



## **Public Health Funeral Internal Guidance**

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### **Public Health (Control of Disease) Act 1984, Section 46**

**Version: August 2020**

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## **Public Health Funerals**

### **Public Health (Control of Disease) Act 1984, Section 46**

#### **1. Introduction**

Under the Public Health (Control of Disease) Act 1984, East Suffolk Council is obliged to organise a funeral for any person who has died or found dead within in their area where it appears that no suitable arrangements have been or are being made for a funeral to take place.

The Councils will deal with all aspects of the organisation of a public health funeral including:

- Registering the death
- Dealing with the undertakers and organising interment or cremation
- Meeting the costs of interment or cremation.
- Recovering the expenses from any estate left by the deceased.

It is worthy of note that no two Public Health Funerals are the same and therefore how they are investigated may differ; however, in all cases, interment or cremation is conducted in a thoroughly dignified and respectful manner.

This service extends only to the provision of a basic funeral. It will be the Councils decision to offer either a burial or cremation and this may be determined by the funds available in the deceased's estate, or the deceased's religious wishes.

#### **2. What the Council will not do**

- We will not accept part payment for funerals organised by us.
- We will not erect a headstone or other memorial to the deceased's resting place or permit others to do so.
- We will not contribute to the costs of the funerals organised by third parties.
- We will not administer estates on behalf of others.
- We will not pay for funerals to be held in other districts.
- We will not pay for funeral cars or limousines for relatives or family friends.
- We will not arrange or pay for the attendance of a minister or the conduct of any ceremony or service.

#### **3. Referral of Cases to the Council**

Cases may be referred from a variety of sources. This could include the Coroner's Office, Police, Hospitals, and other NHS trusts, Residential and Care Homes, friends or relatives of the deceased or funeral directors.

The Council should be informed at the earliest opportunity. Residential accommodation occupied by the deceased should not be entered and should remain locked and secured and (in the case of private residential accommodation) the keys passed to the Council's Environmental Protection Team at the earliest opportunity. Rooms in nursing homes or residential care homes should be left undisturbed and advice sought from the Council's Environmental Protection Team. Landlords should not enter the premises or remove any items from the property until authorised to do so by the

Council's Environmental Protection Team. If personal belongings of the deceased are missing or misplaced, then the key-holder or landlord may be held liable for intermeddling with the estate.

#### **4. Officer Responsibility**

It is the Case Officer's responsibility to ensure that where appropriate a house/ property/ room search is undertaken. The purpose of said search is to locate any Next of Kin details, any Last Will and Testaments, Bank or Building Society details, Funeral Plans, Money, or other details of the deceased. Any searches are undertaken by a minimum of two Officers and items may be removed for safe keeping. All monies retrieved will be paid into a dedicated account on behalf of the deceased and will be used to pay for any funeral expenses or other expenses occurred where required. A photographic record will be made of the deceased's residence (although this does not normally occur for nursing or care home rooms).

Items removed may include (but not restricted to):

- Documents, Wills, Codicils, Personal Telephone Directories, Mobile Phones, Computer Equipment, Letters, or papers possibly containing details of living relatives, last wishes, or religious beliefs.
- Other items may be removed for sale to contribute to the cost of the funeral.

Where the deceased lived in a Nursing or Care Home, after the room has been searched by the Environmental Protection team, the staff will be instructed to temporarily keep the belongings in storage in case a Next of Kin comes forward. However, it is not expected that these belongings will be kept indefinitely, and Nursing and Residential homes are expected to have their own policies regarding retention times & disposal of former residents' property.

Where the deceased lived in rented or Council accommodation, we understand that a landlord will be keen for the residential property to be released back to him for clearance and re-occupation. The landlord will be expected to serve notice on the Public Trustee to expedite this. This provides the Council/NOK with 30 days to remove any items required from the property. After this time, the property and its contents will be handed back to the landlord for disposal.

#### **5. Finding a Will**

If a Will is located, the Officer will attempt to contact the executor to inform them of the death and to ask them if they are prepared to undertake the arrangements for the funeral. In some circumstances, it may not be possible to locate the executor, or the executor may not wish to undertake the arrangements. In both cases, the Council will make the arrangements where it is apparent that no one else is. In such cases, the Council will seek the executor/s written consent.

#### **6. Next of Kin**

Where next of kin are identified, they will be given the opportunity and encouraged to organise the funeral for the deceased. Where they elect not to do so, the Council will seek written consent from the NOK to proceed.

We will try to contact NOK where details are available. In some cases, the Officer may find it beneficial to use an Heir Hunter company, who may be able to locate next of kin. However, this is

left to the Officer's discretion. The Officer may only use an heir hunter who does not make a charge to the Council for their services.

## **7. Paying for the funeral**

Officers will try to recover the full expenses incurred from the estate. This can include the sale of goods belonging to the deceased at a public auction. The law prescribes that the first claim on the estate of the deceased is the funeral costs. These take precedence over the next of kin's wishes. For example, if the deceased has no money in the bank but owned an expensive item of jewellery, this could be seized and auctioned to contribute towards the costs of the funeral.

## **8. Prepaid funeral plans**

On occasion, pre-paid funeral plans have been located. In this instance, an Officer will register the death and visit the funeral director to sign the necessary paperwork to affect the funeral plan. We will not make payments over and above the funeral plan, for example if the plan requests something which cannot be covered by the funeral plan payment.

## **9. Prepaid/ reserved graves or plots**

Where a grave or plot has been reserved and paid for, the Council will make attempts to use it. However, if the cost of using the plot is in excess of what is normally charged for a public health burial/ cremation, it reserves the right to revert to the normal simplistic service offered.

## **10. What help is available?**

If a next of kin wishes to arrange a funeral and do not have the funds to do so, they may be able to apply for a Funeral Payment from the Department for Work and Pensions. If the deceased was an ex-serviceman or woman, it is sometimes possible to ask for assistance for funeral costs from one or more of several organisations including the Soldiers, Sailors, Airmen and Families Association (SSAFA) or the British Legion.

## **11. Money left in the estate after the funeral expenses have been claimed**

The first claim on any estate are the funeral expenses. If there are no known next of kin and the value of the estate exceeds £500 after the funeral expenses have been paid, the estate will be referred to the Bona Vacantia team at the Government Legal Department (NB: '*Bona Vacantia*' means 'Vacant Goods' and is the name given to ownerless property, which by law passes to the Crown).

If there are known next of kin, they may apply to the Council to collect belongings or money on behalf of the deceased. It will be expected that the next of kin collecting such items will be able to provide proof of their relationship, proof of identification (including 1 x photo ID and 1 x proof of address). A Statutory Declaration may also be accepted. In all cases, the NOK claiming the belongings etc. will be required to sign a receipt for the items collected and a form indemnifying the Council against any further claims arising.

## **12. Method of Disposal**

The law requires the Council to respect religious convictions (where these are known) relating to cremation or burial. Where the NOK have a preference, we will try and accommodate them; however this will be influenced by cost considerations. Generally, where there are no wishes known we shall bury the deceased. We shall in all circumstances only approve payments for simplistic funerals and we will not organise for a minister to be present, or flowers to be delivered. However, people attending the funeral may wish to say a few words or bring flowers and this is accepted. The Council reserves the right to revert to a burial where there are insufficient funds to pay for a cremation.

The Case Officer or another representative of the Environmental Protection Team will attend the funeral to ensure that it is conducted in a respectful manner and to answer any questions from friends or relatives or the deceased who may be in attendance.

The Council will only arrange funerals through its chosen funeral director (unless a pre-paid funeral plan is held with another funeral director). The funeral director shall not permit the deceased to be viewed in the chapel of rest and the deceased will not be embalmed unless it is deemed necessary by the Council.

In the case of cremation, the ashes will normally be scattered in a garden of remembrance (usually at and by the crematorium who undertook the cremation) 3 months after the date of cremation. However, the ashes may be released to a next of kin upon request. However, the Council reserves the right to dispose of the ashes as it sees fit. There is no legal right or claim to cremated persons.

The time and date for the funeral will be arranged at the discretion of the Council and will be non-negotiable.

## **13. Where the case is referred to another party**

After organising the funeral, where there are funds in the estate and the case is referred to either a Next of Kin, Friend, Charity, Solicitor or Government Legal Department a fee will be charged for the Council's time spent organising the funeral. Typically, a flat rate of £350 will be charged for non-complicated cases. However, if the Officer has spent a significant amount of time on the case, an hourly rate may be applied, and this is at the discretion of the Environmental Protection Manager.

## **14. Claiming an estate from the Council**

A Next of Kin may learn of the death of their relative after the funeral. At this time, they may wish to apply to the Council for any small amounts of money or personal items which they are holding. Identification must be provided in the form of a photo Identification; address identification and an indemnity form must be signed indemnifying the Council of any third-party claims. In some cases, a Statutory Declaration may be accepted, however this is subject to the advice received from the Council's legal team.

A grant of representation will not usually be required if the estate either-

- Passes to a surviving spouse or civil partner because it was held in joint names, for example a savings account; or
- Does not include land, property, or shares.

If a Next of Kin wishes to administer the estate they shall **either** need to apply for letters of Administration or Probate and original copies of these shall be sent to the Council in advance of any items being released, **or** provide all of the following –

- a family tree showing how the person making the claim is related to the deceased;
- full birth certificates and marriage certificates of each person between the person making the claim and the deceased;
- identification documents which provide proof of the person making the claim's name and of this name being linked to this person's address; and
- a full explanation, supported by evidence, of any discrepancies in the documents provided or about any missing documents.

### **15. Unclaimed Estates**

Where there are no known next of kin, and the estate is more than £500 after the funeral expenses and the Council's expenses are paid, the estate will be referred to the Government Legal Department.

### **16. Disposal of items recovered**

The Council reserves the right to dispose of any items which remain in its custody nine months after the funeral has taken place. Relatives wishing to make claim on any items kept must do so before this date passes. Please see the section 14 "Claiming an estate from the Council".

### **Useful Website Links**

1. Bona Vacantia Government Legal Department - <https://www.gov.uk/government/organisations/bona-vacantia>
2. British Legion- <https://www.britishlegion.org.uk>
3. Department for Work and Pensions Funeral Payment Claim Form- <https://www.gov.uk/government/publications/funeral-payment-claim-form>
4. East Suffolk Council, Public Health Funerals - <http://www.eastsuffolk.gov.uk/environment/environmental-protection/public-health-funerals/>
5. Soldiers, Sailors, Airmen and Families Association - <https://www.ssafa.org.uk/>