guidance from the coroner; the council will register the death with the Registrar and confirm that they will dispose of the body in an appropriate matter, including naming the funeral director.
- 8.2 Only one death certificate will be purchased to allow the council to make funeral arrangements.
- 8.3 Where an inquest is being held, the coroner can release the body and issue an interim death certificate to the council or the designated funeral director. The council will not register the death.

8.4 Where the death occurs in a nursing or residential home, the coroner is not normally involved. The manager of the home can register the death but is often unable or unwilling to do so if there are no funds. The home will forward all details of the death including the doctor's medical certificate, financial status and Social Service contacts as required. On receipt of the relevant material an officer will register the death.

## **9. The Funeral Service**

9.1 A cremation service will normally be held at a local Crematorium, unless it is established that the deceased would have chosen burial for religious, cultural or personal reasons, or if a check of the burial records reveals that the deceased owned a grave in a local 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 a cemetery.

9.2 The funeral director will provide everything necessary for a simple, 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.

9.3 The service will not normally include a minister of religion or a representative of the faith of the deceased to lead the service unless this is specified in a will.

9.4 The council will not pay for flowers, orders of service or any other expenses.

9.5 If known, the council will inform family and friends of details of the funeral and invite them to attend.

9.6 Family and friends may attend the funeral service but will have no choice as to where and when it is held. As long as there is no additional cost to the authority, family and friends can also choose a eulogy and music. The council will agree one nominated contact to liaise with the funeral director.

9.7 If a cremation is chosen, the council will give the ashes of the deceased to the family or friends if requested, at no cost to the family and friends. Where family or friends wish to collect the ashes from the crematorium, the authority officer acting as the Applicant for the Cremation should nominate them to do so on the Application for Cremation, if known. After this date, the next of kin should request the ashes from the council within 6 months of the funeral. If after 6 months the ashes remain with the council, officers will arrange for the ashes to be scattered within a garden of remembrance.

## **10. Estate Administration**

10.1 The council is entitled to recover the cost of making funeral arrangements under Section 46 of the Public Health (Control of Disease) Act 1984. The council is not, however, empowered to administer the estate. Where there is a surplus of over £500 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.

- 10.2 Where there are known family, 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.
- 10.3 Under no circumstances will money or property from the estate be given to any family member without proper lawful authority.

## Glossary of Terms

### **Bona Vacantia**

“Bona Vacantia” 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 next of 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 nominate that person.