

REPORT FROM: HOUSING, HEALTH AND ECONOMIC DEVELOPMENT
SERVICES MANAGER

TO: EXECUTIVE

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PUBLIC HEALTH ACT FUNERALS POLICY

PURPOSE OF REPORT

To seek approval of the Public Health Act Funerals Policy attached in at Appendix 1 to this report.

RECOMMENDATION

To approve the Public Health Act Funerals Policy at Appendix 1

REASONS FOR RECOMMENDATIONS

To ensure that Public Funerals are carried out in a fair and transparent way and that the deceased's estate is managed in line with the current legislation and guidance.

ISSUE

Borough of Pendle 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).

The Council has carried out its responsibility for many years but has not had a formal policy in place as the numbers have been relatively low. However, in the past 2 years the numbers of cases where we are being asked to make arrangements for peoples funerals has increased and each funeral costs the Council around £1,200 plus officer time which amounts to around £300

There has also been an increase in the number of requests we receive from people asking for information regarding the estates of the deceased.

The attached policy and procedure sets out how we will perform our responsibility under the Public Health (Control of Diseases) Act 1984. It also sets out how will attempt to recover the costs from the estate of the deceased and how this will be reported annually.

IMPLICATIONS

Policy: The Council will have a public Funeral Policy in place

Financial: We are allowed to recoup the costs of providing a funeral and the proposed Policy will ensure that this is done in a consistent manner. The Council appointed the current Funeral Director in April 2016 following a tendering exercise.

Legal: Nothing arising from this report

Risk Management: The implementation of this policy sets out the way the Council will manage public funerals and reduce the risk of claims against the Council

Health and Safety: Nothing arising from this report

Sustainability: Nothing arising from this report

Community Safety: Nothing arising from this report

Equality and Diversity: Nothing arising from this report

APPENDICES

Public Health Funerals Policy

LIST OF BACKGROUND PAPERS

Institute of Cemetery and Crematorium Management Guidance



Public Health Act Funerals Policy

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Help with Paying for Funerals

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.

If you are concerned about how you are going to pay for the funeral, it is important that you discuss this with your chosen Funeral Director at an early stage in the arrangements. Please be aware that once you have entered into a contract with the funeral director you will be responsible for paying their costs.

If you or a partner 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, you may be entitled to a funeral payment from the Social Fund. Further information about Funeral Payments, including an application form, can be found on the Direct Gov website at:
http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Bereaved/DG_10018660

Public Health Funerals

Borough of Pendle 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).

If the deceased died outside of the Borough of Pendle Council boundary, the funeral arrangements will be the responsibility of the local authority where they died, even if they had lived within Borough of Pendle boundaries.

Borough of Pendle Council will not be able to be involved if 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.

It is normally a partner, executor or other family member who would be responsible for making funeral arrangements for a deceased person, and they would also be responsible for the costs. Help is available from the Social Fund for those who are in receipt of certain benefits. For advice about receiving help towards funeral costs please see above website.

If there is nobody willing or able to make the funeral arrangements, the case may be referred to Borough of Pendle Council, who will then be responsible for making the arrangements under S46 of the Public Health (Control of Disease) Act 1984.

If the deceased had a family, 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 where the deceased lived, these may need to be returned to the Council to help offset the funeral costs. **If you are a Landlord, you should not enter or remove any items from the deceased's accommodation until after the house search has taken place.**

Once the Council has accepted a case, the Environmental Health Department 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 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 Council's 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 within the Borough of Pendle.

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. The Service will not include a minister of religion or a representative of the faith of the deceased to lead the service. Family and friends may attend the funeral service, but will have no choice as to where and when it is held.

Following the cremation, the cremated remains will normally be interred in an unmarked but recorded location in the Gardens of Remembrance at a local Crematorium. In exceptional circumstances the cremated remains may be given into the care of a close family member or friend.

Property Search

Prior to making the funeral arrangements, 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.

Any items removed by Council Officers from the property will be retained under secure conditions at the Council Office for a minimum of 6 months following the funeral.

Council Officers are not responsible for clearing or cleaning the property. 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, unless there is a living relative, an executor or a Will.

Executors of a Will

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. 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.

Estate Administration

Borough of Pendle 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. 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.

Death in a Hospital

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.

Publication of Data

The Council will publish information each year in relation to this area of service. Appropriate information will be published after the financial year end figures have been collated.

The following information will be published on the Council's website:

- Name
- Date of Birth
- Date of Death
- Sex – M/F
- Type of funeral – burial or cremation
- Referral to Duchy Lancaster – Y/N
- Annual cost to the Council of public health funerals

The following statement will also be published alongside the above information; Section 31 of the Freedom of Information Act 2000 – Law Enforcement (prevention and detection of crime). Revealing details of the assets of an estate before the Duchy of Lancaster has undertaken their own enquiries would provide an opportunity for criminal acts to be committed (for example theft or fraud). Similarly, there would be concerns about making the last known address of the deceased public, as the property is likely to be unoccupied and might contain the deceased's identify. Taking into account the above issues, the Council considers that there is no over-riding public interest in releasing the information requested. Any public interest would be best served by upholding the exemption under section 31 of the Act as disclosure of the information would be likely to prejudice the prevention of crime by enabling or encouraging the commission of offences.

Appendix 1 – Procedure

Public Health Act Funerals Procedure 2018

This procedure is to be carried out in line with the Borough of Pendle's Public Funeral Policy and in accordance with s46 of the Public Health (Control of Disease) Act 1984.

Preliminary checks, constraints and considerations

1. The Council will only take on a Public Funeral where it is deemed to be absolutely necessary (no next of Kin or no one willing to deal with it).
2. The Deceased must have died within the Borough. It is imperative to identify where he/ she died.
3. If the Deceased died in Hospital, then the Hospital will make the arrangements.
4. If the Deceased died in a Lancashire County Council (LCC) run care home then LCC should deal with the arrangements.
5. The Council is only able to recover costs from the estate of the Deceased. The Council is unable to pursue the family of the Deceased. However, where the family/friends of the Deceased have taken money that belongs to the estate i.e. cleared out a bank account the Councils Legal Department should be instructed to try to recover the money from the person responsible.
6. Where the Council is asked to carry out a Public Funeral after the Next Of Kin has already instructed a funeral director, the Council cannot take this case on even if it is later cancelled. The funeral director should deal with this as a private contract issue.
7. The Council Officers dealing with any Public Funeral must at all times offer dignity and respect to the Deceased and to his/her family and friends.
8. The Council's appointed Funeral Director is Fred Hamer, Leeds Road, Nelson.

Dealing with Next of Kin (NOK)/friends of the Deceased

1. When speaking to any friend or family of the Deceased it is important at an early stage to establish the relationship to the Deceased.
2. If the referral comes from the family of the Deceased or if at any point an Officer is able to contact a member of the family of the Deceased the Officer should encourage the person to taken on the responsibility of the funeral. Where costs are an issue the Council should offer advice regarding Town funeral options (low cost funeral) and the £700 Social Fund that they may be eligible to apply for to assist with the funeral. Further information can be obtained from the DWP.
3. The Council must also advise any family of the Deceased that a Public Funeral is a very basic service and will only cover:
 - transportation of the deceased as deemed essential
 - a place at the Funeral Directors Chapel of Rest

- dressing in own clothes or a simple shroud
- a simple coffin with lining
- Cremation at a local Crematorium with the ashes scattered on the memorial garden. The only exception to cremation would be if it was proven that the Deceased required burial due to religious beliefs or if wishes had been expressed within the deceased's Will.

The Council cannot provide:

- flowers or wreaths
 - a minister to conduct a religious service
 - a celebrant to conduct a non-religious service
 - a limousines / limousine service or any transportation service for mourners
4. The Council must also advise any family of the Deceased that in the event that the Council carries out the Public Funeral that it would seek to recover all costs incurred from the estate of the Deceased and any remaining balance would go to the Duchy of Lancaster.
 5. The Council should try to establish from any friend / relative of the Deceased any of the following:
 - All known NOK
 - Any knowledge of a written Will
 - If the Death has been registered
 - Where the Deceased lived, how long they have lived there and any known previous addresses
 - Who may have keys to the home of the Deceased and who may have had cause to enter since he/she passed
 - The date of death
 - Deceased date and place of birth
 - Deceased Occupation, Marital status and any known religion.

All information should be recorded on Form 1 (Referral Form) as fully as possible.

If the family refuse to accept the arrangements, send the family a Form 2 (Next of Kin Consent Form).

Initial Enquiries

1. Check records to determine the tenure of the property.
2. If the property is rented/Nursing Home / Care Home then speak to the landlord/ Manager to ask them to ensure that the property remains, secure, no-one enters or clears anything out until after the Council has conducted its search. Should it become evident that there are any pets present that belonged to the deceased the Council will decide upon on a case by case basis, considering animal welfare, what is the most appropriate course of action.
3. Identify the NOK – speak to any individuals known to be associated with the Deceased (as above). Use a minimum of 2 Genealogy companies off the list that the Council holds to try to locate any NOK.
4. Contact any of the people that the referring person has given details for, e.g. GP, landlord, nursing home manager, neighbour etc. to see if they have any details of family members.

5. Follow up any and all leads regarding family members to see if they may be prepared to take on the funeral arrangements.
6. Try to identify who has the keys for the property at an early stage (landlord, Police, Coroner, Care agency, Friend or relation) to arrange a date and time for the collection of keys and search. Emphasise that they must not remove any items from the property, nor allow anybody else to do so until you have concluded your search
7. Try to identify if the deceased had an address that will need to be searched, and find out as much about the property as possible (e.g. if there is evidence of drug taking, if it is dirty or contaminated etc.)
8. Use the Tell us Once Service (online) to notify government agencies of the death (stop benefits etc.).
9. Complete the details in the Case Register. Start notes to list what has been done and what needs to be done – be as comprehensive as possible
10. Start to complete other forms, especially the Case Progress form and the Administration Expenses form.
11. Complete a Form 3 (Record of Decision and Authorisation). Get the funeral Authorised by the coroner.
12. Notify the contracted funeral director and advise that we will require a Public Funeral.

Property Search and Possessions

1. Ascertain from the Police, Coroner or informant if the deceased had any possessions on them, e.g. cash, jewellery, watch, cash cards etc. If so make arrangements to collect the possessions, or have them delivered. Always give a receipt for any goods and keep a copy on file. Make notes and enter details of any cash received on Form 7 (Income and Expenditure).
2. Searches must only be undertaken by a minimum of 2 Officers in attendance on every occasion. Search each room in pairs to ensure health and safety and prevent accusations of theft etc.
3. Before starting the search, take digital photographs of the outside of the property, including any boarding up undertaken by the police etc.
4. Consider health and safety at all stages and don't put yourself at risk. If a room is too dangerous to search, don't search it. The PF bag should be taken and appropriate PPE worn at all times during the search.
5. Take photographs of each room prior to searching.
6. Consider informing any neighbours that you will be in the property so they are not concerned about hearing noises. Elicit any information about the deceased that you can from any neighbours. Ask the neighbours if they would like to be kept informed of the funeral arrangements.
7. If the search uncovers something illegal i.e. Drugs then leave, secure the property, call the Police and follow Police advice.

8. Remember that the purpose of the search is to find a will; to find any information about possible relatives; or to recover cash, bank and other financial details, and any items that can be sold to offset the funeral costs.
9. Only recover items that are going to be of use – do not recover everything, e.g. only take the latest bank statements etc. rather than all of them
10. It is not your responsibility to tidy or clean the premises, but you should report any public health concerns to the Environmental Health Manager
11. Record anything that you remove from the property on Form 6 (Record of Items Removed From Property). Get the form countersigned by the second officer.
12. Any property removed must be properly evidenced (bagged, tagged and recorded and stored in the designated area within the Council Offices. Property should be photographed in situ prior to its removal.
13. It may not be possible to complete the search in one visit. If this is the case, ensure the property is secure and make arrangements to return as soon as possible.
14. When you are satisfied that no further search is required, return the keys to the appropriate person and advise them that you have concluded your searches.
15. Family and friends are not permitted to be present during the search since they may find it upsetting or you might find something to disturb the family or potentially the friend / family might start making claim or take something that belongs to the estate.
16. If the search reveals something that the NOK may find upsetting (and is likely to enter the house after you) items can be removed to protect the family.
17. The search should be respectful and the property should be left in the condition in which it is found.
18. Local Auction Houses can be used for valuations if required.
19. The search should be completed regardless of whether the Police / Coroner have already searched.

Administration

1. Search through the items recovered from the property to ascertain if there are any contact details for family. If so, attempt to make contact, or ask the police or Coroner's Officer for assistance with this. Be aware that you may have to break the news of the death, so prepare for the telephone conversation and ensure that you ring from a room where privacy can be assured
2. If any family members come forward, the Council must seek proof of identity. Where there is family, follow the step above relating to dealing with NOK above and make arrangements to hand over property etc. to the family if possible. Ensure that a receipt is gained for everything handed over, and keep this as part of the case file. Once everything has been handed over, close the case and update the Case Register. File the case file for a minimum of 7 years.

3. If a Will is uncovered during the search then the executor should be contacted to take the funeral on. Make arrangements to hand over property etc. to the executor if possible. If the executor is unwilling to take the funeral on or in the event that the executor is a Solicitor then a Form of renunciation should be signed.
4. Where Bank statements are found and it is not clear what the value of the estate is, ascertain if there is any bank, building society or other accounts that are solvent and contact the bereavement team at the relevant bank. The Bank will require a copy of the Death Certificate along with Officer Identification before they are able to inform you of any available funds.
5. Any cash found during the search should be paid into the Council's Account against the Public Funeral Code as soon as possible.
6. If required (in all cases other than a Violent death where an inquest is required and the coroner would register the death) and no one else has registered the death make an appointment at Lancashire BDM registration office to register the death as soon as possible following the search. Purchase at least three copies of the death certificate at the time of the registration, unless there are no bank accounts etc. for which a certificate would be required in which case only one copy is required.
7. Upon registration of the Death the registrar will issue green forms which are required for the funeral director to act.
8. Contact the contracted funeral director to make the funeral arrangements. Give the funeral Director the green form.
9. In the event that the death is due to natural causes and the death was not sudden the deceased would not need to go to the Coroner. However in order for a Cremation to be carried out 2 Doctors signatures are required. The Funeral director would make the arrangements for this.
10. Ensure anybody interested is aware of the date and time of the funeral
11. Ensure that the funeral is attended by an Officer.
12. Ensure that any cremated remains are disposed of in the most suitable manner in the Garden of memorial.
13. If there is clearly a significant estate but no family nor a will, contact the Treasury Solicitor for advice at an early stage in the proceedings.
14. If it is clear that the surplus following payment of the funeral and administration expenses is going to be under £500.00, ask the banks/building societies for payment out of the deceased's account. Include a copy of the funeral bill and a receipt for payment, and include an amount for your administration expenses. The Council can retain surplus up to the value of £500 where there are no relatives.
15. If the surplus following recovery of expenses is over £500.00, refer the case to the Treasury Solicitor using their Guidelines and forms available from their website (BV1a form). Be sure to include a claim for payment of the funeral bill and all Council Officer Expenses.
16. Where there is any surplus following payment of the funeral and administration expenses and there is NOK, the NOK would need to obtain a proper lawful right to it (where there is a Will the family would need to apply for a grant of probate and where no Will they would need letters of administration). The family should be directed to do this via their own

solicitor. The family would need to sign under oath to become the legal administrators of the estate.

17. No property should be sold for a minimum of two months following the death in the event of the family coming forward. However following this time or if the next of kin has signed a letter of authority allowing the Council to dispose of the property arrangements should be made for any property to be sold to achieve the highest possible price. Liaise with the Council's Finance Department regarding the accounting methodology for each case.
18. Any property without value should be retained for 12 months following the death prior to its disposal.
19. Once all responses from banks etc have been received and no further action is required, complete all forms and the case register as fully as possible, close the case and file the case file for a minimum of 7 years.