

# ARUN DISTRICT COUNCIL

## REPORT TO AND DECISION OF ENVIRONMENT & LEISURE WORKING GROUP ON 27 FEBRUARY 2020

### PART A : REPORT

**SUBJECT: Cemeteries Regulations & Procedures**

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**DATE:** 27 February 2020

**EXTN:** 37955

**PORTFOLIO AREA:** Neighbourhood Services

**EXECUTIVE SUMMARY:** Cemeteries are a statutory service provided by the Council acting as a Burial Authority. The Cemeteries Service commissioned a review by the Institute of Cemetery & Crematorium Management (ICCM) in August 2018. In line with the recommendations from this review, the Council's regulations and procedures for the management and maintenance of its cemeteries have been updated in order to ensure that the Council is following industry best practice together with meeting its statutory obligations.

A summary of the key regulations and procedures are outlined in this report as well as proposals to further enhance the service in the future.

### **RECOMMENDATIONS:**

#### **To recommend to Cabinet that;**

- a) From 1 April 2020 Arun District Council does adopt the proposed Cemeteries Regulations and all procedures as outlined in this report.
- b) The new associated fees & charges as outlined in the report are approved for implementation from April 2020.
- c) The service enhancements & projects identified within the report are endorsed and where appropriate, delivery will be considered as part of the Council's future annual budget setting
- d) Future changes and amendments to the regulations, procedures and fees & charges, can be made in consultation with the Cabinet Member with delegated responsibility for Cemeteries.
- e) Within 12 months following the Council's adoption of these regulations, the Cemeteries Service shall submit to the ICCM a request for Arun, as a burial authority, to become a member of the Charter for the Bereaved, which further enhances the Council's reputation as a modern, compassionate, lawfully and legally compliant Cemeteries Service provider.

## **BACKGROUND:**

### **1.1. Introduction**

The main objectives of the review of Arun District Council's Cemeteries Regulations and Procedures are;

- To ensure the Council as a Burial Authority is lawfully and legally compliant whilst at the same time delivering services in line with industry best practice
- To ensure that the Council is empowered to manage its cemeteries appropriately in order to protect the interests of all users of cemeteries
- To deliver an appropriate balance between regulatory control and offering reasonable choice/freedom for all users of cemeteries
- To ensure that all cemeteries users are treated with fairness, decency, compassion and consistency in all dealings with the Council
- To ensure that the Council and its Contractors can manage and maintain cemeteries efficiently to the highest possible standards with the resources available
- To ensure that the Council's regulations and procedures are transparent, approved by elected members and communicated clearly and directly to all users of cemeteries and other stakeholders

### **1.2. Legislation relating to Arun as a Burial Authority**

The Council must be lawfully and legally compliant in delivering all aspects of its Cemeteries Service. Burial legislation varies between the different types of burial grounds. For local authorities acting as a Burial Authority the relevant legislation is *The Local Authority Cemeteries Order 1977 (LACO)* made by executive authority under powers delegated by the enactment of the *Local Government Act 1972 Sections 214(3) and 266(2)*. The *Burial Act 1857* is also relevant in some situations.

LACO provides the Council with the empowerment necessary to manage, operate and maintain cemeteries, as outlined in the following excerpts below;

*3.-(1) Subject to the provisions of this 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.*

*4.-(1) 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...*

*15.(1) Subject to the provisions of this article a burial authority may charge such fees as they think proper*

### **1.3. Cemeteries Service**

The Cemeteries Service operates within the Services Directorate and specifically the Neighbourhoods Group. Operationally the service is delivered by one full time Senior Cemeteries Officer, supported by a part time Cemeteries Technical Support Officer. The Service is managed by the Parks & Cemeteries Manager.

A number of additional staff within the Greenspace Service have been trained to provide additional resilience and support for the service when needed.

The service is responsible for the management of five cemeteries;

- Arundel Cemetery
- Bognor Regis Town (Town Cross) Cemetery
- Chalcraft Lane Cemetery
- Findon Cemetery
- Littlehampton Cemetery

The service also manages seven closed church yards not owned by the Council but managed under an Order in Council made by the Privy Council.

#### **1.4. Institute of Cemeteries and Crematorium Management review & benchmarking**

In 2018 the Cemeteries Service commissioned the Institute of Cemetery and Crematorium Management (ICCM) to undertake a review of its services. In the main the review determined that the service was operating well with effective systems and compliance, but there was need to update service regulations and procedures. The review also highlighted that staffing capacity was lower than would be expected in respect of the size and responsibilities of the service.

To further inform the review of the regulations, procedures, fees and charges, the Parks & Cemeteries Manager has carried out benchmarking against other local and neighbouring authorities.

It is the intention of the Cemeteries Service to be officially recognised by the ICCM as meeting all the requirements necessary for a burial authority to become a member of the Charter for the Bereaved within the 12 months following adoption of these regulations, through completion of the necessary paperwork and application process.

#### **1.5. Main Regulations – summary and notable changes**

*Please note that full versions of the regulations and procedures can be viewed via the links in the appendices to this report. Hard copies can be made available on request. **Numbering under the main headings below refers to the specific section number in the full Cemeteries Regulations document.***

##### **1.5.1. Management & maintenance**

4.2 – Matters relating to unauthorised memorials is covered in more detail throughout the Cemeteries Regulations

4.7 – Encouraging biodiversity within Cemeteries - A necessary change to meet the demands of a changing climate and to reduce the decline of pollinators is acknowledging the important role Cemeteries can have in increasing floral diversity. If undertaken sensitively (for example in older sections of the Cemetery) the Council can maintain areas of grassland and wildflower displays at all Cemeteries. If, as a consequence, access to memorials arises, then the Council shall ensure such situations are rectified by the regular mowing of access paths.

### **1.5.2. Conduct within cemeteries**

5 - Covers general conditions relating to behaviours as empowered by LACO but also other relevant local regulations, for example Arun's Dog Control Orders.

### **1.5.3. Grave allocation & ownership**

6.1.1 – The Council has always permitted out of rotation purchase of graves at an additional cost, but the regulations now define how and when this may be undertaken taking into consideration matters such as, but not limited to; situation, availability, supply/demand. The additional cost recognises that there are premium plots which are in higher demand.

6.1.4 – Limits are now placed on the number of consecutive plots that can be purchased at any one time

The Cemeteries Service shall determine when out of rotation and/or additional grave purchases are appropriate and may be determined by, but not limited to; the available space remaining in a section, the risk of disturbing the appearance of the cemetery etc.

6.2 – A new fee has been established for those wishing to return a grave plot to the Council. Whilst rare, it does happen in situations where people move out of area and simply have a change of mind. There shall be an administrative cost associated with bringing the grave back into availability and any spent years shall be at the cost of the grave owner.

### **1.5.4. Cemetery Sections**

A consistent approach relating to memorials, planting etc. is necessary for the Council to appropriately manage, operate and maintain its Cemeteries.

7.1 – Lawn section – although long established (c1860), these sections had been underutilised in local authority cemeteries until c1950. These sections are traditionally modelled on Commonwealth War Graves. It provides for a tidy and uniform landscape. Often either a continuous or staggered soil border into which memorials are placed with a large lawn area covering the grave. Limited planting is permitted in the soil border. Memorials shall be of a consistent size. Maintaining lawn sections is a less labour-intensive task, allowing high quality maintenance standards to be met. Compliance with the regulations governing a lawn section grave shall be clearly set out to all new grave owners and the regulations strictly enforced. For existing grave owners, these new regulations shall also apply however the Council will proceed sensitively in situations of non-compliance.

7.2 – Traditional section – established over many centuries these sections provide prospective grave purchasers more choice when compared to lawn section graves. Large, more elaborate memorials and kerb edging can be proposed in these sections provided they are located within the allocated grave space and meet minimum safety standards.

7.3 – The Council shall only allow hand cut inscriptions on any Wall of Remembrance at its Cemeteries through an appointed Monumental Mason. At the present time other methods have been acceptable but this has resulted in poor uniformity and quality.

### **1.5.5. Exclusive Right of Burial (EROB)**

8 – It is important to understand that purchasing the EROB does not include ownership of land. Land ownership remains with the Council. Terminology in the industry can be confusing, but ‘grave owner’ shall mean ‘the owner of the Exclusive Right of Burial of the grave’. The grave owner has the right to;

- To be buried in the grave, if space is available
- Authorise further burials in the grave, if space is available, or the burial of cremated remains in the grave
- Place a memorial on the grave, subject to the Council’s Cemetery Regulations
- Undertake any other work to the grave, subject to the Council’s Cemetery Regulations

To assist grave owners the Cemeteries Service provides a leaflet (full copy included within appendices) which explains their rights and responsibilities. This also strengthens and protects the Council’s position ahead of any potential enforcement of the regulations.

8.8 – One of the most significant proposed changes is to reduce the EROB from 75 to 30 years. The rationale for this is as follows;

- To bring the Council in line with other Burial Authorities where EROB is usually between 30-50 years
- Improves the probability of staying in touch with either the grave owner(s) or their immediate descendants – important from an administrative, memorial safety and cemetery maintenance perspective.
- Keeps the responsibilities of the grave owner more prominent in their own mind

The Council also proposes that grave owners may, for a fee, top up the EROB every 5 years to maintain 30 years.

8.11.3 – The Council recognises that with an ageing population comes an increasing probability of those suffering Dementia. In order to assist with this difficult situation, the Council shall permit any individual who has been granted a Lasting Power of Attorney (LPA) to undertake property and financial decisions on behalf the grave owner, to make decisions regarding the rights to the grave the owner holds. However, any LPA does not take away the grave owners’ rights.

### **1.5.6. Burials**

9.6 - Scattering of ashes – Currently not offered as an option in the Council’s cemeteries. The proposal is to allow for scattering at designated places at Council cemeteries. This increases choice for the bereaved and offers an affordable option for those on low incomes.

9.7 - Notice of interments period – 3 working days is the minimum period for official notification of an interment. However, the Council recommends that notice is provided within 5 working days to allow suitable time for all paper work to be received. Requests made within 3 working days will be accommodated when possible. Where requests are made for funerals outside of normal office hours an additional fee shall be charged.

However, this cannot be guaranteed owing to such limiting factors as; staff, contractor availability (including at weekends), other bookings etc.

9.10.5 – When graves are to be reopened it shall be necessary to carefully lay the spoil on adjacent plots. In exceptional circumstance memorials may need to be removed. Grave owners shall be advised of this whenever possible.

9.11 - Other Faith Funerals – the Council occasionally receives requests for funerals of other faiths which often have different requirements to the funerals the Council is more accustomed to. The Council shall do whatever it reasonably can to meet the requirements of all faiths within the resources it has available, including those requests for burial within 24 hours, however this cannot be guaranteed.

9.17 - Out of area fees – it is typical for a Burial Authority to charge double fees for those purchasers residing outside of the district. The Council proposes that double fees apply for those who have resided outside of the district for 18 months or more. Occasional exceptions may be made, and only with the approval of the Parks & Cemeteries Manager. Examples of discretion may be; the reopening of an already purchased grave space for someone who has since moved out of the district.

9.19 - Children's area – the Council has always provided these areas in its Cemeteries, but often within Adult sections. Those mourning the loss of a child often do so in a different way to those mourning the loss of an adult. As such there can be conflict between grave owners regarding the presentation of the Cemetery where one area impacts another. The Council proposes that specific new areas are set aside and are suitably landscaped to provide an appropriate location for deceased children. New regulations for these areas shall be provided at the appropriate time.

The Council shall encourage as far as it reasonably can for children to be buried in these dedicated areas, however it may be the wishes of the family to purchase an adult grave with the intention of making the grave a family plot. The Council shall allow this but shall make it clear that the regulations for adult sections shall apply.

No fee shall be charged for any child (under 18) who is buried in the Council's Cemeteries. The Council can reclaim all costs associated with providing a grave space and the associated fees from central government.

### **1.5.7. Memorials**

10 - The legislation relating to memorials and memorial installation has significantly changed in the years since the Council's previous regulations were drafted. These proposed regulations are informed by various industry accredited codes of working practice, published by; Institute of Cemetery and Crematorium Management (ICCM), British Register of Accredited Memorial Masons (BRAMM) and the National Association of Memorial Masons (NAMM). The significant changes proposed are as follows;

That Monumental Masons provide evidence of;

- Membership of a trade body - either NAMM or BRAMM – both organisations require a minimum level of competency from its members, thereby offering assurance to the Council that those Monumental Masons who are members are adequately qualified to undertake safe installations.
- Copies of testing certificates evidencing compliance with BS8415 for ground anchor systems used in the installation of memorials
- Copies and receipt of the public liability insurance held (minimum of £5million)

- Copies of guarantee provided to memorial and/or grave owner

10.5.4 – It is the intention to install a concrete raft system for reasons of consistency, uniformity and improved memorial safety. This also assists in maximising efficiency of space and enabling memorials to be installed shortly after burial as opposed to the current process of waiting for the ground to settle.

10.6.8 – Identifies all those items not permitted in the Council's cemeteries owing to the perceived negative impact these may have to the peace and tranquillity as well as routine work operations.

10.6.9 & 10.6.12 – Identifies that the Council (following a period of notice) shall either remove unauthorised memorials or leave an area unmaintained to avoid damage and draw the attention of the memorial or grave owner to contact the Council. If appropriate a notice shall be left at the grave explaining why this is the case. It is likely that memorial or grave owners will contact the Council once it is realised that the area around the grave is not being maintained, and if no contact is made within a notice period the Council will remove any adornment which fails to meet the requirements of the regulations. Communication with memorial and/or grave owners is critical to ensuring positive outcomes.

## **1.6. Other Procedures**

### **1.6.1. Memorial Safety & Inspection Procedures**

The Council has a responsibility at law to ensure memorials in its Cemeteries, and those Closed Churchyards under its control, are safe. The draft Memorial Safety & Inspection Procedures is informed by relevant legislation, regulations, official guidance and relevant British Standards.

The issue of memorial safety peaked following cases where memorials (in particular larger older memorials) toppled over and caused injuries, sometimes fatal, to members of the public. This new single procedural document merges two previous separate policies (Memorial Safety Policy & Memorial Testing Policy)

All memorials remain the responsibility of the grave and/or memorial owner, but because the memorials are located on Council land it is for this reason the issue of safety also falls to the Council.

### **1.6.2. Public Health Funerals Procedures**

The Council has a duty at law under the Public Health (Control of Disease) Act 1984 s.46 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.

The ICCM advised to formalise robustness and consistency in relation to the Council's procedures for dealing with public health funerals.

The draft Public Health Funerals Procedures (included within appendices) set out in which circumstances the Council will undertake a Public Health Funeral, how this is

administered, how costs are recovered and how the safety of staff handling such cases is considered.

### **1.6.3. Exhumation Procedures**

Sets out the Council's procedures in handling exhumation in a lawful, courteous and dignified way. The full procedures are included within the appendices to this report.

The Burial Act 1857 is the relevant law relating to exhumation, and approval from the Ministry of Justice is required. Consecrated graves (*which means burial ground that has been consecrated in accordance with the rites of the Church of England and not merely blessed by the vicar during the funeral service, e.g. consecrated by the Roman Catholic Church or the Church in Wales*) require a Faculty from the Diocese of Chichester.

### **1.7. Fees & Charges**

Following extensive benchmarking with other West Sussex, Hampshire, Surrey, and East Sussex Burial Authorities, and additions to the services on offer, the proposed 2020/21 Cemeteries fees and charges are appended to this report.

In reviewing the fees & charges and through offering enhanced choice in the options available to the bereaved, this may result in increased annual income to authority. However, this is by no means guaranteed as will be influenced by other external factors beyond the Council's control. It is recognised that this is a price sensitive service, and therefore it is important that the Council remain flexible in this respect. It is therefore proposed that fees and charges are reviewed annually in consultation with the Cabinet Member.

### **1.8. Planned programme of improvements**

The Cemeteries Service has identified a number of further service enhancements, aimed at both improving the choice available to the public and to enhance the quality of the Council's Cemeteries. These enhancements are listed below. Alongside these improvements it is essential that future funding is available to maintain these important statutory assets and places of remembrance, despite pressures facing budgets.

It is proposed that a number of projects will be built into existing service-related budgets across both the Greenspace Service & Property & Estates Service (who hold budgets on behalf of Cemeteries for planned repairs & maintenance).

Where funding for proposed service enhancements/quality of assets is not identified or deliverable from existing services budgets, it is proposed that these could be considered on a case by case basis as part of the Council's budget setting process, should future Cemeteries Service income exceed the current baseline income figure. If income does not exceed this baseline figure then the projects will either be delayed until funds are available, not delivered or funding sought from elsewhere.

The identified service enhancements are outlined below.

### **1.8.1. Chalcraft Cemetery infrastructure**

Chalcraft Cemetery is the busiest of the Council's Cemeteries. Significant additional land has been purchased at the site to increase burial capacity in future, but this will also require additional maintenance. In turn this requires investment in infrastructure such as access improvements and path networks.

Grounds maintenance is currently carried out by mobile teams, but there is a clear benefit to both the Council and cemetery users in the provision of a dedicated site-based gardener with mess facilities. Littlehampton Cemetery currently benefits from this provision.

### **1.8.2. Concrete raft – lawn sections Chalcraft & Littlehampton**

Masons fix onto a Council supplied in-situ concrete raft, ensuring consistency and uniformity in lawn section memorial layout, thus maximising efficiency of available space and ease of future maintenance such as grass mowing for Council contractors. Also allows quicker installation of memorials following burial as no need to wait for the ground to settle. An approach adopted by a number of other burial authorities.

### **1.8.3. Bognor Chapel/new Garden of Remembrance**

The estimated cost of repair for the chapel is estimated in excess of £100,000. There is no business case to justify this expenditure as the chapel is used on average of 6 times per year generating an income of £600. Bognor Cemetery is closed for new grave purchases, with only emergency grave space remaining. The proposal to demolish the chapel and utilise this space as a new garden of remembrance will generate additional income for the Council and provide additional choice for users of the service wishing to inter loved ones at this cemetery.

In addition to the business case, the chapel and surrounding environs suffers significantly from anti-social behaviour due to the protection it affords to those wishing to undertake illegal activities in its curtilage i.e. drug taking/dealing, urinating/defecating in public, vandalism to the chapel and memorials etc. The removal of the Chapel would deter these activities significantly.

The demolition cost would be funded by existing budgets held by Property & Estates.

### **1.8.4. Children's section – Littlehampton Cemetery**

New garden of remembrance to be designed and constructed at Littlehampton Cemetery to segregate children's graves from adult graves.

### **1.8.5. Littlehampton Cemetery infrastructure**

New & potentially relocated mess facilities for site-based gardener and landscaping infrastructure e.g. path networks & planting for new Cemetery sections.

<b>2. PROPOSAL(S):</b>		
To adopt the revised Cemeteries Regulations, Procedures and Fees & Charges for the reasons outlined in this report.		
<b>3. OPTIONS:</b>		
a) For the Working Group to approve the recommendations as outlined in this report for Cabinet decision.		
b) For the Working Group not to approve the recommendations as outlined in this report.		
<b>4. CONSULTATION:</b>		
4.1 – The Cemeteries Service has carried out a thorough stakeholder consultation on the proposed new regulations and procedures.		
Organisations and groups consulted with include;		
<ul style="list-style-type: none"> <li>• ICCM</li> <li>• Funeral Directors</li> <li>• Memorial Masons</li> <li>• Tivoli Group Ltd (Council's Grounds Maintenance and Grave Digging Contractor)</li> </ul>		
A summary of responses to this consultation are included in the appendices to this report.		
Has consultation been undertaken with:	<b>YES</b>	<b>NO</b>
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (see 4.1)	✓	
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
Financial	✓	
Legal	✓	
Equality Impact Assessment	✓	
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land	✓	
Technology		✓
Other (see 4.1)	✓	
<b>6. IMPLICATIONS:</b>		
<ul style="list-style-type: none"> <li>• Financial – Consultation with Accountancy on the principles outlined in this report</li> <li>• Property &amp; Estates – Consulted in respect of planned maintenance proposals and Asset Management Strategy</li> <li>• If regulations were in anyway unlawful this would be identified by ICCM. ADC Legal</li> </ul>		

Services have also been consulted

- Equality Impact Assessment also completed

## **7. REASON FOR THE DECISION:**

To ensure that the Council's Regulations and Procedures for the delivery of its Cemeteries Service comply with legislation, best practice and industry guidance. To ensure that the service itself is enhanced, delivered consistently and is well positioned to meet future challenges placed upon it.

## **8. BACKGROUND PAPERS:**

- 1) Fees & Charges table

<https://www.arun.gov.uk/download.cfm?doc=docm93jijm4n14910.pdf&ver=15308>

- 2) Stakeholder consultation summary

<https://www.arun.gov.uk/download.cfm?doc=docm93jijm4n14911.pdf&ver=15309>

- 3) Cemeteries Regulations

<https://www.arun.gov.uk/download.cfm?doc=docm93jijm4n14918.pdf&ver=15316>

- 4) Memorial Safety & Inspection Procedures

<https://www.arun.gov.uk/download.cfm?doc=docm93jijm4n14917.pdf&ver=15315>

- 5) Public Health Funeral Procedures

<https://www.arun.gov.uk/download.cfm?doc=docm93jijm4n14916.pdf&ver=15314>

- 6) Exhumation Procedures

<https://www.arun.gov.uk/download.cfm?doc=docm93jijm4n14915.pdf&ver=15313>

- 7) Exclusive Right of Burial (EROB) Leaflet

<https://www.arun.gov.uk/download.cfm?doc=docm93jijm4n14919.pdf&ver=15317>