



Report to Policy Committee

Author/Lead Officer of Report: *(Ellie Fraser, Head of Bereavement and Coronial Services)*

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Report of: *Ajman Ali, Executive Director of Neighbourhood Services*

Report to: *Communities, Parks and Leisure Committee*

Date of Decision: *13/11/2023*

Subject: *Development of a bereavement strategy and new cemetery development*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? 2394				
Has appropriate consultation taken place?	N/A	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-				
<p><i>“The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended).”</i></p>				

Purpose of Report:

To seek support for the development of a bereavement strategy and new cemetery provision for the city.

To agree an approach for member engagement throughout the lifespan of this work.

Recommendations:

The Communities, Parks, and Leisure Committee is recommended to:

- Endorse the proposed work on the development of a bereavement strategy and new cemetery development
- Approve the establishment of a task and finish group to report back to the Committee which will be:
 - a. Separated into individually focused thematic groups which examine defined areas of the strategy (eg. burial provision for people of different faiths, or the role of cemeteries as natural green spaces).
 - b. Delegate to the Executive Director of Neighbourhood Services authority to appoint to themed task and finish groups following an open invitation to all members of the Council to express interest
- Note that the development of the strategy and work to explore new cemetery service provision will be overseen by the CPL committee by way of regular progress updates before final approval is sought for a delivery plan.

Background Papers:

N/A

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: N/A
		Legal: Rebecca Lambert
		Equalities & Consultation: <i>Louise Nunn</i>
		Climate: Murtaza Awan (in service)
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	

2	SLB member who approved submission:	<i>Ajman Ali</i>
3	Committee Chair consulted:	<i>Richard Williams</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
Lead Officer Name: <i>Ellie Fraser</i>		Job Title: <i>Head of Bereavement and Coronial Services</i>
Date: 02/11/2023		

1. PROPOSAL

- 1.1 Bereavement affects everyone. Death is one of the only certainties in life. Not only will we all die, but we will also all lose somebody close to us during our lifetime. How we are treated and the support available to us during this difficult time, can define how we survive and recover from this experience. To be a strong healthy city with supportive resilient communities we need to face this reality, be kind, and provide access to services which support people through the most difficult time of their lives.

At present Sheffield City Council (the Council) does not have a bereavement strategy. Without a strategy there is no formal direction or consistent opinion of the role the local authority should play in providing bereavement services.

- 1.2 Local Authorities are burial authorities for the purposes of burial and cremation. Provision should be determined by local demand.
- 1.2.1 Historically up until the early part of the 19th Century Burial facilities in England were provided by the Church of England in parish Churchyards and by other religious bodies. The population increase resulting from the Industrial Revolution meant that many existing churchyards became unable to cope with the increasing number of dead for disposal. From the 1820s a large number of burial grounds, known as cemeteries, were established on the outskirts of a number of big industrial towns and cities including Sheffield. These new cemeteries were private commercial ventures in the form of joint stock companies that were established under individual Acts of parliament. In the 1840s the continuing pressure for more burial space was intensified by cholera and other epidemics. This led to Town Councils being forced to seek their own Acts to allow them to set up cemeteries financed from the rates.
- 1.2.2 During the 1850s a number of new laws were introduced collectively known as the Burial Acts. They established a national system of new public cemeteries. Large numbers of public cemeteries were opened over the next few years and were available to all denominations and faiths. These new cemeteries were run by Burial Boards. A Burial Board was initially elected by the vestry of the parish. Sometimes several smaller parishes joined together to share a burial ground. Under the Local Government Act 1894 these powers were transferred from the vestries and were given to new Parish Councils. In towns and cities, these powers were then given to the borough councils or urban district councils under the Local Government Act 1933. It was from this time that responsibility for the maintenance of cemeteries came under the control of local government.
- 1.2.3 The 1902 Cremation Act allowed all burial authorities to establish crematoria and provided for detailed regulation of their

operation. Although the annual number of cremations was small until after the Second World War, since then the practice has become more widely used. The 1902 Act and the further Cremation Act of 1952 still remain largely in force. New regulations made under section 7 of 1902 Act, the Cremation (England and Wales) Regulations 2008, came into effect on 1 January 2009. They modernise and consolidate all previous regulations relating to cremations.

1.2.4 The Local Government Act 1972 (the 1972 Act) consolidated much of the proceeding legislation to reflect the new local government organisation it introduced. Section 214 of the 1972 Act sets out the current statutory provisions relating to burials and cremations. Under section 214(1) of the 1972 Act local authorities are defined as 'burial authorities' and are given the powers to provide and maintain cemeteries. Under S214(5) Local Authorities are also 'burial authorities' for the purposes of the Cremation Acts 1902 and 1952 meaning that these provisions also apply equally to the provision of crematoria services. Section 214(2) of the 1972 states that, '*Burial authorities may provide and maintain cemeteries whether in or outside their area.*' It is important to note this provision grants the Council with the power as a 'burial authority' to provide and maintain cemeteries there is no specific statutory duty on the local authority to provide burial facilities under the 1972 Act.

1.2.5 The Council does however have a statutory duty under the Public Health (Control of Disease) Act 1984, to bury or cremate a resident within their district in certain circumstances where the deceased has passed away outside of a hospital and there is no one else willing to pay for the funeral. In these cases the Council would make the necessary arrangements for a public health funeral. If the Council cannot find a friend or family member willing to deal with the deceased's estate and pay for the funeral, then Council Officers will try their best to establish the faith of the deceased and arrange a dignified service.

1.2.6 The Council's powers of management of its cemeteries are set out in the Local Authorities' Cemeteries Order 1977 (LACO 1977). The LACO 1977 gives the Council as a 'burial authority' wide ranging powers of management e.g. Article 3(1) states that, '*a burial authority may do all such things as they consider necessary or desirable for the proper management, regulation and control of a cemetery.*' The Regulations also place a number of obligations on burial authorities. Article 4(1) of the LACO 1977 states that, '*A burial authority... shall keep the cemetery in good order and repair, together with all buildings, walls and fences thereon and other buildings provided for use therewith.*' In addition to the duty in article 4 to 'keep the cemetery in good order and repair', burial authorities are also required to:

- Maintain a record of burials
- Maintain a plan showing the number and location of each grave
- Maintain a record of the granting and transfer of exclusive rights
- Issue Deeds of exclusive
- Maintain a record of exhumations

- Store all records securely to preserve them from loss or damage.

1.2.7 The Church of England and other religious bodies continue to provide burial facilities but these and private cemetery companies are not subject to the local authority legislation. The great majority of operational cemeteries are currently run by local authorities as statutory burial authorities.

1.3 Within the Council, Bereavement Services are responsible for managing cemetery and crematoria service provision. The service undertakes cremations and burials across the city of Sheffield, managing and maintaining 16 cemeteries, one garden of remembrance and two crematoria.

Approximately 3000 cremations and 1150 burials take place annually across these sites (with further specific services such as burial of cremated remains, purchasing and displaying of memorials and niche storage of remains also being offered).

1.4 At present the Council does not have a bereavement strategy. For cemetery and cremation services the absence of a strategy has had the following effects:

- a) Depletion of existing burial spaces with very limited capacity in the remaining cemeteries and no forward planning to cater for the future needs of a diverse growing population.
- b) Lack of investment due to an outdated funding model leading to deterioration in quality-of-service provision and loss of income.
- c) 30-year-old rules and regulations in respect of cemeteries have been eroded and flouted leading to inconsistent and unfair practices across the city and mixed messaging to the public.
- d) Deterioration of existing buildings and infrastructure which contravenes Article 4(1) of the LACO 1977, as well as affecting the quality-of-service provision and income opportunities.
- e) No clear plan for the role of cemeteries as green spaces across the city.
- f) No clear direction or funding to enable service growth and improvement. This acts as a blocker to ambition where services do not have a viable framework in which they are empowered to develop to improve the offer to customers and generate more income.
- g) Benchmarking shows that good bereavement services support the wellbeing of communities through providing communal spaces for grief, reflection, learning and connection. The offer in Sheffield is

limited and a strategy is needed to define the role and aspirations of the local authority in respect of this.

- 1.5 We propose to consult widely with the residents of Sheffield, including internal & external partners, and to use this intelligence to formulate a bereavement strategy for the city which sets out our aims and aspirations for the next 25+ years, and provides a politically supported framework for growth and change for the benefit of all city residents.

Alongside this we propose to start work to source new cemeteries to avoid a burial emergency, and then to develop cemetery service provision in line with all city resident's requirements as determined through consultation and strategy development.

This report seeks support for this work and aims to find an approach for member involvement throughout the lifespan of this work.

2. HOW DOES THIS DECISION CONTRIBUTE ?

- 2.1 The proposal contributes to the Sheffield Corporate plan across all 6 strategic goals as set out for the city. The proposal will offer an improved and inclusive quality of service across the city and enhanced customer experience through an extensive citywide consultation process. It will also ensure that the service actively and consistently supports the climate emergency in all its activities reducing the carbon footprint whilst providing cleaner greener burial services. The proposal will reduce identified inequalities to provide a consistent, inclusive, and transparent service for all communities. We aim to maximise income opportunities that will support a robust and resilient business model for the future of the service and ensure sufficient provision of burial spaces in the city for the long term.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 This paper is being brought to seek support and engagement prior to the commencement of work. Once work begins broad and extensive consultation will be required across the city with as many residents and partners as possible.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 There will be no impact on specific protected characteristic groups as the

project will be for all citizens of Sheffield and accommodate all faiths and religions.

- 4.1.2 The Council as a Public Authority has legal requirements under the Equality Act 2010. Section 149(1) contains the Public Sector Equality Duty, under which public authorities must, in exercise of their functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is connected to protected characteristics and prohibited by or under this Act;
 - (b) advance equality of opportunity between those who share a relevant protected characteristic and those who do not;
 - (c) foster good relations between those who share a relevant protected characteristic and those who do not.

4.2 Financial and Commercial Implications

- 4.2.1 For the purposes of this paper there are no financial or commercial implications. Subsequent work will have significant implications and officers from the relevant services will be required to contribute.

4.3 Legal Implications

- 4.3.1 The Council is a burial authority with functions in respect of cemeteries and burial grounds by virtue of section 214 of the Local Government Act 1972; by the same section it is a burial authority for the purposes of the Cremation Acts 1902 and 1952.

S214(1) of the 1972 Act defines Local Authorities as burial authorities and states as follows:

'The following authorities, that is to say, the councils of Welsh counties, county boroughs, districts, London boroughs, parishes and communities, the Common Council and the parish meetings of parishes having no parish council, whether separate or common, shall be burial authorities for the purposes of, and have the functions given to them by, the following provisions of this section and Schedule 26 to this Act;'

The Council is a 'district' for the purposes of this provision as 'district' is defined under section 270(1) of the 1972 Act as *'without more, means, in relation to England, a metropolitan district or a non-metropolitan district'*.

By virtue of section S214(5) of the 1972 Act the Council is also a 'burial authority' for the purposes of the Cremation Acts 1902 and 1952.

- 4.3.2 Section 214(2) of the 1972 Act gives the Council as a burial authority the power to provide and maintain cemeteries e.g. *'Burial authorities may provide and maintain cemeteries whether in or outside their area.'*
- 4.3.3 The Council's powers of management of its cemeteries are set out in the Local Authorities' Cemeteries Order 1977 (The LACO 1977). The LACO

1977 gives the Council as a burial authority wide ranging powers of management e.g. Article 3(1) states that, '*a burial authority may do all such things as they consider necessary or desirable for the proper management, regulation and control of a cemetery.*'

4.3.4 Article 4(1) states that, '*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 the use therewith.*' The second half of this article places a statutory obligation on the Council as a burial authority to 'keep the cemetery in good order and repair.'

4.3.5 The LACO 1977 regulations also place a number of other important obligations on the Council as a burial authority.

These include the requirements to:

- Maintain a record of burials
- Maintain a plan showing the number and location of each grave
- Maintain a record of the granting and transfer of exclusive rights
- Issue Deeds of exclusive
- Maintain a record of exhumations
- Store all records securely to preserve them from loss or damage

Other significant powers include:

- Under article 5, the burial authority may allocate different areas of the cemetery for the use of different Christian denominations or other religious groups and may also apply to the Church of England for the Bishop to formally consecrate parts of the cemetery.
- Under Article 6, the burial authority may provide chapels.
- Under Article 7, the burial authority may provide a mortuary in connection with burials in a cemetery.
- Under Article 10, the burial authority may grant exclusive rights of burial and memorial rights, subject to such terms and conditions as they think proper.
- Under Article 15, the burial authority may charge such fees as they think proper.

4.3.6 Article 4 of the Cremation (England and Wales) Regulations 2008 requires that a cremation authority must ensure that a crematorium is, maintained and in good working order; provided with a sufficient number of attendants; and kept in a clean and orderly condition. The Council is a cremation authority for the purposes of these provisions as article 2 of the regulations defines 'cremation authority' as including any burial authority.

4.4 Climate Implications

4.4.1 For the purposes of this report there are no climate implications either positive or negative, however one of the objectives of the work proposed is to address climate opportunities. The implications of any proposals will be identified in further reports.

4.5 Other Implications

(Refer to the decision-making guidance and provide details of all relevant implications, e.g. human resources, property, public health).

4.5.1 A strategy may have implications for human resources, property, public health etc. which will be determined through the development of this work and detailed in further reports. At this stage the purpose of this paper is to seek support and agree an approach for member engagement and therefore there are no other implications at this stage.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 Do nothing. Services continue to deteriorate. Burial provision is exhausted. Work is not conducted in an inclusive and transparent way.

6. REASONS FOR RECOMMENDATIONS

6.1 To find a framework for member engagement which is inclusive from the outset. To deliver a strategy informed through public consultation to ensure bereavement services meet the needs of the citizens of Sheffield.