

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Cabinet

13 February 2018

TITLE:	Cemetery Regulations Review
PORTFOLIO HOLDER:	Cllr Bowen – Cabinet Member for Communities, Leisure, Sport, Parks, Countryside & Housing
CONTACT OFFICER:	Nicola Kemp – Operations Manager (Contracts)
WARDS:	All wards

Appendix 1 – SMDC Cemetery Regulations (revised at Dec 2017)

1. Reason for the Report:

- 1.1 To advise the Cabinet of the revised Cemetery Regulations proposed for adoption in the Moorlands.

2. Recommendation

- 2.1 That the Cabinet adopts the changes which are set out in the Appendix.
- 2.2 That the Cabinet agrees to adopt lawn cemetery status at Leek cemetery.

3. Executive Summary

- 3.1 SMDC manages two cemeteries within the district. These are Leek Cemetery, which opened in 1857 and Buxton Road (New) Cemetery which opened in 2006. The ownership of both cemeteries lies solely with the Council. In addition the Council maintains 17 closed churchyards where maintenance responsibilities have transferred to the Council.
- 3.2 The grounds maintenance of all these sites is carried out in-house by the Direct Services team within Operational Services. Repairs and maintenance to cemetery buildings and to hard landscaping is undertaken in conjunction with Assets via the Council's Facilities Management contract held with Derbyshire County Council (DCC) and the Cemeteries.
- 3.3 The provision of a means to bury deceased who pass away within the district is a statutory obligation of this Council. With the current efficiency agenda, the

Council needs to consider alternative ways of delivering services as efficiently and effectively as possible.

- 3.4 An Internal Audit was conducted in the summer of 2017 on the cemeteries service. This identified that the existing Cemetery Regulations have not been updated for several years. As a result it was recommended that they are reviewed to update and standardise them across the Alliance wherever possible.
- 3.5 A summary of the changes included in the revised regulations, as provided at Appendix 1 are:-
- Minor revisions to the time we can accept the last cremated remains for burial;
 - Burials between Boxing Day and New Year's Day will no longer be permitted;
 - Telephone burial bookings will not be accepted;
 - Evidence of legal title to a grave plot will be required to book any burial when grave deeds are not available. Such title to be: Forms of Assignment, Grant of Probate, Grant of Letters of Administration, Form of Assent and/or Statutory Declarations will be necessary, dependant on the circumstances of the deceased and applicant;
 - Those arranging a coffin burial must arrange for an existing memorial headstone to be removed before the grave can be excavated for a further burial, thus aiding safe grave digging and reducing the risk of causing damage to the headstone;
 - The person (usually a Funeral Director) making the burial booking shall be liable for all fees and charges relating to cemetery services;
 - A reduction in the length of burial rights from 100 to 50 years;
 - Confirmation of the Council's responsibilities regarding maintenance at closed churchyards.
- 3.6 In addition it is recommended that the Council adopt lawn cemetery status at Leek cemetery, which will have an impact on the effectiveness and efficiency of our grounds maintenance activities at this site, whilst ensuring value for money and improving public perception of our grounds maintenance standards.
- 3.7 The regulations, once adopted, will be made available on the Council's website, with relevant webpages updated accordingly and copies will be sent to all Funeral Directors and Memorial Masons with whom we work. In addition a shortened version will be displayed at our cemeteries for the public to view.

4. How this report links to Corporate Priorities

- 4.1 Protecting and Improving the Environment - The Council wishes to ensure provision of quality open spaces as high quality open space encourages healthier lifestyles and ensures the area has an image as one in which it is a good to place to live and conduct business. Cemetery sites, whilst providing

important services, support overall corporate objectives alongside encouraging environmental sustainability and biodiversity.

- 4.2 Meeting financial challenges and providing value for money - The management and maintenance of the cemeteries and closed churchyards under the Council's control has an impact on Council resources. Implementing lawn cemetery status at Leek Cemetery will have an impact on the effectiveness and efficiency of our grounds maintenance activities, whilst ensuring value for money and improving public perception of our grounds maintenance standards.

5. Options

- 5.1 There are two options available to the Council at this time, these are:-
1. To adopt the revised regulations, which include the adoption of lawn cemetery status at Leek cemetery (**recommended**)
 2. To not adopt the revised regulations (not recommended)

6. Implications

- 6.1 Community Safety - (Crime and Disorder Act 1998)
None.

- 6.2 Workforce
As detailed within the report.

- 6.3 Equality and Diversity/Equality Impact Assessment
This report has been prepared in accordance with the Council's Diversity and Equality Policies.

- 6.4 Financial Considerations
As detailed within the report.

- 6.5 Legal
This report proposes changes to the Cemetery Regulations which are made pursuant to Regulation 3(1) of the Local Authorities' Cemeteries Order 1977 and under Section 214 of the Local Government Act 1972. Under Section 3 of the Order, a burial authority may do all such things as they consider necessary or desirable for the proper management, regulation and control of a cemetery and under Section 4, A burial authority may enclose, lay out and embellish a cemetery in such manner as they think fit, and from time to time improve it, and shall keep the cemetery in good order and repair, together with all buildings, walls and fences thereon and other buildings provided for use therewith. Notwithstanding the wide powers available to the authority in respect of management of the cemeteries, the authority should consult with key stakeholders and service users and consider any

responses before authorising the proposed changes.

6.6 Sustainability

Sustainability considerations have been embedded in the proposed future management options.

6.7 Internal and External Consultation

A desk study of burial right lengths in cemeteries in neighbouring council areas has been conducted.

6.8 Risk Assessment

The proposal to adopt lawn cemetery status will reduce hazards when undertaking maintenance works i.e. grass cutting, on grave areas at Leek Cemetery and remove trip hazards for visitors and employees alike.

Keith Parker
Head of Operational Services

Background Papers

Location

Contact details

Current SMDC cemetery regulations

SMDC website

Nicola Kemp (Operations
Manager – Contract
Management)

7. Background

7.1 SMDC owns and manages two cemeteries within the district. These being Leek Cemetery, which opened in 1857 and Buxton Road (New) Cemetery which opened in 2006. In addition the Council maintains 17 closed churchyards across the district where maintenance responsibilities have transferred to the Council.

7.2 The grounds maintenance of all these sites is carried out in-house by the Direct Services team within Operational Services. Repairs and maintenance to cemetery buildings and to hard landscaping is undertaken in conjunction with Assets via the Council's Facilities Management contract held with Derbyshire County Council (DCC) and the Cemeteries. At closed churchyards the council has responsibility to maintain fences, paths, railings, walls and not the buildings that form part of the church.

7.3 The provision of a means to bury the deceased who pass away within the district is a statutory obligation of this Council. With the current efficiency agenda, the Council needs to consider alternative ways of delivering services as efficiently and effectively as possible.

- 7.4 An Internal Audit was conducted in the summer of 2017 on the cemeteries service. This identified that the existing Cemetery Regulations have not been updated for several years. As a result it was recommended they were reviewed to update and standardise them across the Alliance wherever possible.
- 7.5 This report seeks to advise this panel of the revisions that have taken place as part of this review. Historically the High Peak Cemetery Regulations have been more detailed than those in use in the Staffordshire Moorlands; these have, as a result, been used as the main basis for the revised Regulations proposed for use in the Moorlands.

8. Revisions to the Regulations

- 8.1 A number of minor changes have been made to the proposed regulations for Moorlands cemeteries in future, as provided at Appendix A. These include:-
- Minor revisions to the times we can accept the last cremated remains for burial;
 - Burials between Boxing Day and New Year's Day will no longer be permitted. Requests for burial bookings on these days are historically infrequent, preventing the acceptance of burials on these days when the Council operates on skeleton cover reduces work pressures on the Direct Services team who undertake grave digging at our cemeteries;
 - Telephone burial bookings will not be accepted. All burial bookings shall be made via the provision of a Notice of Interment, this to be made by e-mail or in hard copy three working days before the interment is due to occur;
 - Evidence of legal title to a grave plot will be required to book a burial when the original grave deeds are not available. Such title to be: Forms of Assignment, Grant of Probate, Grant of Letters of Administration, Form of Assent and/or Statutory Declarations will be necessary, dependant on the circumstances of the deceased and applicant. Previously the Council has accepted a signed indemnity in such situations;
 - Those arranging a coffin burial are to arrange for an existing memorial headstone to be removed before the grave can be excavated for a further burial. Thus aiding grave digging and reducing the risk of damage to the headstone;
 - The person (usually a Funeral Director) making the burial booking shall be liable for all fees and charges relating to cemetery services. Prompt payment of an invoice (within 28 days of the invoice date) is also required. this is in line with our standard payment timeframes;
 - A reduction in the length of burial rights – this is covered in more detail in section 9 of this report;
 - Confirmation of the Council's responsibilities regarding maintenance at closed churchyards.

- 8.2 A further proposed revision within the revised regulations is that Leek Cemetery becomes a lawn cemetery. A cemetery with lawn status is one where only upright headstones are permitted.
- 8.3 Currently graves can be planted up as gardens or be paved over at Leek Cemetery. The adoption of lawn cemetery principles at Leek Cemetery will help to improve the efficiency of our grounds maintenance activities by no longer permitting the planting and ornamentation of grave surfaces in the cemetery. Experience shows that the adoption of lawn cemetery principles can reduce maintenance costs, as we can replace manually operated trimmers and smaller manual mowers with larger, more efficient ride-on equipment.
- 8.4 The revised regulations now specify the size and shape of memorials allowed at our cemeteries to ensure a unified design is installed, in an effort to encourage a well maintained landscape. All new graves will be required to follow these regulations and no kerb-settings or extensions beyond the headstone foundation will be allowed. This change will prohibit grave gardens and any form of covering on a grave, thus enabling SMDC to lawn all graves as and when burials take place. This is what currently occurs at the Buxton Road Cemetery and across the High Peak.
- 8.5 In addition, we would aim to gradually re-turf any gardened or paved graves in the cemetery that are poorly maintained. For the last seven years we have offered free clearance and re-turfing of graves at Leek Cemetery for those not wishing to maintain grave gardens or paved graves any longer, with considerable success. To date, 248 graves have been re-turfed that would otherwise have fallen into disrepair and created a hindrance.
- 8.6 This project of re-turfing has led to more efficient grounds maintenance and reduced tripping hazards for visitors and our employees. We will continue to offer this service where we believe the removal of a gardened grave would benefit both grounds maintenance activities and assist the grave owner.

9. Reduction in the length of burial rights

- 9.1 Residents of the district can currently pre purchase an exclusive right to a burial in a grave plot at one of our cemeteries. This right effectively leases the grave, giving the owner exclusive rights as to who is buried within the grave space for a defined period of time. This is known as an “exclusive right of burial”. As a result of such a purchase, the owner receives a Grave Deed from the Council confirming this right.
- 9.2 The ownership of the exclusive right of burial and memorialisation of a grave, as confirmed by a Deed of Grant, becomes part of a person’s estate. The owner can transfer this right to another party during his/her lifetime by a Deed of Assignment. On the death of the owner, the rules of inheritance apply as

modified by the Administration of Estates Act 1925, which gave equal rights to all children of a marriage.

- 9.3 Currently at SMDC the length of the exclusive right of burial of a grave is for a period of 100 years. At High Peak it is 80 years. The lengths of burial in use across the country suggest that there has been a marked reduction in the last ten years in the length of burial rights offered. Councils have become increasingly aware that a reduction in right length has the potential to generate income in future years, particularly at a time when cemeteries have become full and no longer generate enough income to cover maintenance costs.
- 9.4 Common rights of burial length are generally between 100 and 30 years, often less for cremated remains graves. A desktop review has been undertaken comparing the exclusive right of burial length of our nearest council neighbours, the results are seen in the table below:

Council	Burial Right length	Extensions
High Peak BC	80 years	Yes
East Staffordshire DC	50 years	Yes
Stoke-on-Trent City Council	30 years	Yes
Newcastle under Lyme BC	50 years	Yes
South Staffordshire DC	50 years	Yes
Stafford Borough Council	75 years	Yes

- 9.5 It is proposed that in line with many of our neighbouring authorities that we reduce the length of exclusive burial right, from 100 years to 50 years across the Alliance. A 50 year length would substantially increase our ability to generate re-purchase income in the future and give us greater flexibility to maintain cemeteries effectively. As noted in the table when a grave plot has not been fully utilised during the period of the Exclusive Rights owners may elect to purchase an extension as standard practice.
- 9.6 This change has no direct cost to the Council, as all costs are covered by the pre purchase fee levied at the time of purchase. It would, though, have the potential to generate more income although these benefits will not be seen for many years. In addition it will give the Council greater flexibility in maintaining its cemeteries in the future, as once grave rights expire, we have the right to remove memorials and re-turf graves if graves are not re-purchased.